

City of Las Vegas

**RECOMMENDING COMMITTEE MEETING
CITY HALL, 400 STEWART AVENUE
CITY MANAGER'S EIGHTH FLOOR CONFERENCE ROOM
CITY OF LAS VEGAS INTERNET ADDRESS: www.lasvegasnevada.gov
NOVEMBER 15, 2011
9:00 A.M.**

THE RECOMMENDING COMMITTEE WILL RECEIVE PUBLIC INPUT ON EACH ITEM OF LEGISLATION BEING CONSIDERED. THE RECOMMENDING COMMITTEE MAY, THEREAFTER, CONTINUE THE HEARING TO A FUTURE DATE OR FORMULATE A RECOMMENDATION TO THE CITY COUNCIL FOR PASSAGE, REJECTION OR AMENDMENT OF THE PROPOSED BILL. ANY MEMBER OF THE CITY COUNCIL MAY SUBSTITUTE FOR A MEMBER OF THE RECOMMENDING COMMITTEE AT ANY TIME.

ALL ITEMS ON THIS AGENDA ARE SCHEDULED FOR ACTION UNLESS SPECIFICALLY NOTED OTHERWISE. ITEMS LISTED ON THE AGENDA MAY BE TAKEN OUT OF ORDER PRESENTED; TWO OR MORE AGENDA ITEMS FOR CONSIDERATION MAY BE COMBINED; AND ANY ITEM ON THE AGENDA MAY BE REMOVED OR RELATED DISCUSSION MAY BE DELAYED AT ANY TIME.

DUPLICATE AUDIO CDS MAY BE AVAILABLE AT A COST OF \$5.00 EACH THROUGH THE CITY CLERK'S OFFICE.

1. CALL TO ORDER
2. ANNOUNCEMENT RE: COMPLIANCE WITH OPEN MEETING LAW
3. Bill No. 2011-39 - ABEYANCE ITEM - For Possible Action - Adopts a registration and maintenance program for vacant properties that are the subject of foreclosure and related proceedings. Sponsored by: Councilman Steven D. Ross
4. Bill No. 2011-42 - For Possible Action - Updates provisions of the Municipal Code pertaining to the licensing and regulation of massage establishments. Sponsored by: Councilman Stavros S. Anthony
5. Bill No. 2011-43 - For Possible Action - Updates Chapter 6.69 of the Municipal Code pertaining to the licensing and regulation of reflexology. Sponsored by: Councilman Stavros S. Anthony
6. CITIZENS PARTICIPATION: Public comment during this portion of the agenda must be limited to matters within the jurisdiction of the committee. No subject may be acted upon by the committee unless that subject is on the agenda and is scheduled for action. If you wish to be heard, come to the podium and give your name for the record. The amount of discussion on any single subject, as well as the amount of time any single speaker is allowed, may be limited
7. ADJOURNMENT

ALL INTERESTED PERSONS ARE INVITED TO ATTEND: Copies of the above Bills may be obtained through the Office of the City Clerk, Monday through Thursday, 7:00 A.M. to 5:30 P.M.

City of Las Vegas

Facilities are provided throughout City Hall for the convenience of disabled persons. Reasonable efforts will be made to assist and accommodate physically handicapped persons. If you need an accommodation to attend and participate in this meeting, please call the City Clerk's office at 229-6311 and advise of your need at least 48 hours in advance of the meeting.

THIS MEETING HAS BEEN PROPERLY NOTICED AND POSTED AT THE FOLLOWING LOCATIONS:

City Hall Plaza, 400 Stewart Avenue, Vending Area
City Clerk's Bulletin Board, 400 Stewart Avenue, 2nd Floor Skybridge
Las Vegas Library, 833 Las Vegas Boulevard North
Clark County Government Center, 500 S. Grand Central Parkway
Grant Sawyer Building, 555 E. Washington Avenue

AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: NOVEMBER 15, 2011

DEPARTMENT: CITY CLERK

DIRECTOR: BEVERLY K. BRIDGES

SUBJECT:

CALL TO ORDER



AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: NOVEMBER 15, 2011

DEPARTMENT: CITY CLERK

DIRECTOR: BEVERLY K. BRIDGES

SUBJECT:

ANNOUNCEMENT RE: COMPLIANCE WITH OPEN MEETING LAW



AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: NOVEMBER 15, 2011

DEPARTMENT: CITY ATTORNEY

DIRECTOR: BRADFORD R. JERBIC

☐ Consent ☒ Discussion

SUBJECT:

Bill No. 2011-39 – ABEYANCE ITEM - For Possible Action - Adopts a registration and maintenance program for vacant properties that are the subject of foreclosure and related proceedings. Sponsored by: Councilman Steven D. Ross

Fiscal Impact

☒

No Impact

☐

Augmentation Required

☐

Budget Funds Available

Amount:

Funding Source:

Dept./Division:

PURPOSE/BACKGROUND:

This bill will adopt a registration and maintenance program for vacant properties that are the subject of foreclosure and related proceedings. Where vacant real property subject to a loan is in default and certain steps toward foreclosure have been taken, lenders with a security interest in the property will be required to register with the City and provide a limited level of ongoing maintenance of the property pending occupancy or ultimate disposition of the property. This item was held in Abeyance from the November 1, 2011 Recommending Committee meeting.

RECOMMENDATION:

This bill should be submitted to a Recommending Committee for review, hearing and recommendation to the City Council for final action.

BACKUP DOCUMENTATION:

1. Bill No. 2011-39
2. Business Impact Statement
3. Residential Foreclosure Analysis by Mike Bouse and Comments from Nevada State Bank by Charles Cook

BILL NO. 2011-39

ORDINANCE NO. _____

AN ORDINANCE TO ADOPT A REGISTRATION AND MAINTENANCE PROGRAM FOR VACANT PROPERTIES THAT ARE THE SUBJECT OF FORECLOSURE AND RELATED PROCEEDINGS, AND TO PROVIDE FOR OTHER RELATED MATTERS.

Sponsored by: Councilman Steven D. Ross

Summary: Adopts a registration and maintenance program for vacant properties that are the subject of foreclosure and related proceedings.

THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN
AS FOLLOWS:

SECTION 1: Title 16 of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended by adding thereto a new chapter, designated as Chapter 33 and consisting of Sections 10 to 70, inclusive, reading as follows:

16.33.010: It is the purpose and intent of this Chapter to establish a program to reduce the amount of deteriorating real property located within the City, in particular, real property suffering from blight caused by the lack of adequate maintenance. The program includes a property registration requirement designed to assist in accomplishing the intent and purpose of this Chapter.

16.33.020: Unless the context otherwise requires, the following words and phrases used in this Chapter shall have the meanings ascribed to them:

“Default,” with respect to a mortgage, means that the obligor under the mortgage has breached or is in default of a repayment or other obligation in connection with that mortgage.

“Foreclosure” means the process by which real property placed as security for the repayment of a loan is to be sold to satisfy the debt concerning which the borrower has defaulted.

“Mortgage” means a security interest in real property that is placed as security for the repayment of a loan, and includes a deed of trust.

“Mortgagee” means any person or firm who holds a security interest in real property to secure a loan, whether as the mortgagee of a mortgage or the beneficiary of a deed of trust.

“Notice of default,” with respect to a mortgage, means that a default regarding that mortgage has occurred and a notice of breach or notice of default has been provided to the obligor thereof or has

1 been recorded in the County Recorder's Office.

2 "Specified property" means any parcel of vacant real property within the City that is subject
3 to a mortgage and is either property:

4 (A) In foreclosure;

5 (B) Concerning which a notice of default has been filed; or

6 (C) Whose ownership has been transferred by any method to a lender, mortgagee
7 or beneficiary of a deed of trust.

8 Once a parcel is no longer vacant, it shall not be considered "specified property" until it qualifies as
9 such again under this definition.

10 "Vacant," with respect to real property, and "vacant real property" mean real property and
11 improvements that are not presently occupied by persons lawfully entitled thereto. The term does not
12 include real property that is unoccupied by reason of the temporary absence of lawful occupants who
13 intend to return and resume occupancy.

14 **16.33.030:** (A) Any mortgagee who holds a mortgage on specified property shall, in connection
15 with an actual or pending default by the mortgagor, inspect that property or cause it to be inspected.
16 If the inspection reveals that the property is not being occupied by the mortgagor or by persons who
17 are occupying the property with the mortgagor's consent, the mortgagee shall register the property
18 with the Department of Building and Safety on forms to be provided by the Department, or with
19 another designated department, person or entity on forms approved by the Department. In connection
20 with that registration, the mortgagor shall also designate in writing a property manager to inspect,
21 maintain and secure the property. A separate inspection, registration and designation is required for
22 each specified property.

23 (B) Registration pursuant to Subsection (A) shall contain, at a minimum, the
24 following information:

25 (1) The name and mailing address (no post office boxes) of the mortgagee.

26 (2) A direct contact name and phone number for purposes of contacting the
27 mortgagee.

28 (3) The name, address and phone number of the property manager.

1 (4) The current disposition and occupancy status of the property.

2 (C) Any property manager designated pursuant to this Section must be located
3 within Clark County and must be:

4 (1) A duly-licensed property management company or property preservation
5 company; or

6 (2) A department or section of a mortgagee that is devoted to property
7 management or preservation; or

8 (3) A service provider specifically employed by a mortgagee to provide
9 property management or preservation within the City.

10 (D) The obligations listed in Subsection (A) shall be fulfilled within the following
11 time frames:

12 (1) The property inspection must occur before notice of default or within
13 ten days following.

14 (2) The property registration and designation of a property manager must
15 occur no later than five days after the inspection.

16 (E) With respect to each specified property, the mortgagee and its designated
17 property manager shall be responsible for inspecting and maintaining the property on a monthly basis
18 until the parcel no longer qualifies under the definition of "specified property."

19 **16.33.040:** The City is authorized to charge a mortgagee a fee of two hundred dollars for each
20 initial property registration required under this Chapter, and a fee of fifty dollars for each modification
21 to a registration.

22 **16.33.050:** By means of contract, the City may assign and delegate to another person or entity the
23 authority and responsibility to:

24 (A) Effect, collect and maintain registrations under LVMC 16.33.030; and

25 (B) Collect registration fees under LVMC 16.33.040.

26 **16.33.060:** (A) Specified property shall be maintained in accordance with applicable codes and
27 ordinances, including without limitation ordinances pertaining to dangerous buildings, litter, and
28 nuisance abatement. Insofar as there is existing or previously existing landscaping, all visible

1 landscaping in front and side yards shall be maintained to the neighborhood standard at the time
2 registration was required. If no landscaping previously existed at the property in front and visible side
3 yards, installation is not required under this Section.

4 (B) For purposes of this Section:

5 (1) "Landscaping" includes without limitation grass, turf stain, ground
6 covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod
7 designed specifically for residential installation. The term does not include weeds, gravel, broken
8 concrete, asphalt, decomposed granite, plastic sheeting, mulch (unless applied in conjunction with
9 reseeding of turf areas), indoor-outdoor carpet or any similar material.

10 (2) "Maintenance of landscaping" includes without limitation regular
11 watering, irrigation, staining, re-staining, cutting, pruning and mowing of required landscaping and
12 removal of all trimmings.

13 (C) Pools and spas located on specified property shall be kept in working order so
14 the water remains clear and free of pollutants and debris or drained and kept dry. In either case, pools
15 and spas must comply with the minimum security requirements applicable to pools and spas within
16 the City.

17 (D) Specified property shall be maintained in a secure manner so as not to be
18 accessible to unauthorized persons. Doors or all kinds, windows, gates and other openings that make
19 the property accessible must be closed and locked so that a key, keycard, tool or special knowledge
20 is necessary to gain access. Broken windows must be reglazed or boarded in accordance with
21 applicable City standards.

22 (E) Specified property shall be posted with the name and contact phone number of
23 the mortgagee or property manager. The posting shall be no less than eight and one-half inches by
24 eleven inches and shall contain, along with the name and contact number, the words "THIS
25 PROPERTY MANAGED BY" and "TO REPORT PROBLEMS OR CONCERNS CALL" or similar.
26 The posting shall be placed in a window adjacent to the entry door or attached to the exterior of the
27 entry door. Exterior posting must be constructed of and printed with, or contained in, weather-resistant
28 materials.

