

1 **FIRST AMENDMENT**

2 **BILL NO. 2017-2**

3 **ORDINANCE NO. 6570**

4 AN ORDINANCE TO AMEND THE CITY'S NUISANCE REGULATIONS TO SPECIFICALLY
5 ADDRESS ODOR NUISANCES, INCLUDING THE ADOPTION OF A NEW CODE CHAPTER
PERTAINING THERETO, AND TO PROVIDE FOR OTHER RELATED MATTERS.

6 Sponsored by: Councilwoman Lois Tarkanian
7 Councilman Bob Beers

Summary: Amends the City's nuisance
8 regulations to specifically address odor
9 nuisances, including the adoption of a new Code
chapter pertaining thereto.

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

12 SECTION 1: Title 9, Chapter 4, Section 10, of the Municipal Code of the City of Las
13 Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

14 **9.04.010:** As used in this Chapter, unless the context requires otherwise, the following terms shall be
15 defined as set forth in this Section.

16 "Authorized official" means an officer of the Las Vegas Metropolitan Police Department and any
17 person designated and empowered by ordinance, by the City Manager or by the District Health Officer to
enforce the provisions of Title 9.

18 "Chronic nuisance" means the existence of any of the following conditions:

19 (1) When three or more nuisance activities exist or have occurred during any thirty-
20 day period on a property;

21 (2) When a person associated with the property has engaged in three or more nuisance
22 activities during any thirty-day period on the property or within one hundred feet of the property;

23 (3) When the property has been the subject of a search warrant based on probable
24 cause of continuous or repeated violations of NRS Chapter 459; or

25 (4) When a building or place is used for the purpose of unlawfully selling, serving,
26 storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor as

1 defined in NRS 453.086 or controlled substance analog as defined in NRS 453.043

2 "Criminal activity" means any activity defined as a misdemeanor in the Las Vegas Municipal Code
3 or as a misdemeanor, gross misdemeanor or felony in NRS Title 15.

4 "Imminent hazard" means any condition associated with real property that places a person's life,
5 health or property in high risk of peril when such condition is immediate, impending, or on the point of
6 happening or menacing.

7 "Owner" means any person having a legal or equitable interest in real property within the City. For
8 purposes of providing notice under this Chapter to an owner of real property, the term also includes any
9 agent or representative of the owner, or any person who acts as a manager or collects rents regarding that
10 property.

11 "Person associated with the property" means a person who, on the occasion of a nuisance activity,
12 has:

- 13 (1) Entered, patronized or visited;
- 14 (2) Attempted to enter, patronize or visit; or
- 15 (3) Waited to enter, patronize or visit, a property or a person present on the property.

16 "Public nuisance," "nuisance," or "nuisance activity" means any of the following conditions:

17 (1) Any area, structure or object which by its nature, location, or character would tend
18 to attract and endanger the safety of any minor person.

19 (2) Any violation of Title 16, including violations of the codes pertaining to building,
20 construction, housing, and fire safety adopted thereunder.

21 (3) Any body of water which by its nature or location constitutes an unhealthy or
22 unsafe condition, including any accumulation of stagnant water that has become or is likely to become a
23 breeding area for insects.

24 (4) Any refuse, waste, litter or other material, regardless of its market value, which, by
25 reason of its location or character, is unsightly or interferes with the reasonable use and enjoyment of
26 adjacent properties, has a detrimental effect upon adjacent property values, or would hamper or interfere

1 with the containment of fire upon the premises. Examples include, without limitation, decaying or non-
2 decaying solid and semi-solid wastes, whether or not combustible, such as old lumber, tin, wire, cans,
3 barrels, cartons, boxes, rags, tires, inner tubes, brush, grass and hedge clippings, rocks, bricks, cinders,
4 scrap iron, buckets, tubs, windows, screens, glass, bottles, wastepaper, bedsprings, mattresses, discarded
5 furniture and appliances, bedding and material cleaned from animal or fowl pens, automobile parts, scrap
6 paving material, and piles of earth mixed with other waste material which may harbor insect or rodent
7 infestations or may become a fire hazard.

8 (5) Any violation of Title 19 or Title 20 of this Code.

9 (6) Operating a business without a current license as required by Title 6.

10 (7) An odor nuisance as described in LVMC Chapter 9.40.

