

City of Las Vegas

RECOMMENDING COMMITTEE MEETING
CITY HALL, 400 STEWART AVENUE
CITY MANAGER'S CONFERENCE ROOM, EIGHTH FLOOR
CITY OF LAS VEGAS INTERNET ADDRESS: <http://www.lasvegasnevada.gov>
MONDAY, MAY 3, 2004
4:00 P.M.

RECOMMENDING COMMITTEE: COUNCILMAN WEEKLY AND COUNCILWOMAN MONCRIEF

CALL TO ORDER

ANNOUNCEMENT RE: COMPLIANCE WITH OPEN MEETING LAW

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.

THE FOLLOWING BILLS MAY BE ELIGIBLE FOR ADOPTION AT THE 5/19/2004 CITY COUNCIL MEETING.

1. Bill No. 2004-30 – Requires merchants to make certain disclosures in connection with the sale of motorized scooters and motorized skateboards. Sponsored by: Councilman Michael Mack
2. Bill No. 2004-31 – Prohibits the breeding or training of animals for the purpose of using them in an animal fighting venture. Sponsored by: Councilman Michael Mack
3. Bill No. 2004-32 – Ordinance Creating Special Improvement District No. 607 - Cliff's Edge. Sponsored By: Step Requirement
4. Bill No. 2004-33 – Levies Assessments for Special Improvement District No. 607 - Cliff's Edge. Sponsored By: Step Requirement
5. Bill No. 2004-34 – Levies Assessment for Special Improvement District No. 1485 - Alta Drive (Landscape Maintenance FY2005). Sponsored by: Step Requirement
6. Bill No. 2004-35 – Authorizing the issuance of Local Improvement Bonds, Series 2004 for the City of Las Vegas, Nevada Special Improvement District No. 607 Cliff's Edge not to exceed \$51,185,000. - Ward 6 (Mack)

CITIZENS PARTICIPATION. ITEMS RAISED UNDER THIS PORTION OF THE AGENDA CANNOT BE DELIBERATED OR ACTED UPON UNTIL THE NOTICE PROVISIONS OF THE OPEN MEETING LAW HAVE BEEN MET. IF YOU WISH TO SPEAK ON A MATTER NOT LISTED ON THE AGENDA, PLEASE CLEARLY STATE YOUR NAME AND ADDRESS. IN CONSIDERATION OF OTHERS, AVOID REPETITION, AND LIMIT YOUR COMMENTS TO NO MORE THAN THREE (3) MINUTES. TO ENSURE ALL PERSONS EQUAL OPPORTUNITY TO SPEAK, EACH SUBJECT MATTER WILL BE LIMITED TO TEN (10) MINUTES

ALL INTERESTED PERSONS ARE INVITED TO ATTEND: A tape recording of all the proceedings will be kept on file in the Office of the City Clerk until final disposition is made. Copies of the above Bills may be obtained through the Office of the City Clerk, Monday through Friday, 8:00 A.M. to 5:00 P.M.

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, Special Outside Posting Bulletin Board; Court Clerk's Office Bulletin Board, City Hall Plaza; Las Vegas Library, 833 Las Vegas Boulevard North; Clark County Government Center, 500 S. Grand Central Parkway; Grant Sawyer Building, 555 E. Washington Avenue

226

(Mailing required under the provisions of NRS Chapter 241)

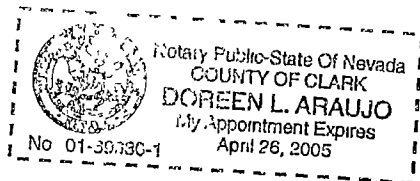
Paula Clark, an employee of the City of Las Vegas, Nevada being first duly sworn, deposes and says that on the **27th** day of **April**, 2004, a copy of a NOTICE, the attached of which is a true and correct copy of the Public Hearing - re. **Recommending Committee Meeting**, to be held on the **3rd** day of **May, 2004**, was deposited in the United States Mail, Postage prepaid, First Class Certified Mail, to each person and/or organization whose name appears on the list maintained in the Office of the City Clerk.

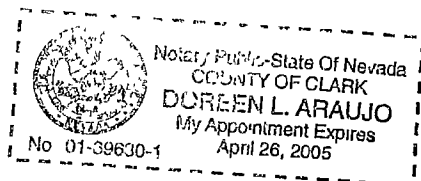
Paula Clark

City Clerk
DEPARTMENT

29th day of April, 2004

Doreen L Arroyo
NOTARY PUBLIC in and for said County and State





RECOMMENDING COMMITTEE AGENDA
RECOMMENDING COMMITTEE MEETING OF: MAY 3, 2004

- CALL TO ORDER
- ANNOUNCEMENT RE: COMPLIANCE WITH OPEN MEETING LAW

MINUTES:

PRESENT: COUNCILMAN WEEKLY and COUNCILWOMAN MONCRIEF

Also Present: DEPUTY CITY MANAGER STEVE HOUCHENS, CHIEF DEPUTY CITY ATTORNEY VAL STEED, and DEPUTY CITY CLERK GABRIELA S. PORTILLO-BRENNER

ANNOUNCEMENT MADE – meeting noticed and posted at the following locations:

City Hall Plaza, Special Outside Posting Bulletin Board

Court Clerk's Office Bulletin Board, City Hall Plaza

Las Vegas Library, 833 Las Vegas Boulevard North

Clark County Government Center, 500 S. Grand Central Parkway

Grant Sawyer Building, 555 E. Washington Avenue

(4:03)

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AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: MAY 3, 2004

DEPARTMENT: CITY ATTORNEY

DIRECTOR: BRADFORD R. JERBIC

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CONSENT

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DISCUSSION

SUBJECT:

NEW BILL:

Bill No. 2004-30 – Requires merchants to make certain disclosures in connection with the sale of motorized scooters and motorized skateboards. Sponsored by: Councilman Michael Mack

Fiscal Impact

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No Impact

Amount:

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Budget Funds Available

Dept./Division:

☐

Augmentation Required

Funding Source:

PURPOSE/BACKGROUND:

Motorized scooters and motorized skateboards are subject to State laws that govern operator licensing and minimum vehicle equipment. A significant number of these scooters and skateboards are being operated on City streets in violation of State law, and it appears that many who purchase these items are not made aware of the restrictions. This bill will require merchants to disclose this information in connection with the sale of motorized scooters and motorized skateboards.

RECOMMENDATION:

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

BACKUP DOCUMENTATION:

Bill No. 2004-30

COMMITTEE RECOMMENDATION:

COUNCILWOMAN MONCRIEF recommended Bill 2004-30 be forwarded as a First Amendment to the Full Council with a "Do Pass" recommendation. **COUNCILMAN WEEKLY** concurred.

MINUTES:

COUNCILMAN WEEKLY declared the Public Hearing open.

CHIEF DEPUTY CITY ATTORNEY VAL STEED advised that because many of the motorized skateboards and scooters are sold without discussion about where they can and cannot be used or the licensing/equipment requirements, the bill would require retailers to provide written notification as well as posted information as to the pertinent State laws. **COUNCILMAN MACK** also supports an amendment that the notification and posture be in both English and Spanish. Staff recommended adoption as a First Amendment.

RECOMMENDING COMMITTEE MEETING OF MAY 3, 2004

City Attorney

Item 1 – Bill No. 2004-30

MINUTES – Continued:

TODD FARLOW, 240 North 19th Street, pointed out that the 2020 Master Plan focused on alternative transportation, especially within the Downtown area. He questioned the impact of these motorized skateboards and scooters. Although the Las Vegas Metropolitan Police Department (Metro) assured him at a meeting that they will not enforce the ordinance, he would prefer the law not even be on the books. If passed, the ordinance should provide for the sedgeway-type scooters to utilize on sidewalks and especially the multi-use trail system.

CHIEF DEPUTY CITY ATTORNEY STEED clarified that the sedgeway-type scooter discussed would not qualify as a motorized skateboard or scooter. Those types would be addressed by a separate ordinance or not at all.

COUNCILMAN WEEKLY declared the Public Hearing closed.

(4:03 – 4:07)

BILL NO. 2004-30

ORDINANCE NO. _____

AN ORDINANCE TO REQUIRE MERCHANTS TO MAKE CERTAIN DISCLOSURES IN CONNECTION WITH THE SALE OF MOTORIZED SCOOTERS AND MOTORIZED SKATEBOARDS, AND TO PROVIDE FOR OTHER RELATED MATTERS.

Sponsored by: Councilman Michael Mack

Summary: Requires merchants to make certain disclosures in connection with the sale of motorized scooters and motorized skateboards.

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

SECTION 1: Title 11 of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended by adding thereto a new chapter, consisting of the provisions of Sections 2 to 4, inclusive, of this Ordinance.

SECTION 2: For purposes of this Chapter:

“Motorized scooter” means a scooter that is powered by a motor having a maximum piston displacement of less than twenty-five cubic centimeters, or an electric driven motor, and is capable of a maximum speed of no more than twenty-five miles per hour on a flat surface. The term does not include a scooter that is designed or intended by its manufacturer to be used primarily as an assistive device to increase, maintain, or improve the mobility of an individual with a disability or other physical condition that limits or impairs the individual’s ability to walk.

“Motorized skateboard” means a self-propelled device that has a motor, a deck on which a person may ride and at least two tandem wheels in contact with the ground.

SECTION 3: It is unlawful for a merchant to sell a motorized skateboard or motorized scooter without making the disclosures required by Section 4 of this Ordinance.

