

1 **BILL NO. 2012-8**

2 **ORDINANCE NO. _____**

3 AN ORDINANCE TO AUTHORIZE THE CITY TO TREAT CERTAIN ANIMAL-CONTROL
4 VIOLATIONS AS CIVIL VIOLATIONS SUBJECT TO A CIVIL PENALTY RATHER THAN
5 PROCEEDING BY MEANS OF A MISDEMEANOR PROSECUTION, TO ESTABLISH
6 PROCEDURES FOR THE PROCESSING AND DISPOSITION OF NOTICES OF INFRACTION
7 REGARDING SUCH VIOLATIONS, AND TO PROVIDE FOR OTHER RELATED MATTERS.

6 Sponsored by: Councilman Steven D. Ross

Summary: Authorizes the City to treat certain animal-control violations as civil violations subject to a civil penalty rather than proceeding by means of a misdemeanor prosecution, and establishes procedures for the processing and disposition of notices of infraction regarding such violations.

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

12 SECTION 1: Title 7, Chapter 44, Section 40, of the Municipal Code of the City of
13 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

14 **7.44.040:** (A) Any person owning, possessing or having the care, custody and control of any
15 animal, who:

16 (1) Wilfully refuses, fails or neglects to furnish to the Animal Regulation
17 Officer or an Animal Control Officer the information required under this Title;

18 (2) Wilfully refuses, fails or neglects to cause said animals to be registered
19 and pay said registration fee at the time and in the manner herein provided;

20 (3) Wilfully refuses, fails or neglects to perform any act or pay any other
21 fee or charge required by this Title to be performed or paid;

22 (4) Resists, interferes with or prevents the Animal Regulation Officer or
23 [any of his assistants] an Animal Control Officer in the exercise of their duties; or

24 (5) Violates any of the provisions of Chapters 7.04 to 7.44,
25 ➡ is guilty of a misdemeanor.

26 (B) Any person who violates any provision of Section 7.32.010, Section 7.32.030,
27 Section 7.32.120 or Section 7.32.130 is guilty of a misdemeanor and:

28 (1) For the first offense within the immediately preceding seven years, shall

1 be sentenced to imprisonment for a term of not less than two days nor more than six months; the
2 performance of community service of not less than forty-eight hours nor more than one hundred
3 twenty hours, and a fine of not less than two hundred dollars nor more than one thousand dollars. A
4 term of imprisonment imposed pursuant to this paragraph may be served intermittently at the
5 discretion of the judge, except that each period of confinement must be not less than four consecutive
6 hours and must occur at a time when the person is not required to be at his place of employment or
7 on a weekend;

8 (2) For the second offense or subsequent offense within the immediately
9 preceding seven years, shall be sentenced to imprisonment for a term of not less than ten days nor
10 more than six months; the performance of community service of not less than one hundred hours nor
11 more than two hundred hours, and a fine of not less than five hundred dollars nor more than one
12 thousand dollars.

13 (C) In addition to any other fine or penalty provided in Subsection (B), a person
14 who violates any provision of Section 7.32.010 or Section 7.32.130 shall be ordered to pay restitution
15 for all costs associated with the care and impoundment of any mistreated animal, including without
16 limitation money expended for veterinary treatment, feed and housing.

17 (D) In connection with the imposition of any sentence pursuant to this Section, the
18 court may order the defendant to surrender ownership or possession of the mistreated animal.

19 (E) If a person who owns, possesses or has custody, care and control of an animal
20 resists, interferes with or prevents the Animal Regulation Officer or [any of his assistants] an Animal
21 Control Officer in the exercise of their duties, or violates any of the provisions of Chapters 7.04 to
22 7.44, inclusive, the animal may be impounded in accordance with the provisions of this Title.