11 [(7)] (8) Any other act or condition, other than those permitted by NRS 40.140 and
12 202.450, which, by reason of its nature, character or location, interferes with the reasonable use and
13 enjoyment of adjacent properties, or which has a detrimental effect upon adjacent property values. Such
14 nuisances include without limitation the following:

15 (a) Weeds, turf grass, or uncultivated plant growth exceeding eight inches in
16 height, either on a vacant parcel or on a developed parcel at a location visible from public property;

17 (b) Dead trees, plants and other vegetation that present a fire hazard or are
18 otherwise a threat to property or to the health and safety of the public or a segment thereof;

19 (c) Graffiti, as defined in LVMC 10.48.060, that is allowed to remain for more
20 than twenty-four hours;

21 (d) Unpainted or painted buildings, walls, fences or other structures whose
22 condition has become so deteriorated as to create a hazardous condition; threaten collapse, displacement, or
23 other breakdown of structural integrity; permit decay, excessive cracking, peeling, chalking, dry rot,
24 warping or termite infestation; or create a condition of blight visible from public right-of-way;

25 (e) Any vehicle that has been abandoned, or any vehicle in an obviously
26 mechanically inoperable condition, that:

1 (i) Is parked within a multifamily residential parking lot, in a location
2 that is visible from public property, including a street or alley;

3 (u) Has been parked in the same location for more than seven
4 consecutive days;

5 (f) Criminal activity on any lot or premises within the City.

6 "Responsible party" means any tenant, occupant, lessor, lessee, manager, licensee or other person
7 having control over a structure or parcel of land in the City.

8 SECTION 2: Title 9 of the Municipal Code of the City of Las Vegas, Nevada, 1983
9 Edition, is hereby amended by adding thereto a new chapter, designated as Chapter 40 and consisting of
10 Sections 10 to 40, inclusive, reading as follows:

11 **9.40.010:** As used in this Chapter, unless the context otherwise indicates, the following terms shall
12 have the meanings ascribed to them:

13 "Authorized official" has the same meaning ascribed to that term in LVMC 9.04.010.

14 "DT" is an abbreviation for dilution to threshold, which is an odor quantification unit.

15 "Hedonic tone" means the offensiveness of a particular odor.

16 "Nasal Ranger®" refers to a manufactured product used to quantify odor by diluting the air stream
17 with odor categorizing the odor by dilutions to threshold.

18 "Odor" means the perceived experience when one or more chemicals come into contact with and
19 stimulate the olfactory nerve.

20 "Odorant" refers to any chemical in the air that is part of the perception of odor.

21 "Odor episode" means the occurrence and perception of odor that may constitute an odor nuisance
22 under this Chapter.

23 "Odor intensity" means the overall strength of an odor.

24 "Odor nuisance" means an odor which is injurious to health, offensive to the senses of a reasonable
25 person, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of
26 life or property.

1 “Olfactometer” means a device used in the field to measure or quantify odor or odor intensity,
2 including a scentometer or Nasal Ranger®.

3 “Ppbv” means parts per billion by volume, a common gas phase compound quantitative unit.

4 “Ppmv” means parts per million by volume, a common gas phase compound quantitative unit.

5 “Scentometer” means a measurement device used to quantify odor intensity using a calibration
6 standard.

7 **9.40.020:** (A) Except as otherwise provided in this Chapter, no person shall cause or knowingly
8 allow to be caused an odor nuisance.

9 (B) When a complaint regarding an odor episode is received, an authorized official
10 may contact the complainant, gather specific information regarding the odor episode, and conduct an
11 investigation accordingly. An authorized official may also conduct an investigation in a case where he or
12 she independently perceives the existence of odor that might constitute an odor nuisance. As part of the
13 investigation, the official may attempt to identify and quantify the odor intensity using an olfactometer and
14 may also define or describe the hedonic tone of the odor associated with the odor episode.

15 (C) As an alternative to, or in advance of, formal enforcement proceedings, an
16 authorized official may work with an owner, operator or other person responsible for an odor episode to
17 mitigate the odor.

18 (D) An authorized official may process an odor episode as a public nuisance under
19 Chapter 9.04 if, on a parcel adjacent to or nearby the parcel that is the source of the odor, an objective
20 measurement is made as follows:

21 (1) The ambient odor has a persistent odor intensity measured at 7 DT or
22 greater and measured as such at least three times in a forty-eight hour time period; or

23 (2) The existence of hydrogen sulfide or ammonia is measured as follows:

24 (a) Hydrogen sulfide. 100 ppbv (instantaneous), 30 ppbv (30 minute
25 average), 10 ppbv (one hour average); or

26 (b) Ammonia: 10 ppmv (instantaneous), 3 ppmv (30 minute average),

1 1 ppbv (one hour average).