SECTION 4: Any merchant who sells motorized skateboards or motorized scooters within the City shall:

(A) Post, in a prominent place at each location where motorized skateboards or motorized scooters are on display, a notice to the effect that the operation of motorized skateboards and motorized scooters on public streets is subject to State motor vehicle laws that govern the operation of mopeds, including laws pertaining to operator licensing and minimum vehicle equipment;

1 and

2 (B) Provide a copy of such notice to each purchaser of a motorized skateboard or
3 motorized scooter, either before or in connection with the purchase.

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

12 SECTION 6: Whenever in this ordinance any act is prohibited or is made or declared
13 to be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is
14 required or the failure to do any act is made or declared to be unlawful or an offense or a
15 misdemeanor, the doing of such prohibited act or the failure to do any such required act shall
16 constitute a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than
17 \$1,000.00 or by imprisonment for a term of not more than six months, or by any combination of such
18 fine and imprisonment. Any day of any violation of this ordinance shall constitute a separate offense.

19 SECTION 7: All ordinances or parts of ordinances or sections, subsections, phrases,

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1 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada,
2 1983 Edition, in conflict herewith are hereby repealed.

3 PASSED, ADOPTED and APPROVED this ____ day of _____, 2004.

4 APPROVED:

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By _____
OSCAR B. GOODMAN, Mayor

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8 ATTEST:

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BARBARA JO RONEMUS, City Clerk

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APPROVED AS TO FORM:

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Val Steed 4-7-04
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 _____, 2004, 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 _____, 2004, 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 _____
15 OSCAR B. GOODMAN, Mayor

16 ATTEST:

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18 BARBARA JO RONEMUS, City Clerk

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AGENDA SUMMARY PAGE
RECOMMENDING COMMITTEE MEETING OF: MAY 3, 2004

DEPARTMENT: CITY ATTORNEY

DIRECTOR: BRADFORD R. JERBIC

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CONSENT

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DISCUSSION

SUBJECT:

NEW BILL:

Bill No. 2004-31 – Prohibits the breeding or training of animals for the purpose of using them in an animal-fighting venture. Sponsored by Councilman Michael Mack

Fiscal Impact

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No Impact

Amount:

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Budget Funds Available

Dept./Division:

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Augmentation Required

Funding Source:

PURPOSE/BACKGROUND:

State and local laws currently prohibit certain acts to promote or facilitate fights between animals. This bill go a step further and prohibit the breeding or training of animals for the purpose of using them in an animal fighting venture.

RECOMMENDATION:

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

BACKUP DOCUMENTATION:

Bill No. 2004-31

Submitted at meeting - Informational packet by MS. SKETCHLEY which included a statement as to the attack on her family dog, website articles regarding dog attacks and dog bite laws from other states

COMMITTEE RECOMMENDATION:

COUNCILWOMAN MONCRIEF recommended Bill 2004-31 be forwarded to the Full Council with a "Do Pass" recommendation. COUNCILMAN WEEKLY concurred.

MINUTES:

COUNCILMAN WEEKLY declared the Public Hearing open.

CHIEF DEPUTY CITY ATTORNEY VAL STEED explained that COUNCILMAN MACK believed the existing code might leave a loophole for people raising animals for the eventual use in animal fighting and sponsored this bill.

RECOMMENDING COMMITTEE MEETING OF MAY 3, 2004

City Attorney

Item 2 – Bill No. 2004-31

MINUTES – Continued:

ROSEMARY SKETCHLEY and her son BRADLEY, supported expanding the proposed bill. BRADLEY and his mother recounted the facts pertaining to an attack by an unleashed Rottweiler, killing their small dog as BRADLEY walked her on a leash within their gated community. MS. SKETCHLEY discovered after the incident that Nevada is a one-bite state. It is critical that the laws be clarified as to a dangerous versus vicious dog. Such law should not be breed-specific. Her goal is to hold an owner accountable for the actions of their dogs, regardless of breed. Currently the strongest penalty is a misdemeanor. Both criminal and civil penalties must be increased. Without such strong penalties, negligence runs rampant. It turned out that the attacking dog had a history and this has become a national problem. She submitted an informational packet which included a statement as to the attack, website articles regarding dog attacks and dog bite laws from other states.

COUNCILWOMAN MONCRIEF stated that while this proposed bill dealt with an entirely different situation, she would work with MS. SKETCHLEY regarding her concerns

No one appeared in opposition.

COUNCILMAN WEEKLY declared the Public Hearing closed.

(4:07 – 4:15)

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1 **BILL NO. 2004-31**

2 **ORDINANCE NO. _____**

3 **AN ORDINANCE TO PROHIBIT THE BREEDING OR TRAINING OF ANIMALS FOR THE**
4 **PURPOSE OF USING THEM IN AN ANIMAL FIGHTING VENTURE, AND TO PROVIDE FOR**
5 **OTHER RELATED MATTERS.**

6 Sponsored by: Councilman Michael Mack

Summary: Prohibits the breeding or training of
animals for the purpose of using them in an
animal fighting venture.

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

9 **SECTION 1:** Title 7, Chapter 4, of the Municipal Code of the City of Las Vegas,
10 Nevada, 1983 Edition, is hereby amended by adding thereto a new section, designated as Section 65,
11 reading as follows:

12 **7.04.065:** "Animal fighting venture" means any event or activity that involves a fight between
13 at least two animals and is conducted for purposes of sport, wagering, exhibition or entertainment.
14 The term does not include any activity the primary purpose of which involves the use of one or more
15 animals in hunting another animal or animals.

16 **SECTION 2:** Title 7, Chapter 32, Section 110, of the Municipal Code of the City of
17 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

18 **7.32.110:** (A) It [shall be a misdemeanor] is unlawful for any person to:

19 (1) [own,] Own, keep, or use, or be in any manner connected with or
20 financially interested in the management of, or to receive money or other thing of value for the
21 admission of any person to, a house, apartment, pit or place procured or permitted to be used or
22 occupied for [baiting or fighting of animals; or to instigate,] an animal fighting venture;

23 (2) Instigate, promote, arrange, or carry on [a fight between animals; or do]
24 an animal fighting venture;

25 (3) Breed or train any animal for the purpose of using the animal in an
26 animal fighting venture;

27 (4) Keep or possess any animal under circumstances evincing an intent to
28 use the animal in an animal fighting venture; or

1 (5) Perform any act as assistant, umpire, principal, spectator or otherwise
2 in a fight between animals, or in aid of or calculated to encourage or further any [fight between
3 animals.] animal fighting venture.

4 (B) It [shall be a misdemeanor] is unlawful for any person who is not engaged in
5 training a dog for field trial or hunting, or [for clubs staging] in staging a field trial or training class,
6 to fire upon any animal, including a pigeon or other bird, unless hunting pursuant to authority granting
7 from the U.S. Government, the State, or one of their respective political subdivisions. [; pigeon shoots
8 are henceforth illegal.]

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

17 SECTION 4: Whenever in this ordinance any act is prohibited or is made or declared
18 to be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is
19 required or the failure to do any act is made or declared to be unlawful or an offense or a
20 misdemeanor, the doing of such prohibited act or the failure to do any such required act shall
21 constitute a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than
22 \$1,000.00 or by imprisonment for a term of not more than six months, or by any combination of such
23 fine and imprisonment. Any day of any violation of this ordinance shall constitute a separate offense.

24 SECTION 5: All ordinances or parts of ordinances or sections, subsections, phrases,

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1 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada,
2 1983 Edition, in conflict herewith are hereby repealed.

3 PASSED, ADOPTED and APPROVED this _____ day of _____, 2004.

4 APPROVED:

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6 By _____
7 OSCAR B. GOODMAN, Mayor

8 ATTEST:

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10 BARBARA JO RONEMUS, City Clerk

11 APPROVED AS TO FORM:

12 *Val Steed* 4-7-04
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 _____, 2004, 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 _____, 2004, 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 _____
15 OSCAR B. GOODMAN, Mayor

16 ATTEST:

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18 BARBARA JO RONEMUS, City Clerk

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... my report is hand-delivered to
Mr Van Oordt at the City Animal Control.

Rosemary Sketchley Deets
12/19/03

Dear Mr. Van Ort,

Thank you for speaking with me on the phone this afternoon, 12/09/03. You requested a written report of the unprovoked, brutal attack by a vicious, unleashed Rottweiler upon our tiny Italian Greyhound Sasha. The attack which occurred at approximately 3:10 P.M. on Thursday, 12/04/03, resulted in the painful death of little Sasha. A copy of her attending veterinarian's report is attached to this document and reveals her condition upon her arrival to the clinic as well as the exact cause of her death. The attack also inflicted tremendous emotional stress upon our family, our remaining I.G. Diva, along with the immediate residents of our community. I fully expect that by documenting this ugly episode that it will assist you and your agency to take appropriately aggressive actions against Dr. Mark J Escoto, owner of the assailant Rottweiler, and, if possible, the animal itself. The dog and the Escoto family reside 3 doors to the East of us at 1813 Glenview Drive.