23 (F) The City is authorized to treat a violation of the following provisions of this
24 Title as a civil infraction, which shall then subject the violator to a civil penalty in accordance with
25 the provisions of Section 7.44.060 to 7.44.120, inclusive:

26 (1) Section 7.08.010 (relating to animal licensing);

27 (2) Section 7.08.090 (relating to license tags);

28 (3) Section 7.08.140 (relating to dog limitations);

- 1 (4) Section 7.08.160 (relating to cat limitations);
- 2 (5) Section 7.12.010 (relating to rabies vaccinations);
- 3 (6) Section 7.14.010 (relating to unspayed/unneutered animals);
- 4 (7) Section 7.20.020 (relating to unspayed female animals during copulating
- 5 season);
- 6 (8) Section 7.36.020 (relating to animal interference, damage, etc.);
- 7 (9) Section 7.36.030 (relating to animals at large), if the violation is
- 8 witnessed by the Animal Regulation Officer or an Animal Control Officer;
- 9 (10) Section 7.36.040 (relating to animal waste);
- 10 (11) Section 7.36.050 (relating to animal restraint and sanitation);
- 11 (12) Section 7.38.040 (relating to hogs and pigs);
- 12 (13) Section 7.38.041 (relating to potbellied pigs);
- 13 (14) Section 7.38.042 (relating to potbellied pigs);
- 14 (15) Section 7.38.043 (relating to potbellied pigs);
- 15 (16) Section 7.38.050 (relating to poultry and birds);
- 16 (17) Section 7.38.060 (relating to rabbits);
- 17 (18) Section 7.38.070 (relating to owner responsibilities); and
- 18 (19) Section 7.38.100 (relating to wild animal permits).

19 SECTION 2: Title 7, Chapter 44, of the Municipal Code of the City of Las Vegas,
20 Nevada, 1983 Edition, is hereby amended by adding thereto seven new sections, designated
21 respectively as Sections 60 to 120, inclusive, reading as follows:

22 **7.44.060:** (A) Whenever a violation of any of the provisions described in Section 7.44.040(F)
23 occurs, a Notice of Infraction may be issued in accordance with this Chapter. Such a Notice of
24 Infraction may be issued by any officer authorized to enforce of this Title and must contain the
25 following information:

- 26 (1) The name and address of the person responsible for the violation;
- 27 (2) A brief description of the violation and a reference to the applicable
- 28 ordinance citation(s);

- 1 (3) The location, date and time of the violation;
- 2 (4) The name of the person issuing the Notice of Infraction;
- 3 (5) The amount of the civil penalty applicable to the violation;
- 4 (6) Information advising of the manner and time for responding to the
- 5 Notice of Infraction; and
- 6 (7) Such other pertinent information as may be necessary or appropriate.

7 (B) No error or omission concerning any of the information described in Subsection
8 (A) is grounds for the dismissal of an action relating to a Notice of Infraction unless the person
9 requesting such a disposition demonstrates substantial prejudice therefrom by a preponderance of the
10 evidence.

11 (C) Where data concerning a Notice of Infraction is entered into and stored in a
12 computer or similar device, the following shall be deemed to be an “original” of such Notice of
13 Infraction for purposes of this Chapter:

- 14 (1) Any printout or other output readable by sight which accurately reflects
- 15 such data; and
- 16 (2) Any such entry which has been moved or copied into another computer
- 17 or similar device and is intended to have the same effect by the issuing officer.

18 (D) Any Notice of Infraction issued pursuant to this Chapter shall constitute a
19 declaration which is subject to the penalty of perjury.

20 **7.44.070:** An original Notice of Infraction, or a facsimile thereof, must be filed with the
21 Department of Detention and Enforcement and retained by that Department, and is deemed to be a
22 public record of matters which are observed pursuant to a duty which is imposed by law and is prima
23 facie evidence of the facts which are alleged therein. An original or duplicate of the Notice of
24 Infraction must be served on the person responsible for the violation.

25 **7.44.080:** (A) A person must respond to a Notice of Infraction in one of the following ways:

- 26 (1) “Admit” responsibility for the commission of the violation and liability
- 27 for the civil penalty imposed, and pay the applicable civil penalty;
- 28 (2) Contact the Director of Detention and Enforcement or an authorized

1 designee, "admit" such responsibility and liability, and arrange a schedule for the payment of such
2 penalty; or

3 (3) Request a binding hearing, as provided for in Subsections (B) to (I),
4 inclusive, of this Section in order to dispute the propriety of the issuance of the Notice of Infraction
5 or liability for the violation.

6 (B) A person may initiate a hearing pursuant to Paragraph (3) of Subsection (A) of
7 this Section by:

8 (1) Contacting the Director of Detention and Enforcement or a designee;

9 (2) Providing his/her name, current address and the Notice(s) of
10 Infraction(s) and penalties thereon which such person wishes to subject to such hearing; and

11 (3) Obtaining a date for the hearing.