1 (F) With respect to any specified property, compliance with this Section shall be
2 the joint responsibility of the mortgagee, the property manager, as well as the property owner.

3 **16.33.070:** (A) It is unlawful for a person or other responsible party under this Chapter to
4 violate any provision of this Chapter.

5 (B) The provisions of this Chapter may be enforced by the Las Vegas Metropolitan
6 Police Department, officers and employees of the Department of Building and Safety, and any other
7 officer or employee designated by the City Manager.

8 (C) The provisions of this Chapter may be enforced by means of:

9 (1) Criminal prosecution;

10 (2) To the extent adaptable, the same civil process that is available under
11 LVMC Chapter 9.04 for the abatement of nuisances; or

12 (3) Any other civil mechanism established by the City Council for use in
13 connection with this Chapter.

14 (D) In addition to any enforcement remedy otherwise available, the Director of
15 Building and Safety or a designee shall have the authority to require a responsible party to implement
16 additional maintenance and/or security measures as may be reasonably required to arrest the decline
17 of the property.

18 SECTION 2: If any section, subsection, subdivision, paragraph, sentence, clause or
19 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or
20 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
21 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the
22 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,
23 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,
24 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,
25 invalid or ineffective.

26 SECTION 3: Whenever in this ordinance any act is prohibited or is made or declared
27 to be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is
28 required or the failure to do any act is made or declared to be unlawful or an offense or a

1 misdemeanor, the doing of such prohibited act or the failure to do any such required act shall
2 constitute a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than
3 \$1,000.00 or by imprisonment for a term of not more than six months, or by any combination of such
4 fine and imprisonment. Any day of any violation of this ordinance shall constitute a separate offense.

5 SECTION 4: All ordinances or parts of ordinances or sections, subsections, phrases,
6 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada,
7 1983 Edition, in conflict herewith are hereby repealed.

8 PASSED, ADOPTED and APPROVED this _____ day of _____, 2011.

9 APPROVED:

10 By _____
11 CAROLYN G. GOODMAN, Mayor

12 ATTEST:

13 _____
14 BEVERLY K. BRIDGES, MMC
City Clerk

15 APPROVED AS TO FORM:

16 Val Hood 10-10-11
Date

1 The above and foregoing ordinance was first proposed and read by title to the City Council on the
2 ____ day of _____, 2011, and referred to the following committee composed of
3 _____ and _____ for recommendation;
4 thereafter the said committee reported favorably on said ordinance on the ____ day of
5 _____, 2011, which was a _____ meeting of said Council; that at said
6 _____ meeting, the proposed ordinance was read by title to the City Council
7 as first introduced and adopted by the following vote:

8 VOTING "AYE": _____

9 VOTING "NAY": _____

10 ABSENT: _____

11
12 APPROVED:

13
14 By _____
CAROLYN G. GOODMAN, Mayor

15 ATTEST:

16 _____
17 BEVERLY K. BRIDGES, MMC
City Clerk
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BUSINESS IMPACT STATEMENT

BILL NO. 2011-39

(Adopts a registration and maintenance program for vacant properties that are the subject of foreclosure and related proceedings)

This business impact statement was prepared pursuant to NRS 237.090 to address the impact of a proposed ordinance, Bill No. 2011-39, that will adopt a registration and maintenance program for vacant properties that are the subject of foreclosure and related proceedings.

1. The following constitutes a description of the manner in which comment was solicited from affected businesses, a summary of their responses and an explanation of the manner in which other interested persons may obtain a copy of the summary.

Notice of the proposed ordinance was mailed to businesses licensed by the City to engage in lending operations, as well as to groups representative of those businesses.

The summary of the responses received is included below in this business impact statement, which is available to interested persons. Two responses were received, one of which was primarily directed toward another jurisdiction's proposal. That response did include a comment about the City's proposal, namely, that the ordinance should not make failure to comply a crime. The other response raised a number of concerns with the language and concepts of the City's proposed ordinance, including that requiring lenders to register and to maintain properties might be in violation of, or inconsistent with, applicable loan documents and applicable laws on a number of grounds.

2. The estimated economic effect of the proposed rule on businesses, including, without limitation, both adverse and beneficial effects, and both direct and indirect effects:

Adverse effects:

The ordinance would put a regulatory obligation on lenders to register and maintain properties, something which has not been done currently or is being done voluntarily, and, according to one respondent, may put lenders into a difficult position legally

Beneficial effects:

The ordinance would help the City and lenders maintain properties in better condition during the foreclosure process

Direct effects:

See adverse and beneficial effects above

Indirect effects:

None identified

3. The following constitutes a description of the methods the local government considered to reduce the impact of the proposed rule on businesses and a statement regarding whether any, and if so which, of these methods were used:

The City plans to evaluate the responses received and consider making adjustments to the ordinance as deemed appropriate

4. The governing body estimates the annual cost to the local government for enforcement of the proposed rule is:

Unable to be estimated at the present time

5. If the proposed rule provides for a new fee or increases an existing fee, the total annual amount expected to be collected is:

Unable to be estimated at the present time, dependent on compliance

6. If the proposed rule provides for a new fee or increases an existing fee, the money generated by the new fee or increase in existing fee will be used by the local government to:

Help offset the costs of monitoring and enforcement of the ordinance

7. If the proposed rule includes provisions that duplicate or are more stringent than federal, state or local standards regulating the same activity, the following explains why such duplicative or more stringent provisions are necessary:

Not applicable

Date: October 18, 2011



RESIDENTIAL FORECLOSURE ANALYSIS

August 2011

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Published by:



**APPLIED
ANALYSIS**

www.appliedanalysis.com

Submitted At Meeting
by MIKE ROSE
Date 11/1/11 Item #5

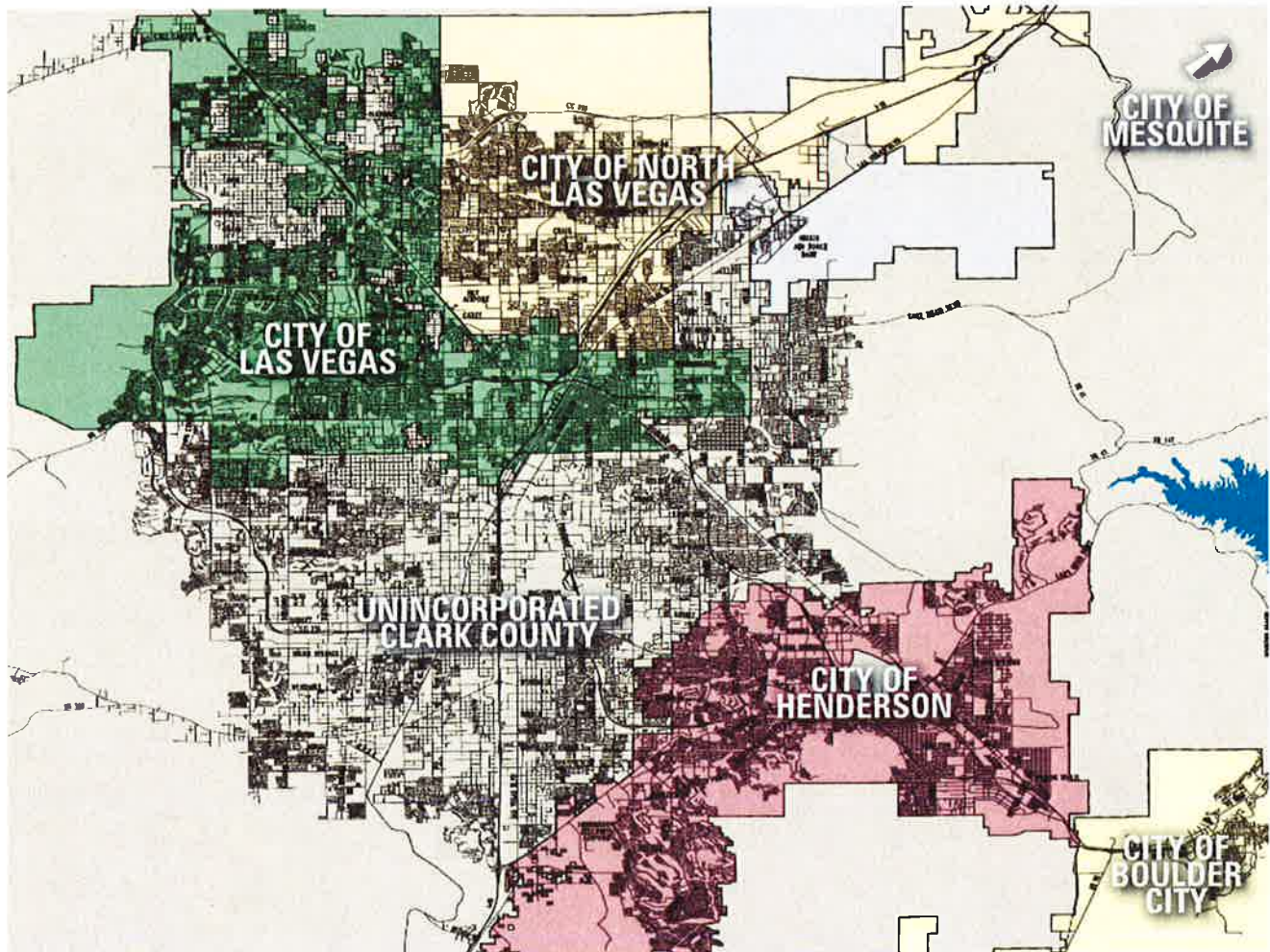


FORECLOSURE RANKINGS BY Jurisdiction

Rankings (1 = Highest Rate)

SOUTHERN NEVADA FORECLOSURE RANKINGS	Rate of Notices of Default			Rate of Trustee Deeds (Foreclosures)		
	Current Month	Trailing 3 Months	Trailing 12 Months	Current Month	Trailing 3 Months	Trailing 12 Months
City of Las Vegas	3	3	3	3	3	3
City of Henderson	4	4	4	4	4	4
City of North Las Vegas	2	1	1	1	1	1
City of Mesquite	5	5	5	5	5	5
City of Boulder City	6	6	6	6	6	6
Unincorporated Clark County	1	2	2	2	2	2