My husband, Jeff Deets, 11 year old son Bradley, IG's Sasha (black) and Diva (grey) as well as myself (Rosemary Sketchley-Deets) have happily resided within in a lovely and peaceful gated Summerlin community (i.e. Country Club Hills) at 1801 Glenview Drive since July 25th of this year. Last Thursday afternoon my son Bradley took the 'girls' out for a walk. He is very responsible with them and had them dressed in their little coats and on leash. I often accompany them on their walks but on this day I demurred because I felt unwell. I did, however, walk them down our driveway and waive them off expecting them to return in a short while, as usual. A short while later Bradley ran screaming into the house hysterical and crying "Mommy! A big dog attacked Sasha and ripped her in two!!!!" I almost blacked out at that moment because Sasha was at most only 10 lbs so what he said was a literal possibility. I flew down the street and came upon the most hideous sight of a Rottweiler (sp?) with my young IG in its' jaws flinging it around much like an alligator does when it is on the attack. There were actually 5 of us (not counting Bradley who had collapsed on the sidewalk) trying to get this vicious dog off the little one. I had to kick it with an un-natural force and fend it off with one leg while scooping Sasha up with my left arm and took off running to get her to the vet. She was in shock as I suppose I was too. Fortunately one of my wonderful neighbors who had stepped out of her car to attempt to help Sasha (Alexis Williams whose statement is attached as well) pulled up behind me and offered me a ride to the vet. While I was gone I was blessed by an angel in the form of Rachel Wolfson (the teenage daughter of the Honorable Judge Jackie Glass and defense attorney Steve Wolfson). She too has written a statement (included here) for you because she was one of the wonderful people who ran to help when she heard Bradley's screams. She and her mother cared for Bradley on my behalf while I was away with Sasha. For the majority of the ride Sasha was maintaining her bite on my finger because she was so afraid and in obvious tremendous pain...and I let her because I was desperate to comfort her in any way I could. She had labored breathing and stared up at me wide-eyed and her little body had grown quite cold - clearly in shock. When I attempted to examine her wounds I saw several puncture wounds from which she was literally leaking large quantities of blood. Due to the fact that Sasha was beyond rehabilitative medical treatment because her spine had been severed, we were forced to make the excruciating decision to opt for euthanasia.

#2

These 'little girls' are like my own children but my pain does not compare to what my son was put through. Mr. Van Ort, my little son has been absolutely traumatized and will not go outside now without me. Today we were talking with a neighbor in her garage while a local couple walked their two dogs across the street. Although neither dog was the assailant dog, Bradley blanched and freaked out because in his mind that WAS the same dog. Not only is he terrified, he is wracked with a misplaced guilt that he abandoned Sasha when he left her to get me, plus he cannot shake that scene from his mind. He cannot concentrate at school and has fitful and restless sleep. I am in the process of seeking counseling for him because I do not wish him to grow up with the life-long curse of fearing large dogs. The worst thing though is that Sasha was more Bradley's dog than a 'family' dog so his loss is especially painful. Actually both dogs have always been viewed as little fuzzy human members of our family - the girls actually gotten gifts and cards from friends throughout the year because everyone adored them so much. They are/were sweet and gentle little things without any malice what-so-ever.

Until this dog is removed and the owner has this brought to his attention neither my son nor I would dare to venture out onto our street to walk with or without any pet. Neighbors have expressed similar sentiments to me since this happened as we take this quite seriously. We all feel this is a matter of public safety (we do have small children in C.C.H.). For the record, as of this writing, Neither Dr. Escoto nor any representative for him or his family has made any attempt to contact me or my family. Heartless? Irresponsible? Arrogant? No matter. Either way he must be death with. I find his lack of empathy unconscionable - especially for a doctor.

I appreciate your time as well as the compassion you have extended to me. Truly, you are a gentleman.

I look forward to your response, Thank you,

Rosemary Sketchley-Deets on 12/30/03

Rosemary Sketchley-Deets (702)838-6469

Return to the [referring page](#).

Photo: [Dogs](#)

Las Vegas SUN

December 30, 2003

Case of alleged killer dog, hit man muddled

Rottweiler's owners may face charges

By Christina Littlefield

LAS VEGAS SUN

Las Vegas Animal Control authorities will file a criminal complaint against the owners of a Rottweiler that allegedly killed an Italian Greyhound in an upscale Summerlin neighborhood, supervisor Roger Van Orrdt said Monday.

Animal control will also declare the dog dangerous and place special restrictions on how the animal is kept, Van Orrdt said.

The Rottweiler was allegedly the intended victim of a hit on Dec. 5. A Las Vegas man allegedly hired another man to beat, kill or abduct the Rottweiler in retaliation for the Italian Greyhound's death the day before, Metro police Sgt. Mike Thompson said. Thompson and Van Orrdt both said the case was one of the most "bizarre" cases of their careers.

Neighbors in Country Club Hills where the dog lives claim three Rottweilers have been running loose and terrorizing people on and off for months, Van Orrdt said, but the death of the 10-pound Italian Greyhound named Sasha was the first formal complaint his office received.

"We are right in the middle of our investigation," Van Orrdt said. "As soon as we determine ownership, the dog will be declared dangerous."

Metro Police allege in an arrest warrant affidavit for Ryan Schiestel, 25, that the death of Sasha led Schiestel to hire Melvin Gilchrist, 26, to either beat up or kidnap the Rottweiler "to keep this dog from harming anyone or anything again."

Police found Gilchrist in the backyard of Mark and Shirley Escoto, purportedly the owners of the Rottweiler that killed Sasha, about 5 a.m. Dec. 5. Gilchrist had a bat and a butcher knife, and Shirley Escoto had called police to report a prowler in her yard.

Metro Officer Bryan Yant shot at Gilchrist twice when he failed to follow orders to drop the weapons, which Yant thought included a shotgun. One shot wounded Gilchrist in the hip before he was taken into custody.

Schiestel's 2001 Jeep Wrangler was parked in the 1800 block of Glenview near where the Rottweiler lives, the arrest warrant states. Police found two pieces of luggage bearing Gilchrist's name in the truck.

Gilchrist and Schiestel had casually met the night before, Thompson said. Gilchrist told police Schiestel

bought two DVDs from him and then offered to pay for a ticket to New York if he would beat up the Rottweiler for him. Schiestel told police he had only asked Gilchrist to kidnap the dog, the arrest report states

"Mr. Schiestel appears to have known somebody in the neighborhood and he took it upon himself to orchestrate the attack with Mr. Gilchrist," Thompson said.

Thompson did not say who the neighbor was or why the neighbor or Schiestel would seek retaliation for Sasha's death.

Sasha's owners are not suspected in the alleged hit and do not know the suspects, Thompson said.

Rosemary Sketchley-Deets, the matriarch of Sasha's family, said she was baffled by the suspects' involvement but speculated they may have been acting out of frustration with Nevada's animal control laws.

"I can't fathom why anybody would get involved, it's just so bizarre," Sketchley-Deets said. "It must have just struck a nerve with somebody who knew what I learned later on — that nothing would happen to the owner."

If the owners of the Rottweiler are charged and convicted, it will only be for a misdemeanor, and they will at most face a \$1,000 fine and six months in prison, Van Orrdt said. The actual punishment will be up to a judge, he said.

Animal control officers can only impound a dog if it is found running loose or if an animal control officer witnesses it attack another animal, Van Orrdt said. Dogs usually are not taken away from their owners unless a judge mandates it or if it is the dog's second attack on another and the dog is declared vicious

The only other recourse is to sue the dog's owners in civil court, Van Orrdt said

Sketchley-Deets said she is "disgusted by the lack of regulations."

"I really fault the laws of Nevada," she said. "We have crummy laws when it comes to this sort of thing. All these things need to be raised to the level of felony."

Sketchley-Deets said her family is so traumatized by the loss of one of their dogs that she may investigate how to pursue stronger laws.

"This is with us every single day," Sketchley-Deets said. "It has shifted the entire dynamics of our home life. My son has bad dreams, he cries in his sleep. It's amazing to me that someone can inflict this on a family and it is not a big deal."

Several neighbors who witnessed the Rottweiler tear Sasha practically in half have named Mark and Shirley Escoto as the Rottweiler's owners, Sketchley-Deets said. Her 11-year-old son was walking Sasha and another Italian Greyhound named Diva when the Rottweiler first growled at the boy and then attacked the one dog

The Escotos, however, dispute the neighbors' claims and have been "somewhat evasive" in the investigation, Van Orrdt said. His office has not yet verified who owns the Rottweiler

Shirley Escoto, when reached through the guard gate security phone, said she was pregnant with twins and must stay in bed. She deferred questions to her husband, Mark, who did not return phone calls

The district attorney's office issued an arrest warrant for Schiestel on Dec. 16 on one felony count of attempt killing an animal of another person and one misdemeanor count of conspiracy to commit killing an animal of another person. Records showed Schiestel has not yet been arrested on the dog charges.

Gilchrist also faces two misdemeanor counts of conspiracy to maim, poison or kill another person's animal. He is also charged with one felony count of assault on a police officer with a deadly weapon, and one felony count of resisting a police officer.

Gilchrist is scheduled to be arraigned Jan. 9 before Justice of the Peace Deborah Lippis.

Police believe Schiestel was the second prowler they saw in the Summerlin neighborhood bordering the TPC Summerlin Golf Course, the arrest warrant states. Schiestel told police he and Gilchrist drank some alcohol at Schiestel's nearby apartment before he drove Gilchrist to the home and supplied him with the bat and the knife.

Schiestel told police he parked his car and waited in the gated and guarded community while Gilchrist went into the backyard. He said ran on foot when he saw police arrive and then heard gun shots

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Wednesday, December 24, 2003
Copyright © Las Vegas Review-Journal

Two accused of hit on dog

Authorities: Prowler shot by police targeted Rottweiler

By J.M. KALIL
REVIEW-JOURNAL

A prowler shot by police in a posh gated community earlier this month intended to kill a Rottweiler to avenge the dog's slaying of a miniature greyhound, authorities said Tuesday.

Police say Melvin Gilchrist, who survived the Dec. 5 shooting, possibly was paid \$40 to kill the animal in the back yard of a home at Country Club Hills, a Summerlin subdivision where homes regularly sell for more than \$600,000.