12 (C) Any person initiating such a hearing in this manner (the "defendant") shall be
13 bound by the decision of the Hearing Officer concerning liability for the infraction(s) and
14 responsibility for the penalties related thereto. If a defendant scheduling a hearing before the Hearing
15 Officer fails to appear at the hearing without having first sought and obtained a continuance of the
16 hearing, the Hearing Officer may enter a decision against the defendant for the full amount of penalties
17 scheduled to be reviewed. In connection with the request for a hearing, the defendant must
18 acknowledge the binding nature of the hearing and the Hearing Officer's authority in the event the
19 defendant fails to appear at a hearing. The acknowledgment shall be in substantially the following
20 form:

21 I _____, hereby request a binding hearing before the Hearing
22 Officer. My address is _____. I request that this hearing involve
23 Notice(s) of Infraction(s) Number _____. I understand that the Hearing Officer is an
24 attorney and not an elected or appointed judge.

25 I understand that I am bound by the decision of the Hearing Officer. I understand that
26 if I fail to appear for the scheduled hearing before the Hearing Officer without first obtaining
27 a continuance of such hearing, the Hearing Officer may enter a decision against me for the full
28 amount of the penalties scheduled to be reviewed. I understand and agree that if necessary due

1 to my lack of timely payment, the City of Las Vegas can and will use this binding decision to
2 have a formal civil judgment entered against me in the Las Vegas Municipal Court.

3 I understand that if a civil judgment is obtained, the City may seek and obtain a writ
4 of execution against me. I understand that if a writ of execution is obtained, my wages and/or
5 bank accounts may be garnished, and liens may be put on my property

6 Knowing all of the above, I still wish to request a binding hearing before the Hearing
7 Officer on the above-described Notice(s) of Infraction(s). I hereby acknowledge the above and
8 further acknowledge that at my request a hearing has been set for _____, 20____
9 at the hour of _____ m.

10 _____
11 Defendant

12 (D) Any hearing conducted pursuant to this Section shall be presided over by a
13 Hearing Officer who shall be an attorney licensed to practice law in the State of Nevada. With respect
14 to any such hearing, a properly filed Notice of Infraction shall constitute a claim of liability and a
15 claim for relief and no other such claim shall be required. Prima facie proof of the violation alleged
16 shall be established by the City providing the Hearing Officer with either a certified copy of the Notice
17 of Infraction or the data stored in a computer or other device, as described in Subsection (C) of Section
18 7.44.060. No formal appearance by the City Attorney's office is required. The hearings and
19 dispositions of all such actions shall be informal, with the Hearing Officer receiving witness
20 statements or testimony and other evidence for the sole purpose of dispensing fair and speedy justice
21 between the parties.

22 (E) The burden of proving any defense shall be upon the person raising such
23 defense.

24 (F) If the Hearing Officer finds that a violation did not occur or that the defendant
25 should not be held liable, the Hearing Officer shall enter a decision for the defendant.

26 (G) The defendant shall pay the total civil penalties forthwith or at such times and
27 on such conditions as the Hearing Officer shall prescribe if it is found that the person has either failed
28 to appear or otherwise defend against the issuance of the Notice of Infraction as agreed or that the

1 violation was committed and no applicable defense exists.

2 (H) Upon reaching a decision, the Hearing Officer shall as soon as practicable
3 thereafter, file a written decision substantially conforming to the following form:

4 City of Las Vegas, Clark County, Nevada, City of Las Vegas, Plaintiff v. _____,
5 Defendant. Before, _____, Hearing Officer for the City of Las Vegas, Clark
6 County, Nevada, decision is entered in favor of _____, (plaintiff or defendant) for
7 \$_____ (enter \$0.00 if judgment is for the defendant), on the ____ day of _____,
8 20____. I certify that the foregoing is a correct reflection of the decision entered in the action
9 properly brought for my consideration pursuant to LVMC Chapter 7.44.

10 _____
11 Hearing Officer

12 (I) The City Attorney may petition the Las Vegas Municipal Court for the entry
13 of a civil judgment against the defendant in an amount equal to that stated in the written decision of
14 the Hearing Officer if the City Attorney determines this action to be necessary to enforce the decision.
15 Service of such petition on the defendant must be made by certified mail, return receipt requested,
16 restricted delivery, addressed to the defendant at the defendant's last known address, or in any other
17 manner which is authorized by law. An affidavit or declaration of mailing, a signed, returned receipt,
18 or other evidence of service shall be filed upon such service of the petition. Once a petition for civil
19 judgment pursuant to this Subsection (I) has been filed with the Municipal Court, the assigned judge
20 has jurisdiction to grant or deny the relief prayed for therein.