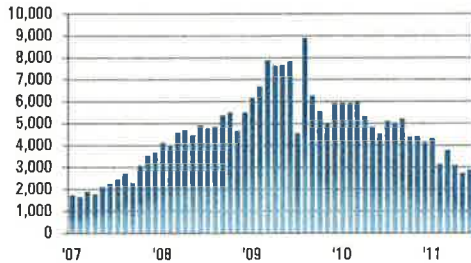
SOUTHERN NEVADA Jurisdictions



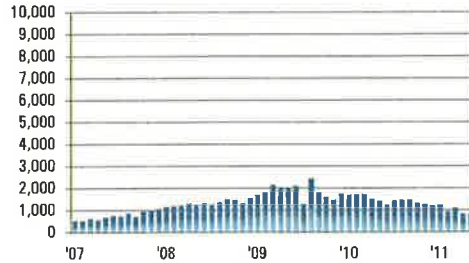


FORECLOSURE ACTIVITY BY Jurisdiction

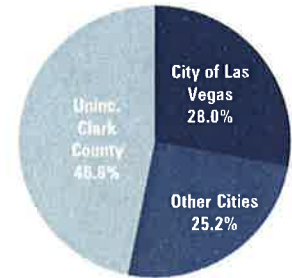
Clark County:
NOTICES OF DEFAULT



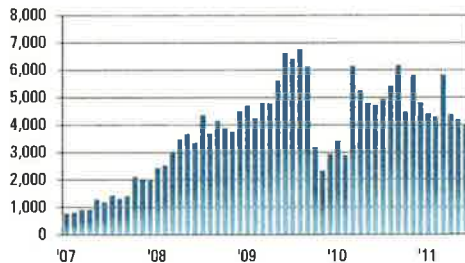
City of Las Vegas:
NOTICES OF DEFAULT



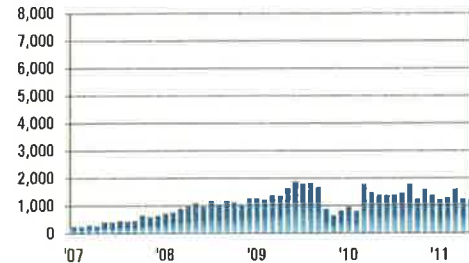
Distribution:
NOTICES OF DEFAULT



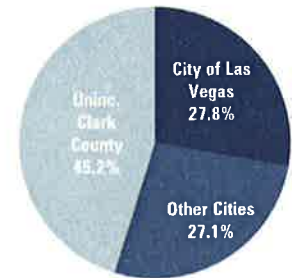
Clark County:
NOTICES OF TRUSTEE SALE



City of Las Vegas:
NOTICES OF TRUSTEE SALE



Distribution:
NOTICES OF TRUSTEE SALE

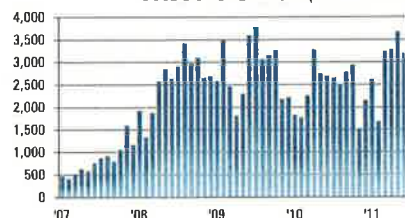


PRE-FORECLOSURE ACTIVITY	Incorporated Cities					Unincorp. Clark County	Total Clark County
	Las Vegas	Henderson	North Las Vegas	Masquite	Boulder City		
Housing Units							
Number of Housing Units	184,629	95,726	69,143	8,368	6,687	281,580	646,133
As a % of Total Housing Units	28.6%	14.8%	10.7%	1.3%	1.0%	43.6%	100.0%
Notices of Default (As a % of Total)							
Current Month	805	394	304	17	11	1,347	2,878
Trailing 3 Months	2,397	1,229	1,008	52	29	3,957	8,672
Trailing 12 Months	13,708	6,558	6,034	281	153	21,427	48,161
Notices of Default (As a % of Total)							
Current Month	28.0%	13.7%	10.6%	0.6%	0.4%	46.8%	100.0%
Trailing 3 Months	27.6%	14.2%	11.6%	0.6%	0.3%	45.6%	100.0%
Trailing 12 Months	28.5%	13.6%	12.5%	0.6%	0.3%	44.5%	100.0%
Ratio of Default Notices (X Per 1,000 Housing Units)							
Current Month	4.4	4.1	4.4	2.0	1.6	4.8	4.5
Trailing 3 Months	13.0	12.8	14.6	6.2	4.3	14.1	13.4
Trailing 12 Months	74.2	68.5	87.3	33.6	22.9	76.1	74.5
Notices of Trustee Sale							
Current Month	1,100	542	507	14	8	1,788	3,959
Trailing 3 Months	3,541	1,652	1,652	55	34	5,578	12,512
Trailing 12 Months	16,504	7,289	7,891	275	159	26,481	58,599
Notices of Trustee Sale (As a % of Total)							
Current Month	27.8%	13.7%	12.8%	0.4%	0.2%	45.2%	100.0%
Trailing 3 Months	28.3%	13.2%	13.2%	0.4%	0.3%	44.6%	100.0%
Trailing 12 Months	28.2%	12.4%	13.5%	0.5%	0.3%	45.2%	100.0%
Ratio of Notices of Trustee Sale (X Per 1,000 Housing Units)							
Current Month	6.0	5.7	7.3	1.7	1.2	6.3	6.1
Trailing 3 Months	19.2	17.3	23.9	6.6	5.1	19.8	19.4
Trailing 12 Months	89.4	76.1	114.1	32.9	23.8	94.0	90.7

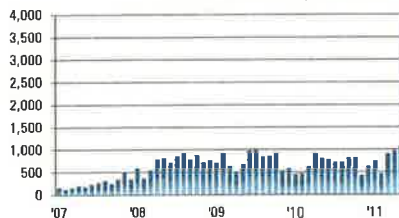


FORECLOSURE ACTIVITY BY Jurisdiction

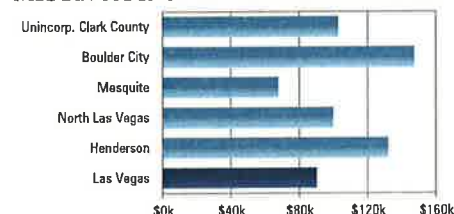
Clark County:
TRUSTEE DEEDS (Foreclosures)



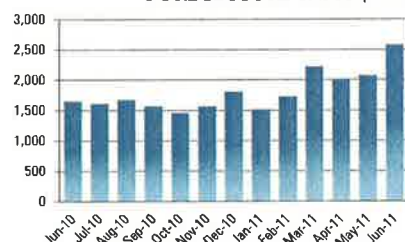
City of Las Vegas:
TRUSTEE DEEDS (Foreclosures)



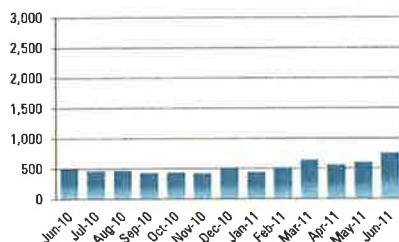
Past Month:
MEDIAN PRICE OF FORECLOSURE/REO SALES



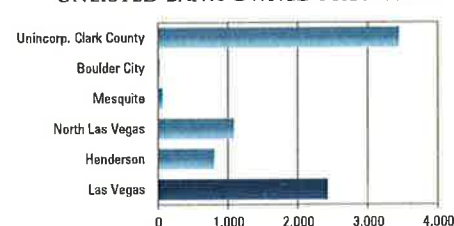
Clark County:
FORECLOSURE SALES (REOs)



City of Las Vegas:
FORECLOSURE SALES (REOs)



Past Month:
UNLISTED BANK-OWNED PROPERTIES



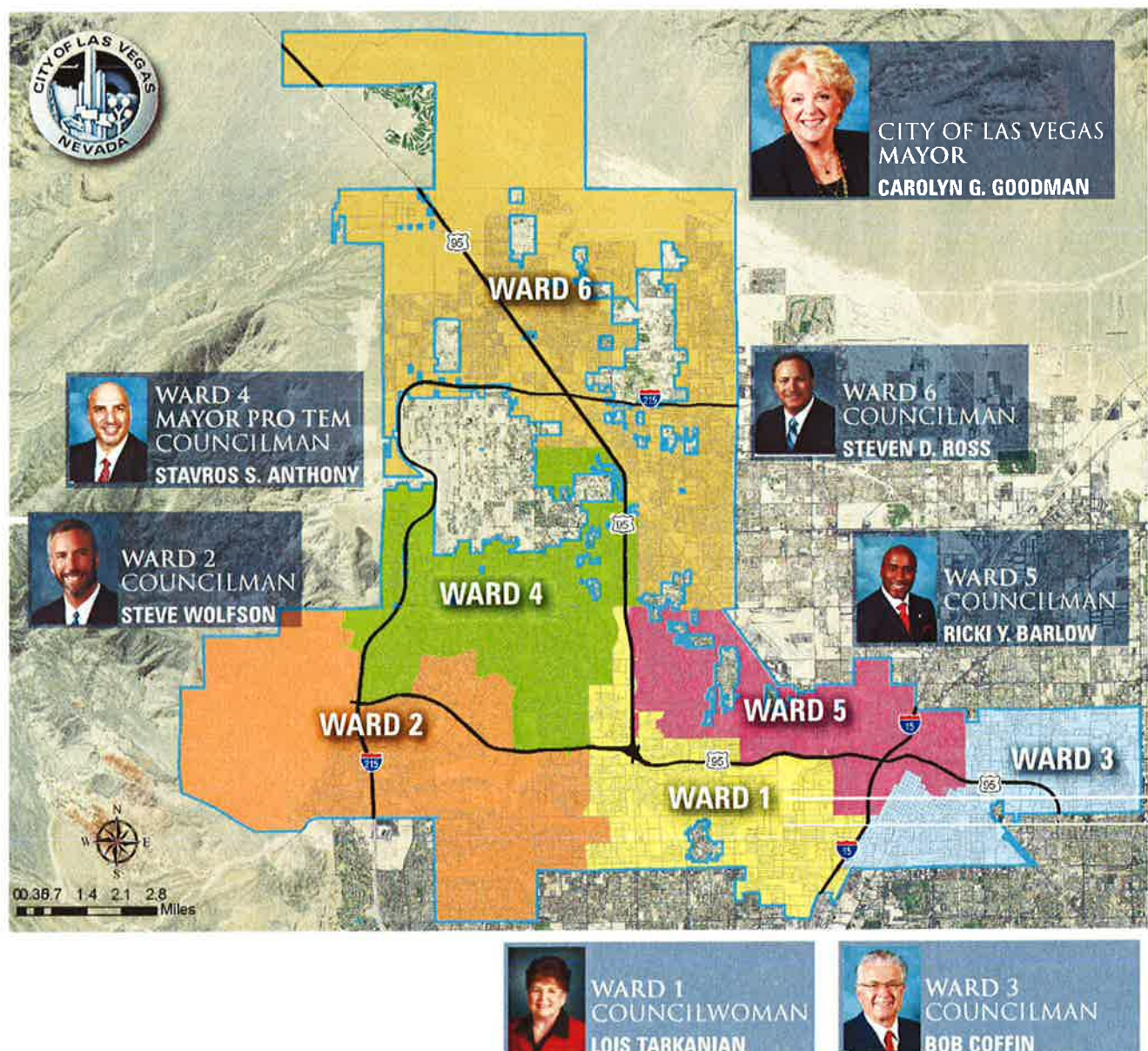
FORECLOSURE ACTIVITY	Incorporated Cities					Unincorp. Clark County	Total Clark County
	Las Vegas	Henderson	North Las Vegas	Mesquite	Boulder City		
Housing Units							
Number of Housing Units	184,629	95,726	69,143	8,368	6,687	281,580	646,133
As a % of Total Housing Units	28.6%	14.8%	10.7%	1.3%	1.0%	43.6%	100.0%
Trustee Deeds (Foreclosures)							
Current Month	874	414	449	22	14	1,429	3,202
Trailing 3 Months	2,920	1,259	1,386	64	29	4,489	10,147
Trailing 12 Months	9,219	3,980	4,375	191	79	14,395	32,239
Trustee Deeds (Forecl.) (As a % of Total)							
Current Month	27.3%	12.9%	14.0%	0.7%	0.4%	44.6%	100.0%
Trailing 3 Months	28.8%	12.4%	13.7%	0.6%	0.3%	44.2%	100.0%
Trailing 12 Months	28.6%	12.3%	13.6%	0.6%	0.2%	44.7%	100.0%
Rate of Trustee Deeds (Foreclosures) (X Per 1,000 Housing Units)							
Current Month	4.7	4.3	6.5	2.6	2.1	5.1	5.0
Trailing 3 Months	15.8	13.2	20.0	7.6	4.3	15.9	15.7
Trailing 12 Months	49.9	41.6	63.3	22.8	11.8	51.1	49.9
Foreclosure Sales (REOs)							
Current Month	750	300	321	16	11	1,176	2,574
Trailing 3 Months	1,904	797	881	45	25	3,003	6,655
Trailing 12 Months	6,230	2,653	2,972	156	66	9,716	21,793
Foreclosure Sales (REOs) (As a % of Total)							
Current Month	29.1%	11.7%	12.5%	0.6%	0.4%	45.7%	100.0%
Trailing 3 Months	28.6%	12.0%	13.2%	0.7%	0.4%	45.1%	100.0%
Trailing 12 Months	28.6%	12.2%	13.6%	0.7%	0.3%	44.6%	100.0%
Median Price of Foreclosure/REO Sales							
Current Month	\$90,434	\$132,000	\$100,000	\$68,000	\$147,500	\$103,000	\$102,000
Trailing 3 Months	\$94,924	\$135,000	\$98,500	\$92,000	\$147,500	\$103,000	\$103,000
Trailing 12 Months	\$96,000	\$140,000	\$104,000	\$110,000	\$148,000	\$108,000	\$108,000