Investigators also have obtained an arrest warrant for Ryan Schiestel, Gilchrist's alleged accomplice in the incident.

"It's probably one of the strangest cases I've worked in 24 years," Las Vegas police Sgt. Mike Thompson said.

Gilchrist, 26, and Schiestel, 25, are both charged with conspiracy to maim, poison or kill another person's animal, a misdemeanor. Gilchrist also faces two felony counts of assault with a deadly weapon on a police officer in the incident near Town Center Drive and Summerlin Parkway.

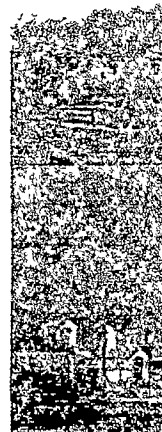
The latter counts stem from Gilchrist charging officer Bryan Yant with a baseball bat and a butcher knife after Yant ordered him out of the back yard. Yant fired at Gilchrist, wounding him in the hip before taking him into custody.

Attempts to reach Gilchrist, who was treated for his injury and jailed until posting bail Dec. 9, were not successful.

Reached by phone Tuesday afternoon at his apartment a few blocks from the shooting site, Schiestel said he is falsely accused.

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"The allegations are incorrect," Schiestel said, declining to elaborate before hanging up the phone.

The case that unfolded near TPC at Summerlin golf course is rooted in the violent death of a 10-pound Italian greyhound named Sasha on the afternoon of Dec. 4.

Rosemary Sketchley-Deets, who lives three houses down from the owners of the Rottweiler, said her 10-year-old son was walking Sasha down the block about 3:15 p.m. when the Rottweiler approached and growled at them.

"A few minutes later, my son went screaming down the block hysterically," Sketchley-Deets said. "He said, 'Mommy, a big dog came and grabbed Sasha and tore her into two pieces.' That Rottweiler grabbed Sasha in its mouth and snapped her spine."

Police confirmed Sketchley-Deets' account. Attempts to reach the Rottweiler's owners, Mark and Shirley Escoto, for comment were not successful.

Police said it remains unclear exactly how Gilchrist and Schiestel came to concoct the plot.

Sketchley-Deets and her family are not accused of hiring the men, Thompson said. The family does not even know Gilchrist and Schiestel, Sketchley-Deets said.

"Our dog was murdered and our son was crushed, but we wouldn't take matters into our own hands," she said. "We're not vigilantes."

Thompson, the police sergeant, said another neighbor on the block angered over the incident shared the story of Sasha's death with one of the two suspects.

Two other police supervisors who spoke on condition of anonymity said Gilchrist was paid \$40 to carry out the hit on the Rottweiler.

"I can't confirm that it was \$40," said Thompson, who refused to answer other questions about possible compensation for the suspects.

The day after Sasha's death, Shirley Escoto summoned police to her home about 5 a.m. With the aid of numerous security cameras mounted outside the home, Escoto told police she had spotted a prowler in her back yard, where the Rottweiler was kept.

Yant, the first officer to arrive, heard a "banging noise coming from the side" of Escoto's home and found Gilchrist

in the back yard, according to a police report. Gilchrist jumped on top of a gate, and Yant spotted a long, black object in one hand and a smaller item in the other.

Believing the long object was a shotgun, Yant ordered Gilchrist to drop both items. Instead, police say, Gilchrist jumped off the gate and charged toward Yant, prompting the officer to shoot and wound him. A second man, later identified as Schiestel, was seen running from the area.

Residents in the usually quiet neighborhood are still shaken by the episode.

"This was just a very strange turn of events," Sketchley-Deets said. "We went from a family tragedy with a dead dog to a Fellini movie the next morning with a shooting, police and the media everywhere."

Meanwhile, police are still baffled by the poor planning of the strange scheme.

"I wouldn't want to try to kill a Rottweiler with a knife and a bat," Thompson said. "I'd be afraid of getting bit."

Review-Journal writer Frank Geary contributed to this report.

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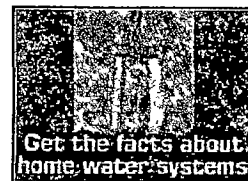
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Editorial: Vicious dog laws need more teeth

LAS VEGAS SUN

Jan. 6, 2004

On the Sunday after Christmas, in a neighborhood near Buffalo Drive and Flamingo Road, a couple, their daughter and the family cocker spaniel went out for a stroll. What should have been a pleasant outing turned horrible when Max, the cocker spaniel, was attacked by a vicious **dog** that had escaped its back yard. The three people with Max fought to save him but say the attacking **dog** broke off the fight only after Max, who survived, appeared dead. The next

victims, an elderly woman and her toy poodle, were right around the corner. The escaped **dog** attacked both of them, killing the poodle and leaving the woman bitten and bloodied. Naturally, the victims of the **attack** believe that the **dog** is a danger to the neighborhood and should be euthanized. They felt even stronger about putting the **dog** to sleep when they learned that he had killed another **dog** just two months ago.

State law and Clark County Animal Control rules, however, allow such a **dog** to be returned to its owner while awaiting results of a rabies test. If the **dog** does not have rabies, under the rules it could be freed to its owner unless it had seriously injured a person or had attacked other dogs numerous times. The woman whose poodle was killed suffered bites on the hands, according to a hospital report. The owner of the aggressive **dog** in this case, who voluntarily turned his **dog** over to Animal Control, says he will euthanize the animal after the test results are returned. But the law itself does not demand such a sanction. The owner of a **dog** involved in such an incident could face a misdemeanor charge of negligence for allowing the **dog** to escape. Contrary to logic, however, the **dog** could be returned to its back yard, there to possibly escape and kill again.

In our view, there should be a very strong law governing dogs that engage in the type of unprovoked **attack** that occurred in this **Las Vegas** neighborhood on Dec. 28. Even on the first offense, such a **dog** should be seized and held until after a hearing to determine whether it should be destroyed. This case-by-case procedure would protect against killing dogs that may, for some reason, have acted entirely out of character. But it would also protect against dogs whose aggressive natures represent a proven physical danger to residents and other pets.

Editorial: That's the 'Spirit'

LAS VEGAS SUN

Jan. 6, 2004

On a planet 106 million miles away where the temperature is about 100 degrees below zero, and in a 4-billion year-old crater the size of Connecticut that

Arizona Dog Bite Law Statutes

The Arizona dog law is found in Arizona Revised Statutes Sections 11-1001 to 11-1027. Selected provisions are found below. Note Sections 11-1020 and 11-1025 that provide for liability for dog bites. See also A.R.S. Section 13-1208, which imposes criminal liability for dog bites in certain cases.

<u>11-1001</u>	Definitions
<u>11-1008</u>	License Fees for Dogs, Issuance of Dog Tags, Records, Classification
<u>11-1012</u>	Dogs not Permitted at Large, Wearing Licenses
<u>11-1013</u>	Establishment of County Pounds, Impounding and Disposing of Dogs and Cats, Reclaiming Impounded Dogs and Cats, Pound Fees
<u>11-1014</u>	Biting Animals, Reporting, Handling and Destruction
<u>11-1015</u>	Unlawful Interference with County Enforcement Agent
<u>11-1016</u>	Removing Impounded Animals
<u>11-1017</u>	Unlawful Keeping of Dogs
<u>11-1018</u>	Exemption of Cities, Towns and Counties
<u>11-1019</u>	Violation, Classification
<u>11-1020</u>	Dogs, Liability
<u>11-1023</u>	Unauthorized Release of Animals, Classification, Damages
<u>11-1024</u>	Dog Guides and Service Dogs, Rights, Procedures, Violation, Classification, Definitions
<u>11-1025</u>	Liability for Dog Bites
<u>11-1026</u>	Lawful Presence on Private Property Defined
<u>11-1027</u>	Provocation as Defense
<u>13-1208</u>	Assault, Vicious Animals, Classification, Exception

Arizona Revised Statutes Concerning Dogs

11-1001. Definitions

In section 13-1208 and in this article, unless the context otherwise requires

- 1 "Animal" means any animal of a species that is susceptible to rabies, except man
- 2 "At large" means being neither confined by an enclosure nor physically restrained by a leash
- 3 "County board of health" means the duly constituted board of health of each county
- 4 "County enforcement agent" means that person in each county who is responsible for the enforcement of this article and the rules adopted under this article

5 "County pound" means any establishment authorized by the county board of supervisors for the confinement, maintenance, safekeeping and control of dogs and other animals that come into the custody of the county enforcement agent in the performance of his official duties

6 "Department" means the department of health services.

7 "Impound" means the act of taking or receiving into custody by the county enforcement agent any dog or other animal for the purpose of confinement in a county pound in accordance with the provisions of this article

8 "Kennel" means an enclosed, controlled area, inaccessible to other animals, in which a person keeps, harbors or maintains five or more dogs under controlled conditions.