2 (E) An objective measurement that qualifies under Subsection (D) shall be based on
3 appropriate technology, including without limitation the use of olfactometers, instruments that measure the
4 presence of specific chemicals or odorants (such as color-changing tubes and Jerome analyzers), and air
5 monitoring equipment for compounds emitted into the air. An objective measurement that qualifies under
6 Subsection (D) presumptively establishes the existence of an odor nuisance under this Chapter and Chapter
7 9.04. The presumption may be rebutted in connection with an appeal hearing or judicial proceeding
8 regarding the odor nuisance.

9 (F) If multiple complaints are made regarding the same odor episode, but a
10 presumptive odor nuisance cannot be established under the objective criteria described in Subsection (D)
11 above, an authorized official may contact an owner, operator or other person responsible for the odor to
12 discuss odor mitigation measures to eliminate or reduce the ambient odor.

13 **9.40.030:** (A) Except as otherwise provided in Subsection (B), this Chapter applies to all
14 locations and operations within the City, including residential and nonresidential operations.

15 (B) This Chapter does not apply to:

16 (1) Residential animal husbandry locations or other rural residential sites that
17 include the presence of animals or agricultural operations, but only to the extent they are operating in
18 compliance with all applicable City ordinances.

19 (2) The food preparation operations of restaurants (but only those operations).

20 (3) Regulated natural gas utility operations, including odorized natural gas and
21 the chemicals or products used to achieve the required odorization of natural gas.

22 **9.04.040:** In the case of an odor episode that qualifies under Subsection (D) of Section 9.40.020,
23 where the source of the odor is a medical marijuana establishment licensed pursuant to LVMC Chapter
24 6.95 and the operator or owner disagrees with the objective measurement, an authorized official may
25 require the operator or property owner to conduct air monitoring, at the operator's or owner's cost, in
26 accordance with the Department of Building and Safety's Odor Standard and Testing Protocol for

1 Measuring Exterior Odors at Medical Marijuana Cultivation and/or Production Facilities

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


9 SECTION 4: Whenever in this ordinance any act is prohibited or is made or declared to
10 be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is required
11 or the failure to do any act is made or declared to be unlawful or an offense or a misdemeanor, the doing of
12 such prohibited act or the failure to do any such required act shall constitute a misdemeanor and upon
13 conviction thereof, shall be punished by a fine of not more than \$1,000.00 or by imprisonment for a term of
14 not more than six months, or by any combination of such fine and imprisonment. Any day of any violation
15 of this ordinance shall constitute a separate offense.

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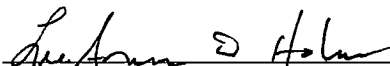
1 SECTION 5: All ordinances or parts of ordinances or sections, subsections, phrases,
2 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada, 1983
3 Edition, in conflict herewith are hereby repealed.

4 PASSED, ADOPTED and APPROVED this 15th day of March, 2017.


5 APPROVED:

6 By 
7 CAROLYN G. GOODMAN, Mayor

8 ATTEST:

9 
10 LUANN D. HOLMES, MMC
11 City Clerk

12 APPROVED AS TO FORM:

13  3-15-17
14 Val Steed, Date
15 Deputy City Attorney
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1 The above and foregoing ordinance was first proposed and read by title to the City Council
2 on the 15th day of February, 2017, and referred to a committee for recommendation;
3 thereafter the said committee reported favorably on said ordinance on the 15th day of
4 March, 2017, which was a regular meeting of said Council; that at said regular meeting,
5 the proposed ordinance was read by title to the City Council as amended and adopted by
6 the following vote:

7 VOTING "AYE": Mayor Goodman
Councilmembers Ross, Tarkanian, Anthony, Coffin and Beers
8 VOTING "NAY": None
9 EXCUSED: Barlow
10 ABSTAINED: None
11 DID NOT VOTE: None