FORECLOSURE RANKINGS BY Ward

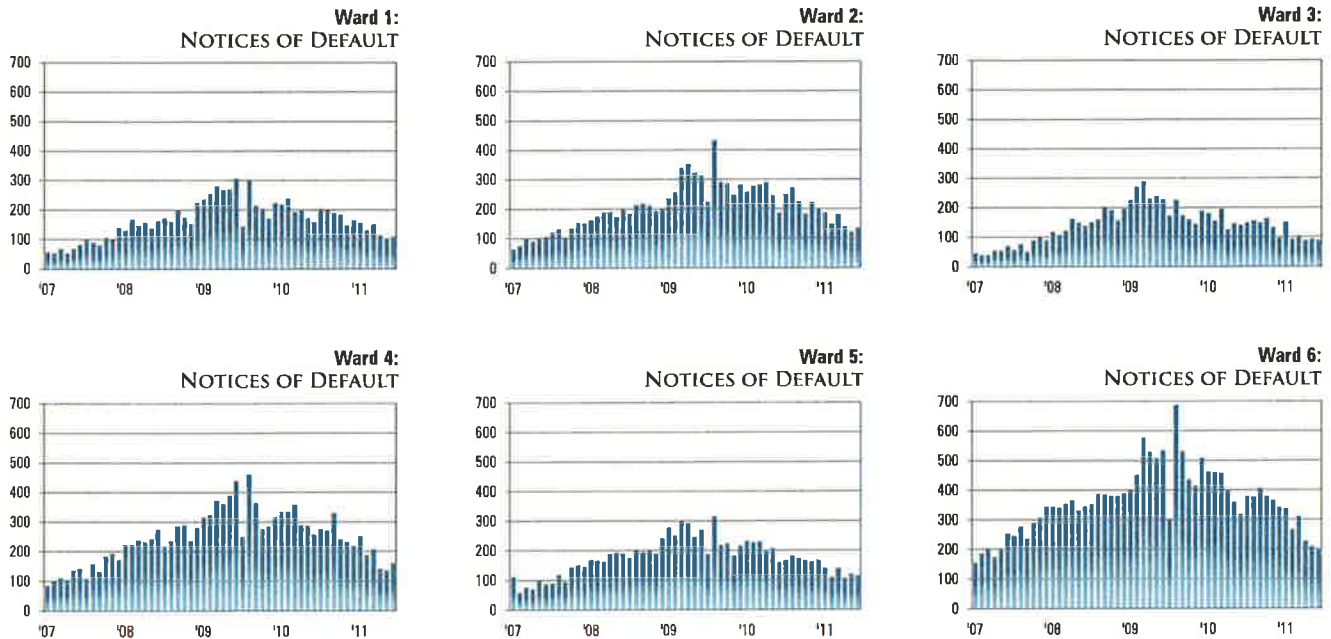
LAS VEGAS WARD FORECLOSURE RANKINGS	Rate of Notices of Default			Rate of Trustee Deeds (Foreclosures)		
	Current Month	Trailing 3 Months	Trailing 12 Months	Current Month	Trailing 3 Months	Trailing 12 Months
Ward 1	6	6	6	6	6	6
Ward 2	5	4	5	5	5	5
Ward 3	1	1	2	3	2	2
Ward 4	4	5	4	4	4	4
Ward 5	3	3	3	2	3	3
Ward 6	2	2	1	1	1	1

CITY OF LAS VEGAS Wards





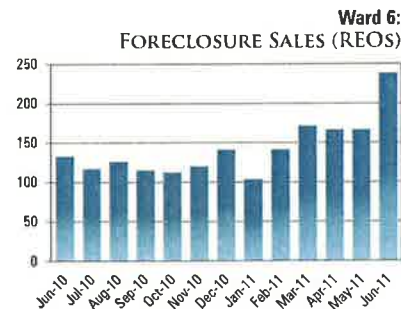
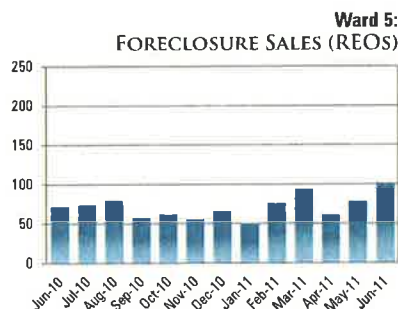
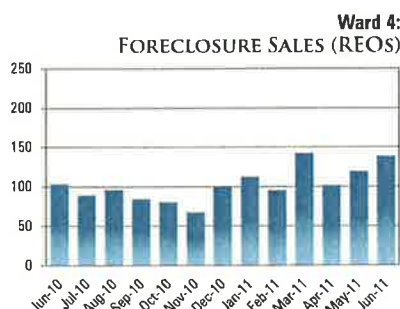
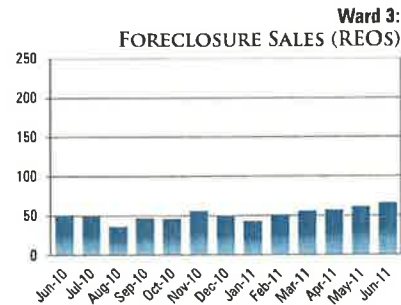
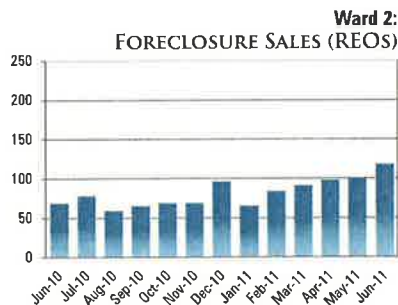
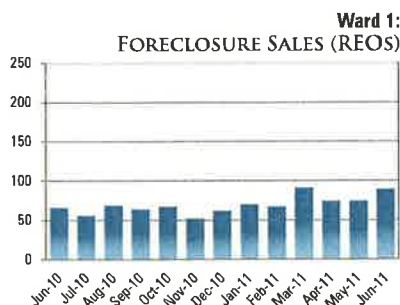
FORECLOSURE ACTIVITY BY Ward



PRE-FORECLOSURE ACTIVITY	Ward 1	Ward 2	Ward 3	Ward 4	Ward 5	Ward 6	Total City of Las Vegas
Housing Units							
Number of Housing Units	24,289	33,733	21,842	39,246	23,487	42,374	184,629
As a % of Total Housing Units	13.2%	18.3%	11.8%	21.3%	12.7%	23.0%	100.0%
Notices of Default							
Current Month	88	135	115	160	109	198	805
Trailing 3 Months	269	394	341	436	324	633	2,397
Trailing 12 Months	1,459	2,248	1,738	2,645	1,831	3,787	13,708
Notices of Default (As a % of Total)							
Current Month	10.9%	16.8%	14.3%	19.9%	13.5%	24.6%	100.0%
Trailing 3 Months	11.2%	16.4%	14.2%	18.2%	13.5%	26.4%	100.0%
Trailing 12 Months	10.6%	16.4%	12.7%	19.3%	13.4%	27.6%	100.0%
Rate of Default Notices (X Per 1,000 Housing Units)							
Current Month	3.6	4.0	5.3	4.1	4.6	4.7	4.4
Trailing 3 Months	11.1	11.7	15.6	11.1	13.8	14.9	13.0
Trailing 12 Months	60.1	66.6	79.6	67.4	78.0	89.4	74.2
Notices of Trustee Sale							
Current Month	128	171	150	226	123	302	1,100
Trailing 3 Months	385	582	468	678	448	980	3,541
Trailing 12 Months	1,729	2,814	2,151	3,107	2,168	4,535	16,504
Notices of Trustee Sale (As a % of Total)							
Current Month	11.6%	15.5%	13.6%	20.5%	11.2%	27.5%	100.0%
Trailing 3 Months	10.9%	16.4%	13.2%	19.1%	12.7%	27.7%	100.0%
Trailing 12 Months	10.5%	17.1%	13.0%	18.8%	13.1%	27.5%	100.0%
Rate of Notices of Trustee Sale (X Per 1,000 Housing Units)							
Current Month	5.3	5.1	6.9	5.8	5.2	7.1	6.0
Trailing 3 Months	15.9	17.3	21.4	17.3	19.1	23.1	19.2
Trailing 12 Months	71.2	83.4	98.5	79.2	92.3	107.0	89.4



FORECLOSURE ACTIVITY BY Ward



FORECLOSURE ACTIVITY	Ward 1	Ward 2	Ward 3	Ward 4	Ward 5	Ward 6	Total City of Las Vegas
Housing Units							
Number of Housing Units	24,289	33,733	21,842	39,246	23,487	42,374	184,629
As a % of Total Housing Units	13.2%	18.3%	11.8%	21.3%	12.7%	23.0%	100.0%
Trustee Deeds (Foreclosures)							
Current Month	82	128	114	175	126	249	874
Trailing 3 Months	274	455	404	579	398	810	2,920
Trailing 12 Months	938	1,456	1,277	1,787	1,250	2,511	9,219
Trustee Deeds (Forecl.) (As a % of Total)							
Current Month	9.4%	14.6%	13.0%	20.0%	14.4%	28.5%	100.0%
Trailing 3 Months	9.4%	15.6%	13.8%	19.8%	13.6%	27.7%	100.0%
Trailing 12 Months	10.2%	15.8%	13.9%	19.4%	13.6%	27.2%	100.0%
Rate of Trustee Deeds (Foreclosures)	(X Per 1,000 Housing Units)						
Current Month	3.4	3.8	5.2	4.5	5.4	5.9	4.7
Trailing 3 Months	11.3	13.5	18.5	14.8	16.9	19.1	15.8
Trailing 12 Months	38.6	43.2	58.5	45.5	53.2	59.3	49.9
Foreclosure Sales (REOs)							
Current Month	66	118	101	138	89	238	750
Trailing 3 Months	184	317	238	358	237	570	1,904
Trailing 12 Months	618	993	846	1,222	835	1,716	6,230
Foreclosure Sales (REOs) (As a % of Total)							
Current Month	8.8%	15.7%	13.5%	18.4%	11.9%	31.7%	100.0%
Trailing 3 Months	9.7%	16.6%	12.5%	18.8%	12.4%	29.9%	100.0%
Trailing 12 Months	9.9%	15.9%	13.6%	19.6%	13.4%	27.5%	100.0%
Median Price of Foreclosure/REO Sales							
Current Month	\$58,500	\$130,100	\$50,000	\$113,500	\$46,900	\$105,700	\$90,434
Trailing 3 Months	\$60,000	\$137,702	\$49,950	\$113,938	\$51,850	\$110,500	\$94,924
Trailing 12 Months	\$67,750	\$148,500	\$54,000	\$113,750	\$56,900	\$119,000	\$96,000

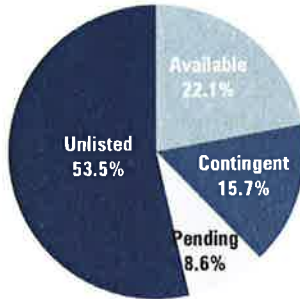


FORECLOSURE ACTIVITY BY Ward

Ward 1:
LISTED STATUS OF BANK-OWNED
PROPERTIES (REOs)



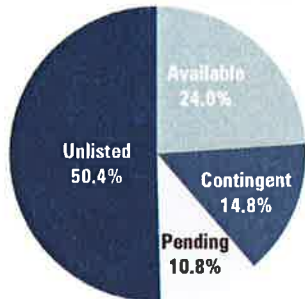
Ward 2:
LISTED STATUS OF BANK-OWNED
PROPERTIES (REOs)



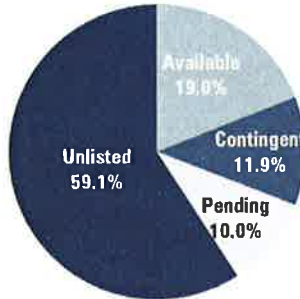
Ward 3:
LISTED STATUS OF BANK-OWNED
PROPERTIES (REOs)