21 **7.44.090:** (A) A response to a Notice of Infraction, as provided in Section 7.44.080, must be
22 made within thirty calendar days after the date on which the Notice of Infraction is served. If no
23 response is received during such thirty-day period, an additional civil penalty which is equal to the
24 amount of the original civil penalty must be assessed.

25 (B) After the expiration of the thirty-day response period, the Director of Detention
26 and Enforcement or an authorized designee may send a Notice of Delinquency by mail to the person
27 to whom the Notice of Infraction was issued, at that person's last known address. The Notice of
28 Delinquency must contain the date of the infraction, the amount of the initial civil penalty and the

1 amount of any additional penalty which is associated therewith. The person to whom the Notice of
2 Delinquency was sent shall have fifteen calendar days after the date of the Notice of Delinquency in
3 which to respond thereto in the manner which is provided in Section 7.44.080. If no response is made
4 to the Notice of Delinquency within such additional fifteen-day period, an additional penalty must be
5 assessed equal to two times the original civil penalty amount, in addition to the original amount.

6 (C) If a person fails to respond to a Notice of Infraction or a Notice of Delinquency
7 in accordance with this Chapter, the City is entitled to collect the amount of any fines and penalties
8 by means of any remedy available under applicable law, including without limitation referring the
9 matter to a collection agency.

10 **7.44.100:** (A) The schedule of civil penalties contained in Section 7.44.110 is hereby
11 established for the violations described therein.

12 (B) In addition to the penalties provided for in Section 7.44.110 and the late fees
13 described in Section 7.44.120, the person responsible for any violation shall be liable for an additional
14 collection fee where the collection of the penalties provided for herein is referred for collection to a
15 private collection agency. The amount of such fee shall be twenty-five percent of the outstanding
16 indebtedness or two hundred fifty dollars, whichever is less. The amount of any such collection fee
17 shall accrue and become due and payable at the time the indebtedness is referred for collection to the
18 collection agency, and that amount may be added by the collection agency to the amount sought to be
19 collected. Any judgment or amended judgment entered under this Chapter may include the amount
20 of the collection fee authorized by this Subsection (B).

21 **7.44.110:** The following civil penalties are established for violations of the provisions indicated
22 below:

SECTION VIOLATED	PENALTY
7.08.010	One hundred fifty dollars
7.08.090	One hundred fifty dollars
7.08.140	One hundred fifty dollars
7.08.160	One hundred fifty dollars
7.12.010	Five hundred dollars
7.14.010	One hundred fifty dollars

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7.20.020	Two hundred fifty dollars
7.36.020	One hundred fifty dollars
7.36.030	Two hundred fifty dollars (1 st offense) Five hundred dollars (2 nd offense within a twenty-four month period) One thousand dollars (3 rd offense within a twenty-four month period)
7.36.040	One hundred fifty dollars
7.36.050	One hundred fifty dollars
7.38.040	One hundred fifty dollars
7.38.041	One hundred fifty dollars
7.38.042	One hundred fifty dollars
7.38.043	One hundred fifty dollars
7.38.050	One hundred fifty dollars
7.38.060	One hundred fifty dollars
7.38.070	One hundred fifty dollars
7.38.100	Two hundred fifty dollars

7.44.120: The penalty amounts set forth in Section 7.44.140 are subject to adjustment as follows:

(A) A Hearing Officer's decision in accordance with Section 7.44.080:

(1) Regarding a violation of Section 7.36.030 may include a provision that, if the violation is corrected within thirty days, or such other period as may be specified, the penalty is waived.

(2) Regarding any other violation that is subject to the provisions of Sections 7.44.080 through 7.44.120, inclusive, may include a provision that, if payment is made within thirty days after the decision is issued and the violator can demonstrate that the violation has been corrected, the applicable penalty is reduced by sixty-five percent (or seventy-five percent, in the case of a violation of Section 7.08.010)).

(B) If the payment of penalty amounts when they become finally due pursuant to the provisions of Sections 7.44.060 to 7.44.120, inclusive, are not timely made, the following late fees shall be imposed and are immediately due and payable:

(1) If payment is late more than thirty days, a late fee of one hundred percent of the applicable penalty amount.

