

BILL NO. 2012-5

ORDINANCE NO. _____

AN ORDINANCE TO UPDATE THE NUISANCE ABATEMENT PROVISIONS OF THE MUNICIPAL CODE TO REFLECT RECENT CHANGES IN STATE LAW REGARDING NOTICE PERIODS AND CIVIL PENALTIES, AND TO PROVIDE FOR OTHER RELATED MATTERS.

Proposed by: Christopher Knight, Director of Building and Safety

Summary: Updates the nuisance abatement provisions of the Municipal Code to reflect recent changes in State law regarding notice periods and civil penalties.

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

SECTION 1: Title 9, Chapter 4, Section 50, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

9.04.050: (A) If it is determined by an authorized official that a public nuisance exists on property within the City, the official may cause a notice of violation to be issued to the owner or responsible party to abate the nuisance. Such notice shall:

- (1) Identify the owner of the property and any responsible party, if known;
 - (2) Identify with particularity the property upon which the nuisance has been committed;
 - (3) Include a statement of violations in sufficient detail to allow an owner or responsible party to identify and correct the nuisance;
 - (4) Require abatement to be performed within a specific time period, not less than ten days, [unless the public health or safety requires a shorter period;] except as otherwise provided in Subsection (C) of this Section;
 - (5) Set any reinspection date deemed appropriate;
 - (6) Provide an address and telephone number of an authorized official with whom contact regarding the violation can be made; and
 - (7) Inform the owner or responsible party of the right to appeal as provided in this Chapter.
- (B) A notice of violation may be served in any of the following ways:

- 1 (1) By personal service thereof upon the owner or responsible party;
- 2 (2) By mailing the notice by certified mail, return receipt requested to the
- 3 owner or responsible party at the last known address; or
- 4 (3) By posting the notice in a conspicuous place on the property; provided,
- 5 however, that service by posting shall only be used when the authorized official cannot determine the
- 6 last known address of the owner or responsible party.

7 (C) The time period for abatement of a nuisance described in Paragraph (4) of

8 Subsection (A) of this Section:

9 (1) May be less than ten days if the public health or safety requires a shorter

10 period; and

11 (2) May not be less than thirty days if the condition is not an immediate

12 danger to the public health, safety or welfare and was caused by the criminal activity of a person other

13 than the owner.

14 SECTION 2: Title 9, Chapter 4, Section 80, of the Municipal Code of the City of Las

15 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

16 **9.04.080:** (A) In addition to and independent of any other proceeding or remedy authorized

17 by this Chapter or by State law, if an owner or responsible party in violation of this Chapter fails or

18 neglects to remove the public nuisance within the applicable time limit specified in Section 9.04.060

19 and has not filed a timely appeal pursuant to Section 9.04.070, the City may take any and all action

20 necessary to abate the public nuisance. In addition, after the City has taken abatement action more

21 than once concerning a particular parcel, the City may undertake preventative measures as part of its

22 abatement action, which may include, without limitation, creating a dirt berm or installing a fence

23 around the appropriate portions of the parcel, and installing appropriate signage, to prevent and

24 discourage future nuisance activity.

25 (B) Except as otherwise provided in this Section, at least ten days' notice of the

26 City's intent to take or cause abatement action under this Section must be provided to an owner or

27 responsible party. Subject to compliance with the provisions of Paragraph (2) of Subsection (C) of

28 Section 9.04.050, [This] this notice requirement shall be deemed to have been met if a notice of

1 violation indicates that such abatement action may be taken upon failure to remove a public nuisance
2 within the time limit specified.

3 (C) A fifteen percent administrative fee shall be added to the cost of the contract
4 price, if any, for each abatement action conducted to remove or correct a public nuisance.

5 (D) If, in the opinion of the City Manager, or a duly authorized representative, the
6 condition of a property constitutes an imminent hazard, the City Manager or representative may order
7 immediate abatement of the hazard without notice. The abatement work shall be limited to the
8 minimum work necessary to remove the hazard. Before ordering abatement under this Section, the
9 City Manager or representative shall first obtain the concurrence of at least one other City or public
10 agency official. City and public agency officials that may concur with or request a designation of
11 imminent hazard pursuant to this Section include, without limitation, the City Manager; the Las Vegas
12 Metropolitan Police Department; the [Clark County] Southern Nevada Health District; and the
13 Departments of Fire and Rescue, Public Works, Planning, [and Development,] Detention and
14 Enforcement, and Parks, Recreation and Neighborhood Services. The City shall pay the initial cost
15 and expense of any emergency abatement from any appropriation made available for that purpose.
16 Any costs and expenses incurred, and any fees imposed, in connection with the removal of an
17 imminent hazard may be assessed against the property or the owner in accordance with the procedure
18 described in Section 9.04.100.

19 (E) A report of abatement proceedings taken pursuant to this Section, and a separate
20 account of the abatement costs on each parcel, shall be filed with the City Clerk.

21 SECTION 3: Title 9, Chapter 4, Section 100 of the Municipal Code of the City of Las
22 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

23 **9.04.100:** (A) Upon the filing of the abatement report for abatement action taken by the City
24 pursuant to Section 9.04.080, the City Clerk shall set a hearing for the City Council to review the
25 report and any accompanying documentation. At the abatement report hearing, the City Council shall
26 either approve or disapprove of the report as submitted, or as modified or corrected by the City
27 Council. In the event the City Council approves the report as submitted, or as modified or corrected,
28 either or both of the following actions may be taken:

1 (1) The City Council may order that the cost of abating the public nuisance
2 be made a personal obligation of the property owner or other responsible party and may direct the City
3 Attorney to collect the costs of abating the nuisance (including reinspection fees) and interest thereon
4 by use of all appropriate remedies.