9 "Livestock" means neat animals, horses, sheep, goats, swine, mules and asses

10 "Owner" means any person keeping an animal other than livestock for more than six consecutive days

11 "Rabies quarantine area" means any area in which a state of emergency has been declared to exist due to the occurrence of rabies in animals in or adjacent to this area

12 "Stray dog" means any dog four months of age or older running at large that is not wearing a valid license tag

13 "Vaccination" means the administration of an anti-rabies vaccine to animals by a veterinarian

14 "Veterinarian", unless otherwise indicated, means any veterinarian licensed to practice in this state or any veterinarian employed in this state by a governmental agency

15 "Veterinary hospital" means any establishment operated by a veterinarian licensed to practice in this state that provides clinical facilities and houses animals or birds for dental, medical or surgical treatment. A veterinary hospital may have adjacent to it or in conjunction with it or as an integral part of it pens, stalls, cages or kennels for quarantine, observation or boarding

16 "Vicious animal" means any animal of the order carnivora that has a propensity to attack, to cause injury to or to otherwise endanger the safety of human beings without provocation, or that has been so declared after a hearing before a justice of the peace or a city magistrate

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11-1008. License Fees for Dogs; Issuance of Dog Tags; Records; Classification

A The board of supervisors of each county may set a license fee which shall be paid for each dog four months of age or over that is kept, harbored or maintained within the boundaries of the state for at least thirty consecutive days of each calendar year. License fees shall become payable at the discretion of the board of supervisors of each county. The licensing period shall not exceed the period of time for revaccination as designated by the state veterinarian. License fees shall be paid within ninety days to the board of supervisors. A penalty not to exceed two dollars shall be added to the license fee in the event that application is made subsequent to the date on which the dog is required to be licensed under the provisions of this article. This penalty shall not be assessed against applicants who furnish adequate proof that the dog to be licensed has been in their possession in Arizona less than thirty consecutive days.

B If the board of supervisors adopts a license fee, the board shall provide durable dog tags. Each dog licensed under the terms of this article shall receive, at the time of licensing, such a tag on which shall be inscribed the name of the county, the number of the license, and the date on which it expires. The tag shall be attached to a collar or harness which shall be worn by the dog at all times while running at large, except as otherwise provided in this article. Whenever a dog tag is lost, a duplicate tag shall be issued upon application by the owner and payment of a fee established by the board of supervisors.

C The board of supervisors may set license fees that are lower for dogs permanently incapable of procreation. An applicant for a license for a dog claimed to be incapable of procreation shall furnish adequate proof satisfactory to the enforcement agent that such dog has been surgically altered to be permanently incapable of procreation.

D All fees and penalties shall be deposited in the rabies control fund pursuant to section 11-1011.

E Any person who knowingly fails within fifteen days after written notification from the county enforcement agent to obtain a license for a dog required to be licensed, counterfeits an official dog tag, removes such tag from any dog for the purpose of intentional and malicious mischief or places a dog tag upon a dog unless the tag was issued for that particular dog is guilty of a class 2 misdemeanor.

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11-1012. Dogs not Permitted at Large; Wearing Licenses

A Neither a female dog during her breeding or mating season nor a vicious dog shall be permitted at large.

B In a rabies quarantine area, no dogs shall be permitted at large. Each dog shall be confined within an enclosure on the owner's property, or secured so that the dog is confined entirely to the owner's property, or on a leash not to exceed six feet in length and directly under the owner's control when not on the owner's property.

C Any dog over the age of four months running at large shall wear a collar or harness to which is attached a valid license tag. Dogs used for control of livestock or while being used or trained for hunting or dogs while being exhibited or trained at a kennel club event or dogs while engaged in races approved by the Arizona racing commission, and such dogs while being transported to and from such events, need not wear a collar or harness with a valid license attached provided that they are properly vaccinated, licensed and controlled.

D No person in charge of any dog shall permit such dog in a public park or upon any public school property unless the dog is physically restrained by a leash, enclosed in a car, cage or similar enclosure, or being exhibited or trained at a recognized kennel club event, public school or park sponsored event.

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11-1013. Establishment of County Pounds; Impounding and Disposing of Dogs and Cats; Reclaiming Impounded Dogs and Cats; Pound Fees

A The board of supervisors in each county may provide or authorize a county pound or pounds or enter into a cooperative agreement with a city, a veterinarian or an Arizona incorporated humane society for the establishment and operation of a county pound.

B Any stray dog shall be impounded. All dogs and cats impounded shall be given proper care and maintenance.

C Each stray dog or any cat impounded shall be kept and maintained at the county pound for a minimum of seventy-two hours unless claimed by its owner. Any person may purchase such a dog or cat upon expiration of the impoundment period, provided such person pays all pound fees established by the county board of supervisors and complies with the licensing and vaccinating provisions of this article. If such dog or cat is to be used for medical research, no license or vaccination shall be required.

D Any impounded licensed dog or any cat may be reclaimed by its owner or such owner's agent provided that the person reclaiming the dog or cat furnishes proof of his right to do so and pays all pound fees established by the board of supervisors. Any person purchasing such a dog or cat

shall pay all pound fees established by the board of supervisors

E If the dog or cat is not reclaimed within the impoundment period, the county enforcement agent shall take possession of and may place the dog or cat for sale or may dispose of the dog or cat in a humane manner. The county enforcement agent may destroy impounded sick or injured dogs or cats if destruction is necessary to prevent the dog or cat from suffering or to prevent the spread of disease.

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11-1014. Biting Animals; Reporting; Handling & Destruction

A An unvaccinated dog or cat that bites any person shall be confined and quarantined in a county pound, or, upon request of and at the expense of the owner, at a veterinary hospital for a period of not less than ten days. The quarantine period shall start on the day of the bite incident. If the day of the bite is not known, the quarantine period shall start on the first day of impoundment. A dog properly vaccinated pursuant to this article that bites any person may be confined and quarantined at the home of the owner or wherever the dog is harbored and maintained with the consent of and in a manner prescribed by the county enforcement agent.

B Any domestic animal, other than a dog, cat, a caged or pet rodent or rabbit, that bites any person shall be confined and quarantined in a county pound or, upon the request and at the expense of the owner, at a veterinary hospital for a period of not less than fourteen days. Livestock shall be confined and quarantined for the fourteen-day period in a manner regulated by the Arizona department of agriculture. Caged or pet rodents or rabbits shall not be quarantined or laboratory tested.

C With the exception of a wild rodent or rabbit, any wild animal that bites any person or directly exposes any person to its saliva, may be killed and submitted to the county enforcement agent or the agent's deputies for transport to an appropriate diagnostic laboratory. A wild rodent or rabbit may be submitted for laboratory testing if the animal has bitten a person and either the animal's health or behavior indicates that the animal may have rabies or the bite occurred in an area that contains a rabies epizootic, as determined by the department.

D Whenever an animal bites any person, the incident shall be reported to the county enforcement agent immediately by any person having direct knowledge.

E The county enforcement agent may destroy any animal confined and quarantined pursuant to this section prior to the termination of the minimum confinement period for laboratory examination for rabies if:

- 1 The animal shows clear clinical signs of rabies
- 2 The animal's owner consents to its destruction

F Any animal subject to licensing under this article found without a tag identifying its owner shall be deemed unowned.

G The county enforcement agent shall destroy a vicious animal upon an order of a justice of the peace or a city magistrate. A justice of the peace or city magistrate may issue such an order after notice to the owner, if any, and a hearing.

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11-1015. Unlawful Interference with County Enforcement Agent

It is unlawful for any person to interfere with the county enforcement agent in the performance of his duties.

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11-1016. Removing Impounded Animals

No person may remove or attempt to remove an animal which has been impounded or which is in the possession of the county enforcement agent except in accordance with the provisions of this article and the regulations promulgated thereunder

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11-1017. Unlawful Keeping of Dogs

It is unlawful for a person to keep, harbor or maintain a dog within the state of Arizona except as provided by the terms of this article

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11-1018. Exemption of Cities, Towns & Counties

A The provisions of this article shall not apply to incorporated cities or towns that impose a license fee and vaccination on dogs by ordinance, provided that such ordinance is equal to or more stringent than the provisions of this article

B The provisions of this article shall not apply to counties which regulate the running at large of dogs in the unincorporated areas of the county by ordinance provided that such ordinance is equal to or more stringent than the provisions of this article

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11-1019. Violation; Classification

Any person who fails to comply with the requirements of this article, or violates any of its provisions, is guilty of a class 2 misdemeanor unless another classification is specifically prescribed in this article

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11-1020. Dogs; Liability

Injury to any person or damage to any property by a dog while at large shall be the full responsibility of the dog owner or person or persons responsible for the dog when such damages were inflicted

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11-1023. Unauthorized Release of animals; Classification; Damages

A person who intentionally releases an animal that is lawfully confined for scientific, research, commercial, educational or for public event, display or exhibition purposes without the consent of the owner or custodian of the animal is guilty of a class 6 felony and in addition is liable for all of the following:

- 1 To the owner of the animal for damages including the costs of restoring the animal to confinement and to its health condition before the release.
- 2 For damages to real and personal property caused by the released animal

3 If the release causes the failure of an experiment or loss of market value, for all costs of repeating the experiment and the loss of value, including replacement of the animals, labor and materials

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11-1024. Dog Guides and Service Dogs; Rights; Procedures; Violation; Classification; Definitions

A The legally blind, the visually impaired, the deaf and the auditorially impaired and the physically handicapped have the same right as all persons to the use of all streets, highways, walkways, common carriers, public lodging places, public eating places, public amusements and other places to which the general public is invited.

B In any of the places listed in subsection A, every legally blind person may make use of a cane, predominately white or metallic in color, and every legally blind person, deaf person, physically handicapped person and dog guide trainer or service dog trainer may make use of a dog guide or service dog. These persons shall not be denied admittance nor be required to pay any admission charges for their dog guides or service dogs to such public places except as provided in subsection C. Such persons shall be liable for any damages done to the premises by their dog guides or service dogs. Any person using a dog guide or service dog may be required to identify the dog guide or service dog by exhibiting the dog's laminated identification card before the provisions of this section shall apply.