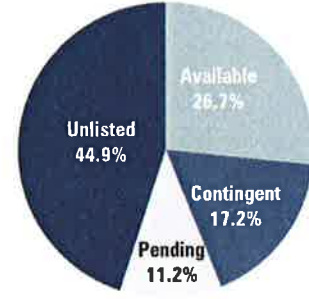
Ward 4:
LISTED STATUS OF BANK-OWNED
PROPERTIES (REOs)



Ward 5:
LISTED STATUS OF BANK-OWNED
PROPERTIES (REOs)



Ward 6:
LISTED STATUS OF BANK-OWNED
PROPERTIES (REOs)



INVENTORY ANALYSIS	Ward 1	Ward 2	Ward 3	Ward 4	Ward 5	Ward 6	Total City of Las Vegas
Housing Units							
Number of Housing Units	24,289	33,733	21,842	39,246	23,487	42,374	184,629
As a % of Total Housing Units	13.2%	18.3%	11.8%	21.3%	12.7%	23.0%	100.0%
Bank-Owned Properties (REOs)							
Number of Bank-Owned Properties	666	648	601	804	672	1,035	4,426
As a % of Total Housing Units	2.7%	1.9%	2.8%	2.0%	2.9%	2.4%	2.4%
Listed Status of REOs							
Available in the MLS	140	143	61	193	128	276	941
Contingent in the MLS	67	102	41	119	80	178	587
Pending in the MLS	85	56	54	87	67	116	475
Unlisted	374	347	435	405	397	465	2,423
Total	666	648	601	804	672	1,035	4,426
Listed Status of REOs (As a % of Total)							
Available in the MLS	14.9%	15.2%	6.5%	20.5%	13.6%	29.3%	100.0%
Contingent in the MLS	11.4%	17.4%	7.0%	20.3%	13.6%	30.3%	100.0%
Pending in the MLS	17.9%	11.8%	13.5%	18.3%	14.1%	24.4%	100.0%
Unlisted	15.4%	14.3%	18.0%	16.7%	16.4%	19.2%	100.0%
Total	15.0%	14.6%	13.6%	18.2%	15.2%	23.4%	100.0%
Distribution of Listed Status of REOs							
Available in the MLS	21.0%	22.1%	10.1%	24.0%	19.0%	26.7%	21.3%
Contingent in the MLS	10.1%	15.7%	6.8%	14.8%	11.9%	17.2%	13.3%
Pending in the MLS	12.8%	8.6%	10.6%	10.8%	10.0%	11.2%	10.7%
Unlisted	56.2%	53.5%	72.4%	50.4%	59.1%	44.9%	54.7%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

COMMENTS TO THE CITY OF LAS VEGAS

**COMMENTS FROM NEVADA STATE BANK
REGARDING PROPOSED ORDINANCE TO
ADOPT A REGISTRATION AND MAINTENANCE
PROGRAM FOR PROPERTIES THAT ARE
THE SUBJECT OF FORECLOSURE AND
RELATED PROCEEDINGS**

Nevada State Bank, by and through its attorneys Jolley Urga Wirth Woodbury & Standish, hereby submits comments in connection with the proposed ordinance amending Title 16 of the Municipal Code of the City of Las Vegas to add a new chapter, designated as Chapter 33.

OVERVIEW OF COMMENTS

Nevada State Bank is sensitive to and understands the concerns raised by the City and underlying the proposed ordinance. Because the bank could become the fee title owner of a residential property by enforcement of its security interest, we are interested in learning about proposed abatements and penalties as early as possible. We would welcome the opportunity to remedy those situations within our control prior to any government entity undertaking remediation or abatement steps. We are concerned; however, that while a government entity has the benefits of both police power and government immunity, there is no equivalent for a private lender. Neither the law nor a lender's loan documents authorize a lender to take control of real property before some form of foreclosure mechanism has taken place. We therefore urge that the language of the ordinance, and the mechanism for implementation, be cognizant of those limitations on a private lender.

SECTION 16.33.020 WORDS AND PHRASES

In connection with the definition of "notice of default", it should be noted that a non-judicial foreclosure is commenced by the mailing and recording of a Notice of Breach and Election to Sell on behalf of the lender (this document is sometimes referred to as the Notice of Default). It is, however, the combined mailing and recording of the Notice of Default that begins the foreclosure process. The use of the word "or" before "has been recorded in the County Recorder's Office" should therefore be replaced with the word "and".

In connection with the phrase "specified property", subsection (B) states "concerning which a notice of default has been filed." The word "filed", however, should be replaced with the word "recorded". We are also concerned that the way the phrase "specified property" is described would include both property in which a lender had a possessory interest and no possessory interest. A lender holding a "security" interest in real property is far different than holding an "ownership" interest (such as a fee title holder) or a "possessory" interest (such as a lessee). Many of the goals of the proposed ordinance, such as the right to enter upon, secure and maintain property, are legally impermissible unless one holds an ownership or possessory interest in the property. There is no legal authority to allow, or

require, the holder of the security interest in real property to take physical possession or control of the property.

SECTION 16.33.030

The language in sub-section (A) is too broad in that it would require inspection and possible registration of properties prior to the mailing and recordation of the notice of default. Inspection and potential registration of property should not be required unless there has in fact been a notice of default recorded. Otherwise, merely missing a payment would subject the property owner to its property being inspected and potentially registered. Once a notice of default has been recorded, the property could be "inspected". Such an inspection, however, would necessarily have to be cursory in that the secured lender has no right to enter upon the real property without the consent of the owner. Doing so would be a trespass and could subject a secured lender to liability. An inspection "from the curb" could be performed by or on behalf of a secured lender. Such an inspection, however, would not reveal whether the property was occupied by the mortgagor or by persons who were occupying the property with the mortgagor's consent. Such an inspection could possibly determine if the property was unoccupied at the moment of inspection but would have no way of delving into the intentions of the borrower or whether the occupant was only temporarily absent from the property. Nor could such an inspection determine the "lawfulness" of such occupation. Determining if a property was vacant or "not presently occupied by persons lawfully entitled thereto" is not something that a secured lender is in a position to do. Such an inspection could perhaps be completed under the government entities' police power or by the Department of Building and Safety in this case.

Subsection (A) also requires that the "mortgagor" shall designate in writing a property manager to inspect, maintain and secure the property. This is certainly information available to the "mortgagor" as the owner of the property. If however the ordinance was intended to read "mortgagee shall designate", then that is a problem. As discussed above, a secured lender is not legally entitled to take steps to secure or maintain the property until the lender has gone through the steps of foreclosure and either become the owner or otherwise obtained some form of possessory interest in the real property.

In connection with subsection (B), the same concern exists. The secured lender could certainly provide information relating to the name, address and contact number for the borrower based on the information in its file. A secured lender, however, would have no authority to appoint a property manager to inspect, maintain or secure the property, because the secured lender itself does not have that power.

In connection with subsection (C), if the property manager designated was the borrower's property manager, the lender may not have that information and would have no control over such property manager's qualifications. Not until the property had gone through the foreclosure process or was otherwise under the ownership and control of the secured lender could identification of the property manager retained by the lender be provided.

In connection with subsection (D), the time frames for the obligations listed in subsection (A) are too brief. Under NRS 107.080, et seq., a borrower generally has 35 days from the recording of the Notice of Breach to cure a default before the lender can accelerate the loan. If the combined period for

the inspection and the registration was changed to be no longer than 40 days after the Notice of Breach is recorded, that would eliminate false starts or false registrations.

In connection with subsection (E), the proposed ordinance states, with respect to each specified property, the mortgagee and its designated property manager shall be responsible for inspecting and maintaining the property on a monthly basis until the parcel no longer qualifies under the definition of specified property. However, the law only allows an owner (the holder of the fee title interest), or another with a possessory interest in the property (such as a tenant) to “maintain and secure” the property. The lender, as a mere holder of a security interest, does not generally have the right to enter upon, maintain or secure the property. (In some instances, depending on the loan documentation, the lender may be provided with an optional right to prevent waste of the property; however, those terms vary with the different loan documents and usually are limited to curing monetary defaults, such as placement of insurance and payment of taxes, not on-site maintenance work.) As such, it is our view that the lender would not be the party with the right to “maintain and secure” the property unless and until their foreclosure or other mechanism had taken place, vesting them as the owner and fee title holder of the property.

Certainly the City could impose some form of obligation upon an “Owner” of a property. This would include a lender once the lender became an “Owner” through a foreclosure or other mechanism. The City, through its police powers, may have the right to enter upon and secure real property with impunity, but a private lender does not.

A lender would of course appreciate receiving notice from the City of its intention to enter upon and secure the property and otherwise abate what troubles may be found there, especially if that lender is about to become an owner of that property through foreclosure. If a pre-assessment and pre-abatement notice was sent to a lender prior to them becoming the owner, it may, depending upon the circumstances of the property, be able to take some remedial steps. However, to be required by this ordinance to engage in activity that is beyond the lender’s legal rights, would simply subject the lenders to liability to owners and other third parties. We know of no law or legal principal that would allow a secured lender to undertake the acts of securing and maintaining the property as described in subsection 16.33.060 of the proposed ordinance. Likewise, we know of no legally permissible mechanism to allow the City to indemnify a lender or otherwise provide a safe harbor from such liability. Subsection 16.33.060 provides a series of items of repair and maintenance to the building and landscaping that would be permissible only to an owner of the property.

In addition to these legal concerns, we also have some practical concerns in connection with subsection 16.33.060. If a property is identified as having dying landscape and the utilities have been turned off, it may not be possible for the lender to get the utilities turned back on. Likewise, it may not be advisable to turn on electricity and water unless the property has been secured and the interior of the property (in terms of light fixtures, plumbing fixtures, etc.) is suitable for the turn-on of the utilities. For example, if the interior of the property has been stripped of all plumbing fixtures, turning the water on would simply flood the interior of the building. Similarly, if the property had been stripped of lighting fixtures, turning the electricity on could cause an electrical fire or worse.

Entering upon property and changing the locks to secure the property could cause civil liability as well as potential breach of the peace.

THE POWERS OF THE CITY

NRS 266.105 allows the City Council to “make and pass all ordinances, resolutions and orders, not repugnant to the Constitutions of the United States or of the State of Nevada . . . necessary for the municipal government and the management of the city affairs” The statute also grants the City Council power to provide for fines or penalties to enforce such ordinances.

NRS 266.335 deals with the abatement, prevention and removal of Nuisances and allows certain lien rights for the City. The statute provides, in part, that the City Council may:

1. Determine by ordinance what shall be deemed nuisances.
2. Provide for the abatement, prevention and removal of the nuisances at the expense of the person creating, causing or committing the nuisances.
3. Provide that the expense of removal is a lien upon the property upon which the nuisance is located.
4. Provide any other penalty or punishment of persons responsible for the nuisances.

It cannot be disputed that “the person creating, causing or committing the nuisance” must be the owner of the property (or its agent), not the lender. If, and when, the lender becomes an owner of the property, it may then become the responsible party, but not before.

The proposed ordinance puts the cart before the horse and imposes an obligation and liability on a mortgage lender for matters totally beyond the lender’s control and over matters which the lender has no legal right to address.

NUISANCE LAWS

NRS 40.140 defines nuisance and provides for actions for abatement and damages. The problems with vacant residences as discussed in the proposed ordinances may fall within the statutory definition of a nuisance. But, if that is the case, then such nuisance may be “the subject of an action”. Under the statute, the action may be brought by any person whose property is injuriously affected or whose personal enjoyment is lessened by the nuisance, and by the judgment the nuisance may be enjoined or abated, as well as damages recovered. The concept of an “action” carries with it notice and an opportunity to be heard and contemplates that a judgment would be entered following such notice and fair hearing. The City may not by edict, or ordinance, omit that process.

To impose criminal penalties on a lender for a nuisance created on property not owned or otherwise within the legal control of the lender is violative of fundamental premises of due process. In substance, it is improper to fine or penalize a lender for not doing something it has no legal right to do.

BANKRUPTCY CONSIDERATIONS

The proposed ordinance's requirement that the lender and/or its property manager maintain the "specific property" pre-foreclosure is problematic in a bankruptcy context. Whether the automatic stay is violated under 11 USC 362 in these situations may depend on whether the property preservation could be construed as enforcing a claim against the debtor or estate. Changing the locks may violate the stay because it would deprive the debtor of access to the property of the estate. If windows and doors are intact or not completely broken out, then boarding up the house may be construed as the lender enforcing its security interest in violation of the stay.