5 (2) The City Council may order that the cost of abating the public nuisance,
6 including reinspection fees and interest, shall be assessed against the property. In such a case, the City
7 Council shall confirm the assessment and have it filed with the County Recorder and mailed in
8 accordance with Subsection (B) of this Section. Thereafter, the assessment shall constitute a lien upon
9 the property.

10 (B) An assessment lien processed under Subsection (A):

11 (1) Is perfected when the City Clerk has:

12 (a) Filed with the County Recorder a statement of the amount of
13 expenses due and unpaid and describing the property subject to the lien; and

14 (b) Sent by certified mail, return receipt requested, a notice of the
15 lien, separately prepared for each lot affected, and addressed to the last known owner of the property
16 at his last known address, as determined by the real property assessment roll in the Clark County
17 Assessor's Office.

18 (2) Shall be:

19 (a) Coequal with the latest lien on the subject property to secure the
20 payment of general taxes;

21 (b) Not subject to extinguishment by the sale of the property on
22 account of the nonpayment of general taxes;

23 (c) Prior and superior to all liens, claims, encumbrances and titles
24 other than the liens of assessments and general taxes.

25 (3) Shall bear interest, from the date of recordation, at the rate set by law
26 for judgments, and shall continue until the assessment and all interest due and payable thereon is paid.

27 (C) Pursuant to NRS 268.4122, the City Council may order that civil penalties
28 assessed under this Chapter be made part of an assessment lien authorized by this Section, but any

1 action to do shall be subject to the limitations contained in NRS 268.4122.

2 SECTION 4: Title 9, Chapter 4, Section 110, of the Municipal Code of the City of
3 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

4 **9.04.110:** (A) Upon the discovery of a chronic nuisance existing on a property, an authorized
5 official, in addition to or lieu of treating the chronic nuisance as a public nuisance under this Chapter,
6 may send to the owner a written notice declaring the existence of a chronic nuisance for purposes of
7 proceeding under this Section and Section 9.04.120. The notice shall be entitled "Notice and
8 Declaration of Chronic Nuisance" and shall:

9 (1) Identify with particularity the property upon which the chronic nuisance
10 is located;

11 (2) Include a description of the conditions or activities which constitute the
12 chronic nuisance;

13 (3) Specify the date by which the condition must be abated in order to
14 prevent the matter from being submitted to the City Attorney for legal action[;], which date may not
15 be less than thirty days if the condition is not an immediate danger to the public health, safety or
16 welfare and was caused by the criminal activity of a person other than the owner; and

17 (4) Indicate that the owner may seek a hearing on the matter before a court
18 of competent jurisdiction.

19 (B) The Notice and Declaration of Chronic Nuisance shall be sent by certified mail,
20 return receipt requested to the owner of the property.

21 (C) The date specified in the Notice and Declaration of Chronic Nuisance for
22 abatement is tolled for the period during which the owner requests a hearing and receives a decision.

23 SECTION 5: Title 9, Chapter 4, Section 120, of the Municipal Code of the City of
24 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

25 **9.04.120:** (A) When a property owner has been served with a Notice and Declaration of
26 Chronic Nuisance and has failed to abate the chronic nuisance by the date specified in the Notice and
27 Declaration, the authorized official may request the City Attorney to file an abatement action in a court
28 of competent jurisdiction. If the court finds that a chronic nuisance exists and emergency action is

1 necessary to avoid immediate threat to the public welfare or safety, the court shall order the City to
2 secure and close the property for a period not to exceed one year or until the nuisance is abated,
3 whichever occurs first. In addition, the court may:

4 (1) Impose a civil penalty [of not more than five hundred dollars per day]
5 in accordance with NRS 268.4124(3) for each day that the condition was not abated after the date
6 specified in the Notice and Declaration of Chronic Nuisance by which the owner was required to abate
7 the condition;

8 (2) Order the owner to pay the City for all costs incurred and fees imposed
9 by the City in abating the condition;

10 (3) If applicable, order the owner to pay reasonable expenses for the
11 relocation of any tenants who are affected by the chronic nuisance; and

12 (4) Order any other appropriate relief.

13 (B) In any proceeding in which the City has expended funds to abate a chronic
14 nuisance that has not been abated by the owner, the City may avail itself of the remedies described in
15 Section 9.04.100 for the abatement of public nuisances generally.

16 SECTION 6: If any section, subsection, subdivision, paragraph, sentence, clause or
17 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or
18 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
19 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the
20 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,
21 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,
22 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,
23 invalid or ineffective.

24 SECTION 7: Whenever in this ordinance any act is prohibited or is made or declared
25 to be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is
26 required or the failure to do any act is made or declared to be unlawful or an offense or a
27 misdemeanor, the doing of such prohibited act or the failure to do any such required act shall
28 constitute a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than

1 \$1,000.00 or by imprisonment for a term of not more than six months, or by any combination of such
2 fine and imprisonment. Any day of any violation of this ordinance shall constitute a separate offense.

3 SECTION 8: All ordinances or parts of ordinances or sections, subsections, phrases,
4 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada,
5 1983 Edition, in conflict herewith are hereby repealed.

6 PASSED, ADOPTED and APPROVED this _____ day of _____, 2012.

7 APPROVED:

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9 By _____
CAROLYN G. GOODMAN, Mayor

10 ATTEST:

11 _____
12 BEVERLY K. BRIDGES, MMC
City Clerk

13 APPROVED AS TO FORM:

14 Val Heed 1-5-12
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 _____, 2012, 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 _____, 2012, 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: _____

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12 APPROVED:

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14 By _____
CAROLYN G. GOODMAN, Mayor

15 ATTEST:

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17 BEVERLY K. BRIDGES, MMC
City Clerk

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