C A zoo or wild animal park may prohibit a dog guide or service dog from any area of the zoo or park where the dog guide or service dog can come into direct contact with the animals contained in the zoo or park. Dog guides and service dogs shall not be excluded from public walkways or sidewalks or from any area that allows for physical barriers between the dog guides or service dogs and the animals in the zoo or park. Any zoo or wild animal park that prohibits dog guides and service dogs shall provide without cost adequate facilities for the temporary confinement of dog guides and service dogs. Such facilities shall be adequate to accommodate the anticipated attendance of legally blind, deaf or physically handicapped persons, shall be in an area not accessible to the general public, shall provide water for the dog guides and service dogs and shall otherwise be safe, clean and comfortable. The zoo or wild animal park on request by the legally blind person who is required to leave his dog guide or service dog pursuant to this subsection shall provide a sighted escort if the legally blind person is unaccompanied by a sighted person. In this subsection, "wild animal park" means an entity which is open to the public on a regular basis, which is licensed by the United States department of agriculture as an exhibit, and which is operating primarily to conserve, propagate and exhibit wild and exotic animals.

D The driver of a vehicle approaching a legally blind pedestrian who is carrying a cane, predominately white or metallic in color, who is using a dog guide or service dog or who is assisted by a sighted person shall yield the right-of-way and take reasonable precautions to avoid injury to the pedestrian and the dog guide or service dog. The pedestrian has the same rights as any other person whether or not he is carrying the cane, using the dog guide or service dog or being assisted by a sighted person.

E A driver who violates any provision of subsection D is liable for damages for any injury caused the pedestrian or his dog guide or service dog.

F Any person who violates any provision of this section is guilty of a class 1 misdemeanor.

G For purposes of this section:

1 "Dog guide" and "service dog" includes a dog guide or service dog in training.

2 "Dog guide trainer" and "service dog trainer" means any person working in conjunction with a dog guide or service dog training school, including salaried and volunteer trainers.

3 "Service dog" means a dog which has gone through a formal training program, which assists its owner in one or more daily living tasks associated with a productive life-style and which is sufficiently conditioned to be of no danger to the health and safety of the general public.

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11-1025. Liability for Dog Bites

A The owner of a dog which bites a person when the person is in or on a public place or lawfully in or on a private place, including the property of the owner of the dog, is liable for damages suffered by the person bitten, regardless of the former viciousness of the dog or the owner's knowledge of its viciousness

B Nothing in this section or in section 11-1020 shall permit the bringing of an action for damages against any governmental agency using a dog in military or police work if the bite occurred while the dog was defending itself from a harassing or provoking act, or assisting an employee of the agency in any of the following

- 1 In the apprehension or holding of a suspect where the employee has a reasonable suspicion of the suspect's involvement in criminal activity
- 2 In the investigation of a crime or possible crime
- 3 In the execution of a warrant
- 4 In the defense of a peace officer or another person.

C Subsection B of this section shall not apply in any case where the victim of the bite was not a party to, nor a participant in, nor suspected to be a party to or a participant in, the act that prompted the use of the dog in the military or police work

D Subsection B of this section shall apply only where a governmental agency using a dog in military or police work has adopted a written policy on the necessary and appropriate use of a dog for the police or military work enumerated in subsection B of this section

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11-1026. Lawful Presence on Private Property Defined

A person is lawfully in or on the private property of the owner of a dog within the meaning of this article when an invitee or guest, or when in the performance of a duty imposed upon him by law of the state or United States, or by ordinances of a municipality in which such property is located

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11-1027. Provocation as Defense

Proof of provocation of the attack by the person injured shall be a defense to the action for damages

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13-1208. Assault; Vicious Animals; Classification; Exception

A A person who owns a dog which the owner knows or has reason to know has a propensity to attack, to cause injury or otherwise endanger the safety of human beings without provocation or which has been found to be a vicious animal by a court of competent authority, which bites, inflicts physical injury on or attacks a human being while at large is guilty of a class 6 felony

B A person who owns a dog which the owner knows or has reason to know that the dog has a

propensity to attack, to cause injury or otherwise endanger the safety of human beings without provocation or which has been found to be a vicious animal and who keeps the dog or vicious animal in an enclosed area or yard outside of a residence or structure on the property shall post a notice indicating the presence of the dog or vicious animal

C The provisions of this section shall not apply to dogs owned or used by a law enforcement agency and which are used in the performance of police work

CLARK COUNTY CODE
(Excerpts of Selected Ordinances)

10.04.340 Vicious animal.

"Vicious animal" means any animal, except a dog in use by any federal, state or local law enforcement agency in the regular course of the agency's duty, which bites, attempts to bite, attacks, attempts to attack, or otherwise constitutes a physical threat to humans or domestic animals, except an animal which bites, attempts to bite, attacks, attempts to attack or otherwise threatens a person or animal unlawfully upon the premises of its owner, or a person or animal which has provoked or teased it. (Ord. 1023 § 2 (part), 1987)

10.16.010 Possession or control unlawful when.

It is unlawful for any person to possess, house, shelter, quarter, own or in any other way have under his control a vicious animal within the county, except as provided in this chapter. (Ord. 2088 § 30, 1998: Ord. 1023 § 5 (part), 1987)

10.16.020 Running at large.

It is unlawful for any person owning or responsible for the control of a vicious animal to permit it to run at large in the county. (Ord. 2088 § 31, 1998: Ord. 1023 § 5 (part), 1987)

10.16.040 Permitted in confinement.

Any animal which is found to be vicious may be kept and housed within the county; provided, that the owner has obtained a vicious animal permit from animal control, it is confined to the private property of the owner or a person having charge of the animal, that it is kept under the effective control of an adult, and the following conditions are met:

- (a) At no time shall such animal leave the private property to which it is confined unless it is muzzled and leashed, or caged, and under the effective control of an adult.
- (b) The private property shall be adequately and properly posted with conspicuous warning signs, with a list of names and telephone numbers of handlers of the animal, if applicable.
- (c) The animal shall be kept, confined or housed within an enclosure.
- (d) If possession of the animal is transferred, a written report by the seller within seven days after the sale, rental date, or date of gift shall be made by the seller, lessor or donor to the animal regulation officer containing the name of the buyer, lessee, or donee, address of same, hours of use, and duties of the animal by the buyer, lessee or donee.

(c) All vicious animals must have a microchip identification device implanted at the owner's expense and the identification number must be provided to animal control for verification. (Ord. 2088 § 33, 1998: Ord. 1023 § 5 (part), 1987)

10.16.050 Limitations on permitted keeping.

Regardless of any other provision of this chapter, it is unlawful for any person owning or having control of a vicious animal to permit, by any act of omission or commission, the animal to bite, attack, or injure any person lawfully on the property to which the animal is confined, whether the person is a guest, invitee, or licensee; provided, that the person so bitten, attacked, or injured was not provoking or teasing such animal, or making threatening gestures to any other person on the premises. (Ord. 2088 § 34, 1998: Ord. 1023 § 5 (part), 1987)

10.16.060 Vicious animal permit.

The owner of any animal which is found to be vicious by a court of competent jurisdiction must obtain a permit from the animal regulation officer annually. No such permit shall be issued until the animal regulation officer has inspected and approved the location where the animal is to be kept. The service charge for each inspection shall be one hundred dollars. (Ord. 2088 § 35, 1998)

10.24.010 Impounding dogs and cats violating regulations -- Release procedure.

Every dog or cat found running at large, or without a numbered vaccination tag, owner identification tag, or a microchip as required by this title, or in violation of any section of this title, shall be subject to impoundment by the animal regulation officer at the animal control center and, if impounded, shall be kept at the animal control center for a period of seventy-two hours. No dog or cat so impounded shall be released except where there has been a performance of the following conditions:

(a) If the ownership of the dog or cat is proven within that period of time and the animal is sterilized, or the owner has obtained a current exemption from sterilization for the animal, the owner shall be able to remove it upon the payment of an impound charge of twenty dollars for the first confinement within five years, thirty-five dollars for the second confinement within five years, fifty dollars for the third and any subsequent confinement within five years. The impound charge for unsterilized dogs or cats shall be as provided in Section 10.24.030. Fifteen dollars may, at the option of the owner, be applied toward the implant of a microchip identification device at a veterinarian of the owner's choice if the microchipping is performed within thirty days. The county shall pay fifteen dollars to the veterinarian upon the latter's proof of the microchipping of the dog or cat. Should the owner opt not to have the microchipping performed, the entire impound charge shall be retained by the county. Money set aside for microchipping animals shall be held by the county in a trust fund and paid to the

veterinarian upon the return of a properly completed receipt, which must be received by the county within six months of issuance.

(b) Payment of a board charge of ten dollars for each twenty-four hours or portion thereof for the maintenance of the impounded animal.

(c) The owner shall provide a current rabies vaccination tag, current owner identification tag, or proof that the animal has been implanted with a microchip identification device.