MORTGAGEE IN POSSESSION

The proposed ordinance would force the lender to do what it is not otherwise legally authorized to do and would force it to become a mortgagee in possession. Once a lender takes control of property all of the incidents/liability of ownership may attach to the lender. There is no Nevada law or statute which would mandate that a lender take title to the property and have the corresponding detriment of ownership. A lender can arguably walk away from the collateral and not foreclose. In fact, there is an exception to Nevada's one action rule (NRS 40.430) where there is the presence of environmental conditions which the lender was not aware of at the time of making the loan. In that case the lender may forego its security interest in the property and sue the borrower on the debt. This statute recognizes that if environmental conditions are present on a property, and the lender was obligated to step in and take possession, such actions would create additional liability for the lender under applicable federal statutes allocating responsibility for clean up.

POSSIBLE WRONGFUL LOCKOUT

If a lender incorrectly determines that a property has been abandoned or is vacant and seeks to secure possession by changing the locks, etc., this may give rise to claims by the borrower against the lender for wrongful dispossession of the premises. In this regard there is no safe harbor provided by the proposed ordinance relative to claims by the owners of the property. The proposed ordinance provides no express protection for the lender who acts in furtherance of the directives of the ordinance with reasonable good faith. This is highlighted by the language of the proposed ordinance requiring a lender to determine whether the property is "not presently occupied by persons lawfully entitled thereto". The risk of an incorrect determination in this regard puts an unreasonable burden upon a lender.

RECEIVERSHIPS

The proposed ordinance provides no alternative or safe harbors for a lender. What if a receiver is appointed? In that case, the receiver is acting as the agent of the court and has effectively been given control of the property by the court. The ordinance should not conflict with the rights of a court appointed receiver.

CONCLUSION

A lender generally would find acceptable the requirement that it provide notice to the City when it commences foreclosure by the recording of a Notice of Default. However, the obligation to determine if a property is vacant and then secure and maintain the property is not reasonable. If the City chooses to make a determination that the property is vacant or abandoned and chooses to engage in some abatement actions, the lender would certainly appreciate learning of that determination and the opportunity to conduct the abatement activities itself, without being forced to do so by the statute. The ability to coordinate with the City on such tasks would seem to be the appropriate goal rather than subjecting a lender to criminal liability for failure to do things which it has no legal right to do.

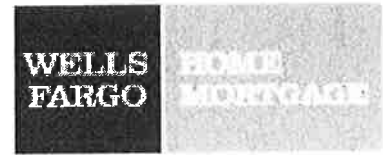
We would be happy to meet with members of the city government and other lenders to work out specific language changes. We request that the ordinance not be passed until such meeting can be convened.

Dated this 12th day of October, 2011.

Respectfully submitted,

JOLLEY URGAL WIRTH WOODBURY
& STANDISH

Charles T. Cook, Esq.
3800 Howard Hughes Parkway, Sixteenth Floor
Las Vegas, NV 89169
Telephone: (702) 699-7500
Email: ctc@juww.com



Date: October 18, 2011

To: Chris Knight Director of Building and Safety
Vicki Ozuna Sr. Code Enforcement Officer
Orlando Sanchez Deputy City Manager; City of Las Vegas

From: Joel Sarmiento Sr. Vice President Regional Servicing Community & Preservation Director

CC: Cari Viado Chris Knight's Administrative Secretary
Frank Howard Jr. Client Service Consultant

Subject: City of Las Vegas Registration and Maintenance of Vacant Properties Ordinance Concerns
REVISED

Registration of Abandoned Residential Property

- I. 16.33.020 – “Default”: removal of Default for ordinance; it would be hard to report all defaults and this is a privacy issue for the homeowner. Notices of Defaults are public records which have to be filed with the city.
**Default needs to be defined, to vague – 60 days past due should be the definition.*
- II. 16.33.020 – “Specified property” (A) (B) & (C): only applies to properties in F/C or REO and not delinquent properties.
**Foreclosure needs to be defined – What is the state of Nevada’s definition of when F/C starts?*
- III. 16.33.020 – “Vacant”: prior to F/C we can’t determine who is a lawful occupant of the property.
**Not occupied at all, lawfully or unlawfully and we (mortgage company) have tried to contact owner over a period of time with no luck. Not our position to police squatters.*
- IV. 16.33.030 – (A): should be revised with clear understanding, “actual or pending default” to vague.
**In event the property is vacant, we should maintain in accordance to investor guidelines.*
- V. 16.33.030 – (B) (4): should not have to provide mortgager information on disposition.
- VI. 16.33.030 – (C): local property manager prior to F/C sale may not always be in the local area. Would prefer to provide a direct Wells Fargo contact.
- VII. 16.33.030 – (D) (1) (2): timeframes are too tight
**Remove*
- VIII. 16.33.060 – (A): sounds as if we need to do repairs for damages the mortgager did
- IX. 16.33.060 – (B) (2): We are not able to water due to water is shut off once a securing is completed
- X. 16.33.060 – (D): Specified property shall be maintained in a secure manner so as not to be accessible to unauthorized persons.
**Remove*
- I. 16.33.060 – (F): need clarification on who will be assessed penalties/fines, mortgagee/contractor or owner
- II. 16.33.070 – (C) (1): criminal prosecution is unacceptable both pre and post sale.
**Remove*
- *Lastly there should be a cure period for failure to register or failure to comply, with a wavier of penalty if cured.*

AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: NOVEMBER 15, 2011

DEPARTMENT: CITY ATTORNEY

DIRECTOR: BRADFORD R. JERBIC

☐ Consent ☒ Discussion

SUBJECT:

Bill No. 2011-42 - For Possible Action - Updates provisions of the Municipal Code pertaining to the licensing and regulation of massage establishments. Sponsored by: Councilman Stavros S. Anthony

Fiscal Impact

☒

No Impact

☐

Augmentation Required

☐

Budget Funds Available

Amount:

Funding Source:

Dept./Division:

PURPOSE/BACKGROUND:

This bill will update provisions of the Municipal Code pertaining to the licensing and regulation of massage establishments. The updates are intended to be consistent with the regulations of local jurisdictions on the subject, as well as with State law.

RECOMMENDATION:

This bill should be submitted to a Recommending Committee for review, hearing and recommendation to the City Council for final action.

BACKUP DOCUMENTATION:

1. Bill No. 2011-42
2. Business Impact Statement

1 **BILL NO. 2011-42**

2 **ORDINANCE NO. _____**

3 AN ORDINANCE TO UPDATE PROVISIONS OF THE MUNICIPAL CODE PERTAINING TO
4 THE LICENSING AND REGULATION OF MASSAGE ESTABLISHMENTS, AND TO PROVIDE
FOR OTHER RELATED MATTERS.

5 Sponsored by: Councilman Stavros S. Anthony Summary: Updates provisions of the Municipal
6 Code pertaining to the licensing and regulation
of massage establishments.

7 THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN
8 AS FOLLOWS:

9 SECTION 1: Title 6, Chapter 52, Section 20, of the Municipal Code of the City of
10 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

11 **6.52.020:** Unless the context otherwise requires, the following words, as they appear in this
12 Chapter, shall have the meanings ascribed to them in this Section:

13 “Chair massage therapy” means massage therapy administered by a massage therapist to the
14 neck, shoulders, back, arms, hands and feet of a fully clothed client utilizing a massage chair.

15 “Employee” means any massage therapist who is a bona fide employee of a massage
16 establishment.

17 “Independent massage therapist” means a massage therapist who is not an employee of a
18 massage establishment, is a sole practitioner, and hires no employees.

19 “Massage establishment” means any premises occupied and used for the purpose of performing
20 massage therapy.

21 “Massage establishment licensee practitioner” means the licensee of a massage establishment
22 who performs massage therapy.

23 “Massage therapist” means any person who, for consideration, performs any massage therapy
24 as defined in this Section and has been licensed by the State to perform such services.

25 “Massage therapy” has the same meaning as set forth at NRS 640C.060.

26 “Outcall massage therapy” means any massage therapy given or provided off the premises of
27 a licensed massage establishment by a massage therapist licensed by the City and State.

28 “Sexual activity” means any activity characterized as such by NRS 640C.700 or the regulations

1 adopted by the Nevada Board of Massage Therapists under NRS Chapter 640C.

2 “Specified anatomical area” means:

- 3 (1) Genitals;
- 4 (2) Pubic region;
- 5 (3) Buttocks, or
- 6 (4) Female breast.

7 SECTION 2: Title 6, Chapter 52, Section 70, of the Municipal Code of the City of
8 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

9 **6.52.070:** No massage establishment granted a license under the provisions of this Chapter, or
10 principal, employee or agent thereof, shall place, publish or distribute or cause to be placed, published
11 or distributed any advertisement, picture, or statement which is known or through the exercise of
12 reasonable care should be known to be false, deceptive or misleading in order to induce any person
13 to purchase or utilize any professional massage therapy services. The prohibition in the preceding
14 sentence includes a prohibition of any false, deceptive or misleading advertising regarding the services
15 available within a massage establishment, including, without limitation, false, deceptive or misleading
16 advertising regarding the training that a massage establishment licensee, principal or employee has
17 received. All advertisements placed, published, distributed, disseminated or broadcast by a licensee
18 shall contain the business license number.

19 SECTION 3: Title 6, Chapter 52, Section 90, of the Municipal Code of the City of
20 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

21 **6.52.090:** Each massage establishment [licensee shall display the establishment’s license in an
22 open and conspicuous place on the premises of the massage establishment. The City and State license
23 of any person licensed under this Chapter to perform massage therapy must be carried on the
24 licensee(s person whenever the licensee is performing massage therapy.) shall comply with the
25 following requirements:

26 (A) At least one qualified person shall be on the premises of a massage
27 establishment at all times the establishment is in operation. For purposes of the preceding sentence,
28 a “qualified person” means a principal who has been approved for suitability pursuant to LVMC

1 6.06.060 or a manager who has been approved for suitability pursuant to that Section as in the case
2 of a principal.

3 (B) Rates for all services shall be prominently posted:

4 (1) In the reception area in a location and manner readily visible to
5 prospective and actual clients, for establishments in which all massage therapists charge the same
6 rates; or

7 (2) In each room in which massage is performed, for establishments in
8 which not all massage therapists charge the same rates.

9 (C) The licensee shall display the establishment's license in an open and
10 conspicuous place on the premises of the massage establishment.

11 (D) The City and State license of any person licensed under this Chapter to perform
12 massage therapy, whenever performing massage therapy at the massage establishment, must be:

13 (1) Carried on the licensee's person; or

14 (2) Displayed in an open and conspicuous place on the premises of the
15 massage establishment.

16 (E) Each massage establishment licensee and massage therapist employed therein
17 shall ensure that the specified anatomical areas of a client are covered during the performance of a
18 massage; provided, however, that the covering requirement shall not apply to a specified anatomical
19 area:

20 (1) The massage of which is permitted under NRS Chapter 640C and the
21 regulations adopted thereunder; and

22 (2) For the duration of the massage of that area.

23 (F) Except as otherwise specifically permitted in connection with a special use
24 permit issued to a massage establishment or by other action of the City Council, no person shall
25 operate a massage establishment outside of the hours of 6:00 a.m. to 10:00 p.m.

26 SECTION 4: Title 6, Chapter 52, Section 120, of the Municipal Code of the City of
27 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

28 **6.52.120:** It is unlawful for a massage establishment licensee, or a principal or employee thereof,

1 provide to the Department evidence of a valid health permit or health card issued by the Health
2 District, if [one is] and to the extent required by the Health District, and proof of temporary or
3 permanent licensure by the Nevada Board of Massage Therapists.

4 SECTION 6: Title 6, Chapter 52, Section 170, of the Municipal Code of the City of
5 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6 **6.52.170:** (A) The Director shall refer applications for a massage establishment license to
7 Metro for investigation. Upon completion of the investigation, the Director shall refer an application
8 for a massage establishment license to the City Council for approval, denial or such other action as
9 the Council considers appropriate.