(2) If payment is late more than forty-five days, the late fee is increased to

1 one hundred fifty percent of the applicable penalty amount.

2 SECTION 3: Title 7, Chapter 8, Section 10, of the Municipal Code of the City of Las
3 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

4 **7.08.010:** (A) Every person, except a professional animal handler permit holder, owning,
5 keeping, harboring or possessing within the City, any dog, cat or ferret over the age of four months
6 shall, within thirty days after the animal attains the age of four months or is first brought into the City,
7 obtain for the animal a current and valid license issued by the City.

8 (B) It is unlawful for a person to fail to obtain a license required by Subsection (A)
9 of this Section.

10 SECTION 4: Title 7, Chapter 8, Section 90, of the Municipal Code of the City of Las
11 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

12 **7.08.090:** (A) The owner of any dog, cat or ferret licensed under this Chapter shall securely
13 fasten about the neck of the animal a collar which has attached thereto the license tag referred to in
14 Section 7.08.080. It is unlawful for a person to fail to comply with the preceding sentence.

15 (B) It is unlawful for any person to:

16 (1) Remove any license tag issued pursuant to Section 7.08.080 from any
17 animal not owned by that person, or not lawfully in his possession or under his control or care;

18 (2) Place on any animal, or to permit any animal in his control or possession
19 to wear any license tag which has not been issued pursuant to this Chapter for that particular animal;
20 or

21 (3) Place on any animal, or to own, keep, or possess any animal wearing,
22 any counterfeit, imitation, or altered license tag of the kind required by this Chapter.

23 (C) As an alternative to obtaining a license tag for, and attaching it to, a ferret, the
24 owner may have an electronic identification microchip implanted under the skin of the ferret if the
25 manufacturer of the microchip has been approved by the Animal Regulation Officer and the
26 implantation conforms to procedures recommended by the manufacturer.

27 SECTION 5: Title 7, Chapter 36, Section 20, of the Municipal Code of the City of
28 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

1 **7.36.020:** It is unlawful for [The] the owner or any person having possession, custody or control
2 of any animal [which interferes] to allow the animal to interfere with a pedestrian or vehicle traffic,
3 [trespasses] trespass on school grounds, or [damages] damage the property of another person. [, is
4 guilty of a misdemeanor.]

5 SECTION 6: Title 7, Chapter 36, Section 30, of the Municipal Code of the City of
6 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

7 **7.36.030:** [If any animal is at large, its owner or any person having possession, custody or control
8 is guilty of a misdemeanor.] It is unlawful for the owner of an animal, or any person having
9 possession, custody or control thereof, to allow the animal to be at large, as defined in Section
10 7.04.090.

11 SECTION 7: Title 7, Chapter 36, Section 40, of the Municipal Code of the City of
12 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

13 **7.36.040:** It is unlawful for [Any] any person owning or having custody or care of any animal
14 [which excretes] to allow the animal to excrete any solid waste upon any public property, upon any
15 real property owned by or leased by another person or upon any common area of an apartment or
16 similar complex; [is guilty of a misdemeanor] provided, however, that no violation of this Section
17 shall occur if the owner or other person having custody or care of the animal promptly and voluntarily
18 removes the [solid excretion.] waste.

19 SECTION 8: Title 7, Chapter 38, Section 100, of the Municipal Code of the City of
20 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

21 **7.38.100:** It [shall be a misdemeanor] is unlawful for any person to possess any wild animal
22 without having in his possession a wild animal permit or receipt therefor issued by the Animal
23 Regulation Officer.

24 SECTION 9: If any section, subsection, subdivision, paragraph, sentence, clause or
25 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or
26 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
27 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the
28 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,

1 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,
2 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,
3 invalid or ineffective.

4 SECTION 10: All ordinances or parts of ordinances or sections, subsections, phrases,
5 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada,
6 1983 Edition, in conflict herewith are hereby repealed.

7 PASSED, ADOPTED and APPROVED this ____ day of _____, 2012.

8 APPROVED:

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10 By _____
11 CAROLYN G. GOODMAN, Mayor

12 ATTEST:

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14 BEVERLY K. BRIDGES, MMC
City Clerk

15 APPROVED AS TO FORM:

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17 Val Steed 1-18-12
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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APPROVED:

By _____
CAROLYN G. GOODMAN, Mayor

ATTEST:

BEVERLY K. BRIDGES, MMC
City Clerk