(d) If the dog or cat or ferret is not vaccinated, the owner shall be required to pay a service charge of ten dollars for the animal to be vaccinated at the animal control center prior to its release, or, if the animal is younger than three months, for which the owner shall receive a receipt to obtain vaccination of the dog or cat or ferret at the office of a veterinarian in the county to be accomplished within thirty days from the date the dog or cat or ferret attains the age of three months. (Ord. 2088 § 36, 1998: Ord. 1107 § 19, 1988: Ord. 1023 § 7 (part), 1987)

10.24.050 Duty of officer.

The animal regulation officer shall capture and impound any dog or cat found running at large within the county. (Ord. 1023 § 7 (part), 1987)

10.28.020 Biting animals -- Reporting.

It shall be the duty of anyone with knowledge of a human being having been bitten by any animal, to promptly report the same to the health officer or to the animal regulation officer and to provide all pertinent information requested by them. (Ord. 1023 § 8 (part), 1987)

10.28.030 Biting animal -- Confinement if vaccinated.

If the biting animal is properly and currently vaccinated against rabies in accordance with the provisions of this title, it shall be the duty of any person owning, possessing or having the care, custody and control of said animal to confine such animal separately and securely for a period of ten days and to post a quarantine notice in a form prescribed by the animal regulation officer. In the event the animal develops any illness during such period of time, the owner or person having care, custody, and control of the animal must promptly notify a veterinarian, who shall examine the animal and report to the animal regulation officer in the event the animal is deemed to have rabies. In the event the animal is determined to have rabies, it shall be disposed of in accordance with the provisions of this chapter. The impound requirement of this section shall not apply to dogs in use by any federal, state or local law enforcement agency in the regular course of the agency's duty. (Ord. 1107 § 26, 1988: Ord. 1023 § 8 (part), 1987)

10.28.110 Animal bite record.

It shall be the duty of the animal regulation officer to keep an accurate record of all reports of animal bites, including the place of occurrence, time of report, person making the report, disposition of the case, and such other information as may be required by the animal regulation officer or the health officer. Each such case shall be investigated and the animal treated in accordance with the provisions of this chapter. (Ord. 1023 § 8 (part), 1987)

10.40.040 Violation -- Penalty.

(a) Any person owning, possessing or having the care, custody and control of an animal, who wilfully refuses, fails or neglects to:

(1) Furnish to the animal regulation officer or director of the department of business license the required information as provided herein,

(2) Cause the animals to be registered and pay the registration fee at the time and in the manner herein provided, or

(3) Perform any act or pay any other fee or charge required by this title to be performed or paid; and

(b) Any person who:

(1) Wilfully resists, interferes with or prevents the animal regulation officer or any of his assistants in the exercise of their duties; or

(2) Violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor and may be fined or imprisoned as provided by law. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 1023 § 11 (part), 1987)

**Chapter 16.08 RCW
DOGS**Washington

(Formerly Dangerous dogs)

RCW SECTIONS16.08.010 Liability for injury to stock by dogs.16.08.020 Dogs injuring stock may be killed.16.08.030 Marauding dog -- Duty of owner to kill.16.08.040 Dog bites -- Liability.16.08.050 Entrance on private property, when lawful.16.08.060 Provocation as a defense.16.08.070 Dangerous dogs and related definitions.16.08.080 Dangerous dogs -- Notice to owners -- Right of appeal -- Certificate of registration required -- Surety bond -- Liability insurance -- Restrictions.16.08.090 Dangerous dogs -- Requirements for restraint -- Potentially dangerous dogs -- Dogs not declared dangerous.16.08.100 Dangerous dogs -- Confiscation -- Conditions -- Duties of animal control authority -- Penalties and affirmative defenses for owners of dogs that attack -- Dog fights, penalty**RCW 16.08.010****Liability for injury to stock by dogs.**

The owner or keeper of any dog shall be liable to the owner of any animal killed or injured by such dog for the amount of damages sustained and costs of collection, to be recovered in a civil action.

[1985 c 415 § 14; 1929 c 198 § 5; RRS § 3106. Prior: 1919 c 6 § 5; RCS § 3106.]

RCW 16.08.020**Dogs injuring stock may be killed.**

It shall be lawful for any person who shall see any dog or dogs chasing, biting, injuring or killing any sheep, swine or other domestic animal, including poultry, belonging to such person, on any real property owned or leased by, or under the control of, such person, or on any public highway, to kill such dog or dogs, and it shall be the duty of the owner or keeper of any dog or dogs so found chasing, biting or injuring any domestic animal, including poultry, upon being notified of that fact by the owner of such domestic animals or poultry, to thereafter keep such dog or dogs in leash or confined upon the premises of the owner or keeper thereof, and in case any such owner or keeper of a dog or dogs shall fail or neglect to comply with the provisions of this section, it shall be lawful for the owner of such domestic animals or poultry to kill such dog or dogs found running at large.

[1929 c 198 § 6; RRS § 3107. Prior: 1919 c 6 § 6; 1917 c 161 § 6; RCS § 3107.]

RCW 16.08.030**Marauding dog -- Duty of owner to kill.**

It shall be the duty of any person owning or keeping any dog or dogs which shall be found killing any domestic animal to kill such dog or dogs within forty-eight hours after being notified of that fact, and any person failing or neglecting to comply with the provisions of this section shall be deemed guilty of a misdemeanor, and it shall be the duty of the sheriff or any deputy sheriff to kill any dog found running at large (after the first day of August of any year and before the first day of March in the following year) without a metal identification tag.

[1929 c 198 § 7; RRS § 3108. Prior: 1919 c 6 § 7; 1917 c 161 § 7; RCS § 3108.]

RCW 16.08.040

Dog bites -- Liability.

The owner of any dog which shall bite any person while such person is in or on a public place or lawfully in or on a private place including the property of the owner of such dog, shall be liable for such damages as may be suffered by the person bitten, regardless of the former viciousness of such dog or the owner's knowledge of such viciousness.

[1941 c 77 § 1; Rem. Supp. 1941 § 3109-1.]

RCW 16.08.050

Entrance on private property, when lawful.

A person is lawfully upon the private property of such owner within the meaning of RCW 16.08.040 when such person is upon the property of the owner with the express or implied consent of the owner: PROVIDED, That said consent shall not be presumed when the property of the owner is fenced or reasonably posted.

[1979 c 148 § 1; 1941 c 77 § 2; Rem. Supp. 1941 § 3109-2.]

RCW 16.08.060

Provocation as a defense.

Proof of provocation of the attack by the injured person shall be a complete defense to an action for damages.

[1941 c 77 § 3; Rem. Supp. 1941 § 3109-3.]

RCW 16.08.070

Dangerous dogs and related definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 16.08.070 through 16.08.100.

(1) "Potentially dangerous dog" means any dog that when unprovoked: (a) Inflicts bites on a human or a domestic animal either on public or private property, or (b) chases or approaches a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, or any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or to cause injury or otherwise to threaten the safety of humans or domestic animals.

(2) "Dangerous dog" means any dog that (a) inflicts severe injury on a human being without provocation on public or private property, (b) kills a domestic animal without provocation while the dog is off the owner's property, or (c) has been previously found to be potentially dangerous because of injury inflicted on a human, the owner

having received notice of such and the dog again aggressively bites, attacks, or endangers the safety of humans.

(3) "Severe injury" means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.

(4) "Proper enclosure of a dangerous dog" means, while on the owner's property, a dangerous dog shall be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top, and shall also provide protection from the elements for the dog.

(5) "Animal control authority" means an entity acting alone or in concert with other local governmental units for enforcement of the animal control laws of the city, county, and state and the shelter and welfare of animals.

(6) "Animal control officer" means any individual employed, contracted with, or appointed by the animal control authority for the purpose of aiding in the enforcement of this chapter or any other law or ordinance relating to the licensure of animals, control of animals, or seizure and impoundment of animals, and includes any state or local law enforcement officer or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

(7) "Owner" means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having control or custody of an animal.

[2002 c 244 § 1; 1987 c 94 § 1.]

NOTES:

Severability -- 1987 c 94: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 94 § 6.]

RCW 16.08.080

Dangerous dogs -- Notice to owners -- Right of appeal -- Certificate of registration required -- Surety bond -- Liability insurance -- Restrictions.

(1) Any city or county that has a notification and appeal procedure with regard to determining a dog within its jurisdiction to be dangerous may continue to utilize or amend its procedure. A city or county animal control authority that does not have a notification and appeal procedure in place as of June 13, 2002, and seeks to declare a dog within its jurisdiction, as defined in subsection (7) of this section, to be dangerous must serve notice upon the dog owner in person or by regular and certified mail, return receipt requested.

(2) The notice must state: The statutory basis for the proposed action; the reasons the authority considers the animal dangerous; a statement that the dog is subject to registration and controls required by this chapter, including a recitation of the controls in subsection (6) of this section; and an explanation of the owner's rights and of the proper procedure for appealing a decision finding the dog dangerous.

(3) Prior to the authority issuing its final determination, the authority shall notify the owner in writing that he or she is entitled to an opportunity to meet with the authority, at which meeting the owner may give, orally or in writing, any reasons or information as to why the dog should not be declared dangerous. The notice shall state the date, time, and location of the meeting, which must occur prior to expiration of fifteen calendar days following delivery of the notice. The owner may propose an alternative meeting date and time, but such meeting must occur within the fifteen-day time period set forth in this section. After such meeting, the authority must issue its final determination, in the form of a written order, within fifteen calendar days. In the event the authority declares a dog

to be dangerous, the order shall include a recital of the authority for the action, a brief concise statement of the facts that support the determination, and the signature of the person who made the determination. The order shall be sent by regular and certified mail, return receipt requested, or delivered in person to the owner at the owner's last address known to the authority.

(4) If the local jurisdiction has provided for an administrative appeal of the final determination, the owner must follow the appeal procedure set forth by that jurisdiction. If the local jurisdiction has not provided for an administrative appeal, the owner may appeal a municipal authority's final determination that the dog is dangerous to the municipal court, and may appeal a county animal control authority's or county sheriff's final determination that the dog is dangerous to the district court. The owner must make such appeal within twenty days of receiving the final determination. While the appeal is pending, the authority may order that the dog be confined or controlled in compliance with RCW 16.08.090. If the dog is determined to be dangerous, the owner must pay all costs of confinement and control.