12 APPROVED:

13 
14 _____
CAROLYN G. GOODMAN, Mayor

15 ATTEST:

16 
17 _____
LUANN D. HOLMES/MMC City Clerk

AFFIDAVIT OF PUBLICATION

STATE OF NEVADA)
COUNTY OF CLARK) SS

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CITY CLERK

LV CITY CLERK
495 S MAIN ST
LAS VEGAS NV 89101

Account #
Ad Number

22017 MAR -6 P 4:42
0000896465

Leslie McCormick, being 1st duly sworn, deposes and says That she is the Legal Clerk for the Las Vegas Review-Journal and the Las Vegas Sun, daily newspapers regularly issued, published and circulated in the City of Las Vegas, County of Clark, State of Nevada, and that the advertisement, a true copy attached for, was continuously published in said Las Vegas Review-Journal and / or Las Vegas Sun in 1 edition(s) of said newspaper issued from 03/02/2017 to 03/02/2017, on the following days

03 / 02 / 17

BILL NO. 2017-2
AN ORDINANCE TO AMEND THE CITY'S NUISANCE REGULATIONS TO SPECIFICALLY ADDRESS ODOR NUISANCES, INCLUDING THE ADOPTION OF A NEW CODE CHAPTER PERTAINING THERETO, AND TO PROVIDE FOR OTHER RELATED MATTERS.
Sponsored by: Councilwoman Lois Tarkanian
Councilman Bob Beers
Summary: Amends the City's nuisance regulations to specifically address odor nuisances, including the adoption of a new Code chapter pertaining thereto.
At the City Council meeting of February 15, 2017
BILL NO. 2017-2 WAS READ BY TITLE AND REFERRED TO A RECOMMENDING COMMITTEE
COPIES OF THE COMPLETE ORDINANCE ARE AVAILABLE FOR PUBLIC INFORMATION IN THE OFFICE OF THE CITY CLERK, 2ND FLOOR, 495 SOUTH MAIN STREET, LAS VEGAS, NEVADA
PUB: March 2, 2017
LV Review-Journal



[Signature]

LEGAL ADVERTISEMENT REPRESENTATIVE

Subscribed and sworn to before me on this 2nd day of March, 2017

Notary *Linda Espinoza*

AFFIDAVIT OF PUBLICATION

STATE OF NEVADA)
COUNTY OF CLARK) SS

LV CITY CLERK
495 S MAIN ST
LAS VEGAS NV 89101

Account # 22515
Ad Number 0000899734

Eileen Gallagher, being 1st duly sworn, deposes and says That she is the Legal Clerk for the Las Vegas Review-Journal and the Las Vegas Sun, daily newspapers regularly issued, published and circulated in the City of Las Vegas, County of Clark, State of Nevada, and that the advertisement, a true copy attached for, was continuously published in said Las Vegas Review-Journal and / or Las Vegas Sun in 1 edition(s) of said newspaper issued from 03/18/2017 to 03/18/2017, on the following days

03 / 18 / 17

FIRST AMENDMENT
BILL NO 2017-2
ORDINANCE NO. 6570
AN ORDINANCE TO AMEND THE CITY'S NUISANCE REGULATIONS TO SPECIFICALLY ADDRESS ODOR NUISANCES, INCLUDING THE ADOPTION OF A NEW CODE CHAPTER PERTAINING THERETO, AND TO PROVIDE FOR OTHER RELATED MATTERS.
Sponsored by: Councilwoman Lois Tarkanian
Councilman Bob Beers
Summary: Amends the City's nuisance regulations to specifically address odor nuisances, including the adoption of a new Code chapter pertaining thereto.
The above and foregoing ordinance was first proposed and read by title to the City Council on the 15th day of February, 2017, and referred to a committee for recommendation; thereafter the committee reported favorably on said ordinance on the 15th day of March, 2017, which was a regular meeting of said City Council; and that at said regular meeting the proposed ordinance was read by title to the City Council as amended and adopted by the following vote:
VOTING "AYE": Mayor Goodman and Councilmembers Ross, Tarkanian, Anthony, Coffin, and Beers
VOTING "NAY": NONE
EXCUSED: Councilman Barlow
COPIES OF THE COMPLETE ORDINANCE ARE AVAILABLE FOR PUBLIC INFORMATION IN THE OFFICE OF THE CITY CLERK, 2ND FLOOR, 495 SOUTH MAIN STREET, LAS VEGAS, NEVADA
PUB: March 18, 2017
LV Review-Journal

Signature of Eileen Gallagher
LEGAL ADVERTISEMENT REPRESENTATIVE

Subscribed and sworn to before me on this 20th day of March, 2017

Signature of Notary
Notary