10 (B) The City Council may deny, revoke or suspend a massage establishment license
11 for good cause, which includes but is not limited to[:

12 (1) The] the grounds set forth in LVMC 6.02.090 and 6.02.330 to 6.02.360,
13 inclusive.]; or

14 (2) Two convictions of any person for solicitation of prostitution on the
15 massage establishment premises within the preceding three-year period.]

16 SECTION 7: Title 19, Chapter 12, Section 70, of the Municipal Code of the City of
17 Las Vegas, Nevada, 1983 Edition, is hereby amended by amending the entry for the use “Massage
18 Establishment” so that the Conditional Use Regulations and Minimum Special Use Permit
19 Requirements for that use read respectively as follows:

20 **Conditional Use Regulations:**

- 21 1. The use shall comply with all applicable requirements of LVMC Title 6.
- 22 2. The use must be located on a secondary thoroughfare or larger.
- 23 3. The use may not be located within 400 feet of any church, synagogue, school, City
24 park, child care facility, or any parcel zoned for residential use.
- 25 4. The use may not be located within 1000 feet of any other massage establishment.
- 26 5. The hours of operation shall be limited to the period between [8:00] 6:00 a.m. and
27 [9:00] 10:00 p.m.

28 **Minimum Special Use Permit Requirements:**

1 to do any of the following[:] within a massage establishment:

2 (A) [Within a massage establishment, engage] Engage in or solicit sexual activity
3 during the course of performing massage therapy on a person, with or without the consent of the
4 person;], including, without limitation, if the licensee, principal or employee:

5 (1) Made sexual advances toward the person;

6 (2) Requested sexual favors from the person; or

7 (3) Massaged, touched or applied any instrument to the breasts of the
8 person, unless the person has signed a written consent form provided by the Nevada Board of Massage
9 Therapists;]

10 (B) [Within a massage establishment, allow] Allow a massage therapist to engage
11 in or solicit sexual activity in violation of Subsection (A) of this Section;

12 (C) [Engage in false, deceptive or misleading advertising regarding the services
13 available within a massage establishment, including, without limitation, false, deceptive or misleading
14 advertising regarding the training that a massage establishment licensee, principal or employee has
15 received.] Utilize any audio or video recording device for any purpose in a room where massage
16 therapy is being performed;

17 (D) Equip with tinted glass or two-way mirrors any room that a client may occupy;

18 (E) Perform massage therapy within any cubicle, room, booth or other area of the
19 establishment which is fitted with a door that is capable of being locked, unless:

20 (1) That door is an exterior door; or

21 (2) With respect to a room that is leased or otherwise made available to a
22 massage therapist who is an independent contractor, the door is locked only from the outside thereof
23 by means of an exterior lock employed solely for security purposes while the room is not being
24 occupied.

25 (F) Utilize any electronic locking device on any interior door.

26 SECTION 5: Title 6, Chapter 52, Section 160, of the Municipal Code of the City of
27 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

28 **6.52.160:** An applicant for a license [to perform massage therapy] under this Chapter shall

- 1 1. The use shall comply with all applicable requirements of LVMC Title 6.
- 2 2. The use must be located on a secondary thoroughfare or larger.
- 3 3 The use may not be located within 400 feet of any church, synagogue, school, City
- 4 park, child care facility, or any parcel zoned for residential use.
- 5 4. The use may not be located within 1000 feet of any other massage establishment.
- 6 5. The hours of operation shall be limited to the period between [8:00] 6:00 a.m. and
- 7 [9:00] 10:00 p.m., unless further limited by the City Council on a case-by-case basis.

8 SECTION 8: For purposes of Section 2.100(3) of the City Charter, LVMC 19.12.070

9 is deemed to be a subchapter rather than a section.

10 SECTION 9: If any section, subsection, subdivision, paragraph, sentence, clause or

11 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or

12 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or

13 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the

14 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,

15 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,

16 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,

17 invalid or ineffective.

18 SECTION 10: Whenever in this ordinance any act is prohibited or is made or declared

19 to be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is

20 required or the failure to do any act is made or declared to be unlawful or an offense or a

21 misdemeanor, the doing of such prohibited act or the failure to do any such required act shall

22 constitute a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than

23 \$1,000.00 or by imprisonment for a term of not more than six months, or by any combination of such

24 fine and imprisonment. Any day of any violation of this ordinance shall constitute a separate offense.

25 ...

26 ...

27 ...

28 ...

1 SECTION 11: All ordinances or parts of ordinances or sections, subsections, phrases,
2 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada,
3 1983 Edition, in conflict herewith are hereby repealed.

4 PASSED, ADOPTED and APPROVED this _____ day of _____, 2011.

5 APPROVED:

6 By _____
7 CAROLYN G. GOODMAN, Mayor

8 ATTEST:

9 _____
10 BEVERLY K. BRIDGES, MMC
11 City Clerk

11 APPROVED AS TO FORM:

12 Val Steed 10-19-11
13 Date
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1 The above and foregoing ordinance was first proposed and read by title to the City Council on the
2 _____ day of _____, 2011, and referred to the following committee composed of
3 _____ and _____ for recommendation;
4 thereafter the said committee reported favorably on said ordinance on the _____ day of
5 _____, 2011, which was a _____ meeting of said Council; that at said
6 _____ meeting, the proposed ordinance was read by title to the City Council
7 as first introduced and adopted by the following vote:

8 VOTING "AYE": _____

9 VOTING "NAY": _____

10 ABSENT: _____

11

12 APPROVED:

13

14 By _____
CAROLYN G. GOODMAN, Mayor

15 ATTEST:

16

17 BEVERLY K. BRIDGES, MMC
City Clerk

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BUSINESS IMPACT STATEMENT
BILL NO. 2011-42
(Updates provisions of the Municipal Code pertaining to the licensing
and regulation of massage establishments)

This business impact statement was prepared pursuant to NRS 237.090 to address the impact of a proposed ordinance, Bill No. 2011-42, that will update provisions of the Municipal Code pertaining to the licensing and regulation of massage establishments.

1. The following constitutes a description of the manner in which comment was solicited from affected businesses, a summary of their responses and an explanation of the manner in which other interested persons may obtain a copy of the summary.

Notice of the proposed ordinance was mailed to massage-related licensees. A number of responses were received. The responses concerning business impact that were received from representatives of businesses are summarized below, which summary is available to interested persons as part of this statement:

A. It is too costly and burdensome to require a massage establishment to have onsite at all times a manager or other person who has been the subject of a background investigation.

B. The requirement to post rates at a prominent location within an establishment is unwarranted and troublesome in a location where independent therapists each charge their own rates rather than there being only one rate schedule for all therapists.

C. The requirement to carry for each therapist to carry on his or her person the therapist's licenses while performing a massage is burdensome for therapists who work in only one room.

D. The requirement that no room in which massage is performed may have a door equipped with a lock (other than an exterior door) is burdensome for therapists who lease or otherwise occupy rooms and who use the room when not occupied for the storage or safekeeping of therapist or client valuables.

NOTE: Comments were also received: 1) regarding the ordinance's effects on locations from a land use perspective, 2) indicating that it would be burdensome to require establishments and therapists to obtain a health permit, and 3) indicating that it would be burdensome to prohibit the massage of buttocks and breasts, in cases where massage of those areas is appropriate. However, when read correctly, the ordinance does not alter the rules regarding locations, does not require health permits except if and as required by the Health District, and does not permit or prohibit the massage of any particular body part on any different basis than State law and regulations. As to the last item, in circumstances where the massage of buttocks or breasts is permitted by State law and regulations, that massage activity is also permitted under this ordinance. Some clarification of the ordinance language on that point will be undertaken.

2. The estimated economic effect of the proposed rule on businesses, including, without limitation, both adverse and beneficial effects, and both direct and indirect effects:

Adverse effects:

The ordinance would require operational and facility changes for some licensees

Beneficial effects:

The ordinance will provide more consistency with other Southern Nevada area ordinances, as well as with applicable State law

Direct effects:

See adverse and beneficial effects above

Indirect effects:

None identified

3. The following constitutes a description of the methods the local government considered to reduce the impact of the proposed rule on businesses and a statement regarding whether any, and if so which, of these methods were used:

Consideration was given to reducing or clarifying requirements regarding the posting of rates, the display of licenses, the locking capacity of massage room doors, and the draping of client areas being massaged. Modifying language to address those concerns was added. Consideration was also given to relaxing or eliminating the requirement to have on-site at all times a manager or other person who has undergone a background investigation, but it was determined not to make a corresponding change in the ordinance before it is introduced

4. The governing body estimates the annual cost to the local government for enforcement of the proposed rule is:

No additional cost

5. If the proposed rule provides for a new fee or increases an existing fee, the total annual amount expected to be collected is:

Not applicable

6. If the proposed rule provides for a new fee or increases an existing fee, the money generated by the new fee or increase in existing fee will be used by the local government to:

Not applicable

7. If the proposed rule includes provisions that duplicate or are more stringent than federal, state or local standards regulating the same activity, the following explains why such duplicative or more stringent provisions are necessary:

Not applicable

Date: October 18, 2011

AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: NOVEMBER 15, 2011

DEPARTMENT: CITY ATTORNEY

DIRECTOR: BRADFORD R. JERBIC

☐ Consent ☒ Discussion

SUBJECT:

Bill No. 2011-43 - For Possible Action - Updates Chapter 6.69 of the Municipal Code pertaining to the licensing and regulation of reflexology. Sponsored by: Councilman Stavros S. Anthony

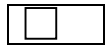
Fiscal Impact



No Impact



Augmentation Required



Budget Funds Available

Amount:

Funding Source:

Dept./Division:

PURPOSE/BACKGROUND:

This bill will update provisions of the Municipal Code pertaining to the licensing and regulation of reflexology. The updates are intended to make the City's regulations more consistent with those governing massage therapy.

RECOMMENDATION:

This bill should be submitted to a Recommending Committee for review, hearing and recommendation to the City Council for final action.

BACKUP DOCUMENTATION:

1. Bill No. 2011-43
2. Business Impact Statement

1 **BILL NO. 2011-43**

2 **ORDINANCE NO. _____**

3 AN ORDINANCE TO UPDATE CHAPTER 6.69 OF THE MUNICIPAL CODE PERTAINING TO
4 THE LICENSING AND REGULATION OF REFLEXOLOGY, AND TO PROVIDE FOR OTHER
5 RELATED MATTERS.

6 Sponsored by: Councilman Stavros S. Anthony Summary: Updates Chapter 6.69 of the
7 Municipal Code pertaining to the licensing and
8 regulation of reflexology.

9 THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN
10 AS FOLLOWS:

11 SECTION 1: Title 6, Chapter 69, Section 10, of the Municipal Code of the City of
12 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

13 **6.69.010:** Unless the context otherwise requires, the following words, as they appear in this
14 Chapter, shall have the meanings ascribed to them in this Section:

15 “Employee” means any person who performs reflexology as a bona fide employee of a
16 reflexology business.

17 “Outcall service” means reflexology given or provided off the premises of a licensed
18 reflexology business.

19 “Reflexology” means a method of using the hands, thumbs or fingers to apply specific pressure
20 to reflex points located in the hands, feet or ears.

21 “Sexual activity” means:

- 22 (1) Sexual intercourse;
- 23 (2) Rubbing against a client for sexual gratification;
- 24 (3) Making sexual advances toward a client;
- 25 (4) Demanding or requesting sexual favors from a client;
- 26 (5) Kissing, hugging, touching, fondling or caressing of a sexual nature;
- 27 (6) Encouraging masturbation or any other sex act in the presence of a licensee or
28 other person performing reflexology;
- (7) Masturbation or any other sex act by the licensee or other person performing

1 reflexology;

2 (8) Suggesting or discussing the possibility of beginning a sexual relationship
3 before the professional relationship ends;

4 (9) Terminating the professional relationship with the client for the purpose of
5 pursuing a sexual relationship;

6 (10) Discussing the sexual history, preference or fantasies of the licensee or other
7 person performing reflexology;

8 (11) Any behavior, gesture or expression that may reasonably be interpreted as
9 seductive or sexual; or

10 (12) Showing a client sexually explicit photographs.

