

1 **BILL NO. 2013-37**

2 **ORDINANCE NO. _____**

3 AN ORDINANCE TO UPDATE THE CITY'S REGULATIONS REGARDING OBSTRUCTIONS
4 OR ENCROACHMENTS WITHIN CITY RIGHTS-OF-WAY, AND TO PROVIDE FOR OTHER
RELATED MATTERS.

5 Proposed by: Christopher Knight, Director of
6 Building and Safety

Summary: Updates the City's regulations
regarding obstructions or encroachments within
City rights-of-way.

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

9 SECTION 1: Title 13, Chapter 32, Section 20, of the Municipal Code of the City of
10 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

11 **13.32.020:** [It shall be unlawful for any person to build, erect, construct, place or maintain any
12 porch, steps, fence, wall or other obstruction whatsoever in, on or over any of the streets, sidewalks
13 or public alleys of the City, except by special permission obtained from the Building Inspector. Each
14 day any such obstruction is allowed to remain after ten days' notice by the Sheriff to remove the same,
15 or maintain a sidewalk entrance, as herein provided, shall constitute a separate offense.]

16 (A) Except as otherwise provided in this Section or another provision of this Code,
17 it is unlawful for any person to erect, place or maintain any obstruction, or to cause or permit any
18 obstruction to encroach within, upon, or over any public right-of-way, including any public street,
19 public sidewalk, or public alley. Each day any unauthorized obstruction is allowed to remain after ten
20 days' notice to remove the obstruction shall constitute a separate offense. Such notice may be
21 provided by:

- 22 (1) Any officer of the Las Vegas Metropolitan Police Department;
23 (2) Any officer or employee of the Department of Building and Safety or
24 the Department of Public Works; or
25 (3) Any other officer or employee of the City who has been specifically
26 authorized to enforce this Section.

27 (B) An obstruction otherwise prohibited by Subsection (A) may be permitted by
28 means of an encroachment agreement approved by the City in accordance with this Section. The

1 agreement must be in a form prepared by, or otherwise acceptable, to the City. Approval by the City
2 of an encroachment agreement:

3 (1) Is entirely within the City's discretion;

4 (2) Is contingent upon a determination by the Director of Public Works (or
5 designee) that the obstruction or encroachment can be accomplished without negatively impacting
6 traffic, public safety, pedestrian safety, or the use of and access to utility facilities; and

7 (3) May be denied based on plans for future improvements to the affected
8 right-of-way, street, sidewalk or alley.

9 (C) An encroachment agreement under this Section:

10 (1) May include conditions reasonably calculated to mitigate any impact,
11 including without limitation a time limit, provisions regarding ongoing maintenance, and appropriate
12 remedial measures; and

13 (2) May be required to be recorded against property that is benefitted by the
14 agreement.

15 (D) Except as otherwise provided in Subsections (E) and (F), the approval authority
16 for an encroachment agreement under this Section shall be the Director of Building and Safety (or
17 designee). Typical items qualifying under this Subsection (D) include:

18 (1) Encroachments related to a Site Development Plan Review under Title
19 19;

20 (2) Encroachments for monitoring wells;

21 (3) Encroachments necessary for compliance with a building-related code;
22 and

23 (4) Other minor encroachments related to signage, outdoor dining,
24 landscaping, fencing, and similar minor intrusions into public right-of-way.

25 (E) The approval authority for the following items shall be the City Council:

26 (1) Encroachments which, in the judgment of the Director of Building and
27 Safety (or designee), are of a significant nature, character or size so as to warrant consideration by the
28 City Council; and

1 (2) Encroachments concerning which a member of the City Council, prior
2 to administrative approval of an agreement pursuant to Subsection (D), has requested that the
3 encroachment be considered by the City Council.

4 (F) In the case of encroachment agreements to be forwarded to the City Council
5 for consideration pursuant to Subsection (E), the Director of Building and Safety (or designee) shall
6 schedule the encroachment agreement for Council consideration at the next regular meeting of the City
7 Council that is reasonably available.

8 (G) If the Director of Building and Safety (or designee) denies administrative
9 approval of an encroachment agreement pursuant to Subsection (D), the person seeking encroachment
10 approval may appeal the decision to the City Council within ten days after the denial decision is made.
11 The appeal shall be in writing, shall be filed with the Director or designee, and shall state the factual
12 basis for the appeal. The Director or designee shall schedule the matter for consideration by the City
13 Council within thirty days following receipt of the appeal. The decision by the City Council shall be
14 final.

15 (H) Encroachment agreements approved administratively pursuant to Subsection
16 (D) shall be signed by the Director of Building and Safety (or designee). Agreements approved by the
17 City Council shall be signed by the Mayor.

18 (I) Nothing in this Section shall apply to obstructions or improvements installed:
19 (1) By or on behalf of the City; or
20 (2) By another governmental agency acting in accordance with an interlocal
21 or cooperative agreement with the City, if the Director of Building and Safety determines that the
22 provisions of that agreement are an adequate substitute for the requirements of this Section.

23 (J) For purposes of this Section:
24 (1) “Encroachment agreement” includes any agreement, however named,
25 that by its terms authorizes an encroachment or obstruction.
26 (2) “Obstruction” means a structure, installation, amenity or improvement
27 of any kind.

28 SECTION 2: If any section, subsection, subdivision, paragraph, sentence, clause or

1 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or
2 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
3 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the
4 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,
5 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,
6 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,
7 invalid or ineffective.

8 SECTION 3: Whenever in this ordinance any act is prohibited or is made or declared
9 to be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is
10 required or the failure to do any act is made or declared to be unlawful or an offense or a
11 misdemeanor, the doing of such prohibited act or the failure to do any such required act shall
12 constitute a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than
13 \$1,000.00 or by imprisonment for a term of not more than six months, or by any combination of such
14 fine and imprisonment. Any day of any violation of this ordinance shall constitute a separate offense.

15 SECTION 4: All ordinances or parts of ordinances or sections, subsections, phrases,
16 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada,
17 1983 Edition, in conflict herewith are hereby repealed.

18 PASSED, ADOPTED and APPROVED this _____ day of _____, 2013.

19 APPROVED:

20
21 By CAROLYN G. GOODMAN, Mayor

22 ATTEST:

23 BEVERLY K. BRIDGES, MMC
24 City Clerk

25 APPROVED AS TO FORM:

26 Val Steed 7-24-13
27 Date
28

1 The above and foregoing ordinance was first proposed and read by title to the City Council on the
2 ____ day of _____, 2013, and referred to a committee for recommendation, the
3 committee being composed of the following members _____
4 _____; thereafter the said committee reported favorably on said ordinance on the
5 ____ day of _____, 2013, which was a _____ meeting of said
6 Council; that at said _____ meeting, the proposed ordinance was read by title
7 to the City Council as first introduced and adopted by the following vote:

8 VOTING "AYE": _____

9 VOTING "NAY": _____

10 ABSENT: _____

11

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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