11 “Specified anatomical area” means:

12 (1) Genitals;

13 (2) Pubic region;

14 (3) Buttocks, or

15 (4) Female breast.

16 SECTION 2: Title 6, Chapter 69, Section 20, of the Municipal Code of the City of
17 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

18 **6.69.020:** This Chapter does not apply to:

19 (A) The following persons while engaged in their respective professions or
20 occupations for which they are licensed to practice or perform in Nevada, if [they do not hold
21 themselves out to the public as reflexologists and] their performance of reflexology is only in
22 connection with their profession or occupation:

23 (1) Physicians, doctors of oriental medicine, surgeons, chiropractors,
24 osteopaths or physical therapists, and persons directly under their control and supervision.

25 (2) Registered nurses.

26 (3) Barbers, hairdressers and cosmeticians.

27 (4) Massage therapists licensed under the provisions of LVMC Chapter

28 6.52.

1 (B) Participants in a student clinic program certified by the State of Nevada,
2 [Department of Education,] but only to the extent that an instructor is present[.] at the location of the
3 clinic program.

4 SECTION 3: Title 6, Chapter 69, Section 60, of the Municipal Code of the City of
5 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6 **6.69.060:** Each applicant for a license to perform a reflexology business shall submit, in
7 connection with the license application, one of the following issued in the applicant's favor:

8 (A) A diploma or certification issued by a duly licensed school of reflexology;[the]

9 (1) Which is accredited by an independent national reflexology association;
10 and

11 (2) Whose curriculum [of which] includes a minimum of one hundred ten
12 hours of instruction covering theory, history, application, anatomy and physiology corresponding to
13 reflexology, business practices, and knowledge of pertinent State and local laws; and a minimum of
14 ninety hours of practicum; or

15 (B) A certification from an independent national reflexology testing entity which
16 is not aligned with any school, training program or membership.

17 SECTION 4: Title 6, Chapter 69, Section 100, of the Municipal Code of the City of
18 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

19 **6.69.100:** (A) Each reflexology establishment shall obtain and maintain a valid health permit
20 issued by the Health District.

21 (B) Each licensee who performs reflexology shall maintain in his or her possession
22 and in force at all times a current valid health card issued by the Health District.

23 SECTION 5: Title 6, Chapter 69, Section 110, of the Municipal Code of the City of
24 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

25 **6.69.110:** It is unlawful for any [reflexology business licensee under this Chapter] licensee,
26 principal or employee of a reflexology establishment to:

27 (A) Operate from a residentially zoned location except in compliance with LVMC
28 Title 19;

1 (B) Dispatch any person to perform outcall service unless that person is an
2 employee of, or has been contracted by, the licensee and is licensed to perform reflexology under this
3 Chapter;

4 (C) Perform massage as defined in LVMC Chapter 6.52 unless the licensee
5 possesses a valid unexpired license to do so at the location in question;

6 (D) Advertise as a massage establishment, outcall entertainment service, or other
7 business in a manner which would be deceptive to members of the community; [or]

8 (E) Employ to perform massage, as defined in LVMC Chapter 6.52, any massage
9 therapist or independent massage therapist who is licensed as such under that Chapter, unless the
10 holder of the reflexology business license also possesses a valid unexpired massage establishment
11 license under that Chapter[.];

12 (F) Engage in sexual activity with, or solicit sexual activity from, a client in
13 connection with the performance of reflexology;

14 (G) Allow a person to engage in or solicit sexual activity in violation of Subsection
15 (F) above;

16 (H) Engage in false, deceptive or misleading advertising regarding the services
17 available within a reflexology establishment, including, without limitation, false, deceptive or
18 misleading advertising regarding the training that a reflexology establishment licensee, principal or
19 employee has received;

20 (I) Utilize any audio or video recording device for any purpose in a room where
21 reflexology is being performed;

22 (J) Fondle or touch with any part of the body, or allow any other person to fondle
23 or so touch, any specified anatomical area of a client; or

24 (K) Require or allow a client to remove any article of clothing, other than outerwear
25 or clothing items whose removal is necessary for the performance of reflexology.

26 SECTION 6: Title 6, Chapter 69, of the Municipal Code of the City of Las Vegas,
27 Nevada, 1983 Edition, is hereby amended by adding thereto a new section, designated as Section 120,
28 reading as follows:

1 **6.69.120:** The following requirements apply to all reflexology establishments:

2 (A) Every reflexology establishment and all licensed reflexologists shall post the
3 licenses required by this Chapter in a prominent place in the reception area of the establishment.

4 (B) The licensee, or a person designated by the licensee of a reflexology
5 establishment, shall maintain a current register of all persons employed by the establishment as
6 reflexologists and their license numbers. Such register shall be open for inspection by agents of the
7 Department, Metro and the Health District at all times the establishment is open for the conduct of
8 business.

9 (C) At least one qualified person shall be on the premises of a reflexology
10 establishment at all times the establishment is in operation. For purposes of the preceding sentence,
11 a "qualified person" means a principal who has been approved for suitability pursuant to LVMC
12 6.69.070 and 6.69.080 or a manager who has been approved for suitability pursuant to those Sections
13 as in the case of a principal.

14 (D) Rates for all services shall be prominently posted in the reception area in a
15 location and manner readily visible to prospective and actual clients.

16 (E) Each reflexologist shall wear a uniform similar in nature and appearance to
17 medical scrubs.

18 (F) Exterior windows shall not be tinted or covered in any manner that prevents a
19 view of the inside of the establishment from the exterior.

20 (G) All front reception, hallway and front exterior doors (except back or rear
21 exterior doors used only for employee entrance to and exit from the reflexology establishment) shall
22 be kept unlocked during business hours. No electronic locking device may be utilized on any interior
23 door.

24 (H) No reflexology may be performed within any cubicle, room, booth or other area
25 of the reflexology establishment which is fitted with a door, unless that door is an exterior door.
26 Establishments in existence on the effective date of the ordinance codified in part in this Section must
27 comply with this section by removing doors to rooms or areas where reflexology is performed, and
28 the doorways shall remain unobstructed.

1 (I) Reflexology establishments licensed after the effective date of the ordinance
2 codified in part in this Section shall provide or permit reflexology only within an unenclosed room
3 defined by walls not taller than three feet in height, as measured from the finished floor of the
4 occupied space.

5 (J) Except as otherwise specifically permitted by action of the City Council, no
6 person shall operate a reflexology establishment or perform reflexology for consideration (whether
7 outcall service or otherwise) outside of the hours of 6:00 a.m. to 10:00 p.m.

8 SECTION 7: Title 6, Chapter 69, Section 130, of the Municipal Code of the City of
9 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

10 **6.69.130:** It is unlawful for any licensee, employee, or person contracted by a licensee to:

11 (A) Use [lotions, creams or] mechanical devices in performing reflexology; or

12 (B) Diagnose or treat for specific diseases; practice spinal or other joint
13 manipulations; prescribe or adjust medication; or prescribe or administer vitamins.

14 SECTION 8: Title 6, Chapter 69, of the Municipal Code of the City of Las Vegas,
15 Nevada, 1983 Edition, is hereby amended by adding thereto a new section, designated as Section 150,
16 reading as follows:

17 **6.69.150:** Licenses issued under this Chapter are nontransferable.

18 SECTION 9: If any section, subsection, subdivision, paragraph, sentence, clause or
19 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or
20 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
21 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the
22 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,
23 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,
24 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,
25 invalid or ineffective.

26 SECTION 10: Whenever in this ordinance any act is prohibited or is made or declared
27 to be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is
28 required or the failure to do any act is made or declared to be unlawful or an offense or a

1 misdemeanor, the doing of such prohibited act or the failure to do any such required act shall
2 constitute a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than
3 \$1,000.00 or by imprisonment for a term of not more than six months, or by any combination of such
4 fine and imprisonment. Any day of any violation of this ordinance shall constitute a separate offense.

5 SECTION 11: All ordinances or parts of ordinances or sections, subsections, phrases,
6 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada,
7 1983 Edition, in conflict herewith are hereby repealed.

8 PASSED, ADOPTED and APPROVED this _____ day of _____, 2011.

9 APPROVED:

10
11 By _____
12 CAROLYN G. GOODMAN, Mayor

13 ATTEST:

14 _____
15 BEVERLY K. BRIDGES, MMC
16 City Clerk

17 APPROVED AS TO FORM:

18 Val Steed 10-18-11
19 Date
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1 The above and foregoing ordinance was first proposed and read by title to the City Council on the
2 ____ day of _____, 2011, and referred to the following committee composed of
3 _____ and _____ for recommendation;
4 thereafter the said committee reported favorably on said ordinance on the ____ day of
5 _____, 2011, which was a _____ meeting of said Council; that at said
6 _____ meeting, the proposed ordinance was read by title to the City Council
7 as first introduced and adopted by the following vote:

8 VOTING "AYE": _____

9 VOTING "NAY": _____

10 ABSENT: _____

11

12

APPROVED:

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By _____
CAROLYN G. GOODMAN, Mayor

15 ATTEST:

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BEVERLY K. BRIDGES, MMC
City Clerk

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BUSINESS IMPACT STATEMENT
BILL NO. 2011-43
(Updates Chapter 6.69 of the Municipal Code pertaining to
the licensing and regulation of reflexology)

This business impact statement was prepared pursuant to NRS 237.090 to address the impact of a proposed ordinance, Bill No. 2011-43, that will update Chapter 6.69 of the Municipal Code pertaining to the licensing and regulation of reflexology.

1. The following constitutes a description of the manner in which comment was solicited from affected businesses, a summary of their responses and an explanation of the manner in which other interested persons may obtain a copy of the summary.

Notice of the proposed ordinance was mailed to reflexology-related licensees. No responses from licensees were received.

2. The estimated economic effect of the proposed rule on businesses, including, without limitation, both adverse and beneficial effects, and both direct and indirect effects:

Adverse effects:

The ordinance may require operational and facility changes for licensees

Beneficial effects:

The ordinance will provide more consistency with other area ordinances, as well as with applicable State law

Direct effects:

See adverse and beneficial effects above

Indirect effects:

None identified

3. The following constitutes a description of the methods the local government considered to reduce the impact of the proposed rule on businesses and a statement regarding whether any, and if so which, of these methods were used:

Not applicable

4. The governing body estimates the annual cost to the local government for enforcement of the proposed rule is:

No additional cost

5. If the proposed rule provides for a new fee or increases an existing fee, the total annual amount expected to be collected is:

Not applicable

6. If the proposed rule provides for a new fee or increases an existing fee, the money generated by the new fee or increase in existing fee will be used by the local government to:

Not applicable

7. If the proposed rule includes provisions that duplicate or are more stringent than federal, state or local standards regulating the same activity, the following explains why such duplicative or more stringent provisions are necessary:

Not applicable

Date: October 18, 2011

AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: NOVEMBER 15, 2011

DEPARTMENT: CITY CLERK

DIRECTOR: BEVERLY K. BRIDGES

SUBJECT:

CITIZENS PARTICIPATION: PUBLIC COMMENT DURING THIS PORTION OF THE AGENDA MUST BE LIMITED TO MATTERS WITHIN THE JURISDICTION OF THE COMMITTEE. NO SUBJECT MAY BE ACTED UPON BY THE COMMITTEE UNLESS THAT SUBJECT IS ON THE AGENDA AND IS SCHEDULED FOR ACTION. IF YOU WISH TO BE HEARD, COME TO THE PODIUM AND GIVE YOUR NAME FOR THE RECORD. THE AMOUNT OF DISCUSSION ON ANY SINGLE SUBJECT, AS WELL AS THE AMOUNT OF TIME ANY SINGLE SPEAKER IS ALLOWED, MAY BE LIMITED



AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: NOVEMBER 15, 2011

DEPARTMENT: CITY CLERK

DIRECTOR: BEVERLY K. BRIDGES

☐ Consent ☒ Discussion

SUBJECT:

ADJOURNMENT