(5) It is unlawful for an owner to have a dangerous dog in the state without a certificate of registration issued under this section. This section and RCW 16.08.090 and 16.08.100 shall not apply to police dogs as defined in RCW 4.24.410.

(6) Unless a city or county has a more restrictive code requirement, the animal control authority of the city or county in which an owner has a dangerous dog shall issue a certificate of registration to the owner of such animal if the owner presents to the animal control unit sufficient evidence of:

(a) A proper enclosure to confine a dangerous dog and the posting of the premises with a clearly visible warning sign that there is a dangerous dog on the property. In addition, the owner shall conspicuously display a sign with a warning symbol that informs children of the presence of a dangerous dog;

(b) A surety bond issued by a surety insurer qualified under chapter 48.28 RCW in a form acceptable to the animal control authority in the sum of at least two hundred fifty thousand dollars, payable to any person injured by the dangerous dog; or

(c) A policy of liability insurance, such as homeowner's insurance, issued by an insurer qualified under Title 48 RCW in the amount of at least two hundred fifty thousand dollars, insuring the owner for any personal injuries inflicted by the dangerous dog.

(7)(a)(i) If an owner has the dangerous dog in an incorporated area that is serviced by both a city and a county animal control authority, the owner shall obtain a certificate of registration from the city authority;

(ii) If an owner has the dangerous dog in an incorporated or unincorporated area served only by a county animal control authority, the owner shall obtain a certificate of registration from the county authority;

(iii) If an owner has the dangerous dog in an incorporated or unincorporated area that is not served by an animal control authority, the owner shall obtain a certificate of registration from the office of the local sheriff.

(b) This subsection does not apply if a city or county does not allow dangerous dogs within its jurisdiction.

(8) Cities and counties may charge an annual fee, in addition to regular dog licensing fees, to register dangerous dogs.

(9) Nothing in this section limits a local authority in placing additional restrictions upon owners of dangerous dogs. This section does not require a local authority to allow a dangerous dog within its jurisdiction.

[2002 c 244 § 2; 1989 c 26 § 3; 1987 c 94 § 2.]

NOTES:

Severability -- 1987 c 94: See note following RCW 16.08.070.

RCW 16.08.090**Dangerous dogs -- Requirements for restraint -- Potentially dangerous dogs -- Dogs not declared dangerous.**

(1) It is unlawful for an owner of a dangerous dog to permit the dog to be outside the proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash and under physical restraint of a responsible person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal.

(2) Potentially dangerous dogs shall be regulated only by local, municipal, and county ordinances. Nothing in this section limits restrictions local jurisdictions may place on owners of potentially dangerous dogs.

(3) Dogs shall not be declared dangerous if the threat, injury, or damage was sustained by a person who, at the time, was committing a wilful trespass or other tort upon the premises occupied by the owner of the dog, or was tormenting, abusing, or assaulting the dog or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime.

[1987 c 94 § 3.]

NOTES:

Severability -- 1987 c 94: See note following RCW 16.08.070.

RCW 16.08.100**Dangerous dogs -- Confiscation -- Conditions -- Duties of animal control authority -- Penalties and affirmative defenses for owners of dogs that attack -- Dog fights, penalty.**

(1) Any dangerous dog shall be immediately confiscated by an animal control authority if the: (a) Dog is not validly registered under RCW 16.08.080; (b) owner does not secure the liability insurance coverage required under RCW 16.08.080; (c) dog is not maintained in the proper enclosure; or (d) dog is outside of the dwelling of the owner, or outside of the proper enclosure and not under physical restraint of the responsible person. The owner must pay the costs of confinement and control. The animal control authority must serve notice upon the dog owner in person or by regular and certified mail, return receipt requested, specifying the reason for the confiscation of the dangerous dog, that the owner is responsible for payment of the costs of confinement and control, and that the dog will be destroyed in an expeditious and humane manner if the deficiencies for which the dog was confiscated are not corrected within twenty days. The animal control authority shall destroy the confiscated dangerous dog in an expeditious and humane manner if any deficiencies required by this subsection are not corrected within twenty days of notification. In addition, the owner shall be guilty of a gross misdemeanor punishable in accordance with RCW 9A.20.021.

(2) If a dangerous dog of an owner with a prior conviction under this chapter attacks or bites a person or another domestic animal, the dog's owner is guilty of a class C felony, punishable in accordance with RCW 9A.20.021. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that he or she was in compliance with the requirements for ownership of a dangerous dog pursuant to this chapter and the person or domestic animal attacked or bitten by the defendant's dog trespassed on the defendant's real or personal property or provoked the defendant's dog without justification or excuse. In addition, the dangerous dog shall be immediately confiscated by an animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.

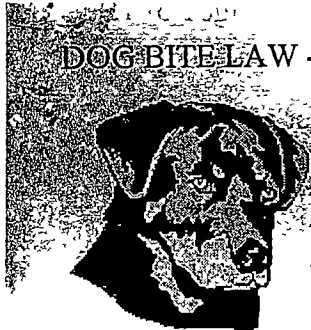
(3) The owner of any dog that aggressively attacks and causes severe injury or death of any human, whether or not the dog has previously been declared potentially dangerous or dangerous, shall, upon conviction, be guilty of a class C felony punishable in accordance with RCW 9A.20.021. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the human severely injured or killed by the defendant's dog: (a) Trespassed on the defendant's real or personal property which was enclosed by fencing suitable to prevent the entry of young children and designed to prevent the dog from escaping and marked with clearly visible signs warning people, including children, not to trespass and to beware of dog; or (b) provoked the defendant's dog without justification or excuse on the defendant's real or personal property which was enclosed by fencing suitable to prevent the entry of young children and designed to prevent the dog from escaping and marked with clearly visible signs warning people, including children, not to trespass and to beware of dog. In such a prosecution, the state has the burden of showing that the owner of the dog either knew or should have known that the dog was potentially dangerous as defined in this chapter. The state may not meet its burden of proof that the owner should have known the dog was potentially dangerous solely by showing the dog to be a particular breed or breeds. In addition, the dog shall be immediately confiscated by an animal control authority, quarantined, and upon conviction of the owner destroyed in an expeditious and humane manner.

(4) Any person entering a dog in a dog fight is guilty of a class C felony punishable in accordance with RCW 9A.20.021.

[2002 c 244 § 3; 1987 c 94 § 4]

NOTES:

Severability -- 1987 c 94: See note following RCW 16.08.070.



Dog Bite Law

Legal Rights of a Dog Bite Victim

An overview of a victim's rights, listing the basic issues, explaining the law, discussing the amount of money the victim will receive, and much more.

The legal rights of a dog bite victim depend on where the attack happened, meaning the city, county and state. The laws vary from city to city, county to county, and state to state.

In every state, a victim can recover compensation from (a) a person whose negligence caused the attack, (b) a person who violated a leash law or a law prohibiting dogs from "running at large," and (c) a person who kept a dog with the knowledge that the dog had a history of injuring people.

Additionally, in most states a victim can recover compensation from a dog owner because of the state's "dog bite statute." Generally, dog bite statutes make a dog owner responsible for all bites, even if the dog never bit anyone before.

Sometimes a victim can recover compensation from people who, at first glance, might appear to have little to do with the dog. For example, a landlord might be liable if he knows that a tenant keeps a dog that bites people, provided that the landlord has the legal power to get rid of the tenant. Or a day care center might be liable for permitting someone with a large, aggressive dog to allow it onto the premises.

This page of www.dogbitelaw.com discusses:

- The basics
- Statutory strict liability states
- "One-bite states"
- Negligence
- City and county law, and how to find it yourself
- Laws of foreign nations
- The amount of money the victim should receive
- Who actually pays the damages
- How to find out whether the liable person is insured
- What will happen to the dog
- More information for parents of injured kids

The basics

There are specialized laws and regulations pertaining to dogs, as well as a broad range of witnesses and fact patterns which are unique to dog bite cases. In states that have strict liability statutes, the dog owner is always liable, unless the victim provoked the dog, was a trespasser, or falls within a group of people who are not permitted to recover compensation because they are canine professionals. If the dog owner is unable to compensate the victim because of lack of insurance or resources, attorneys consider whether anyone else might be responsible because of their own negligence. Examples would be landlords who know that a dangerous dog is living on renter premises, but fail to do anything to control the dog or its owner.

In "one-bite states," there is a protocol for determining whether the dog owner or keeper is liable for a dog bite:

- The first issue is whether the dog previously bit anyone.
- If the answer is no, the second issue is whether the dog previously did something that should have put the owner on notice that the dog was inclined to bite somebody in the future.
- If that answer is no, we consider whether there was violation of any law pertaining to public health or safety, and intended to protect people like the victim. An example would be a leash law, but there could be regulations such as those that restrict dogs from being in day care centers are beauty parlors. The violation of such a law would be considered "negligence per se."
- If we cannot find negligence per se, we look for something in the circumstances that was unreasonable. For example, a dog that is habitually mistreated, or sick, or suffering from a painful disease is more likely to bite a person, even if the dog has never done so before.
- If the dog owner or keeper is not responsible, then we consider whether anyone else might be liable as a result of their own negligence.

Essential information necessary to pursue a claim for compensation

Because of the complexity of dog bite cases, here are the first questions that must be answered, with a quick explanation as to why the information is so important:

How old is the victim today?

The purpose of this question is to determine the applicable statute of limitations.

When did this happen?

The answer to this question will determine (a) whether the statute of limitations has expired, and (b) whether the passage of time will make it difficult to gather the necessary proof to make a claim.

What city, county and state did it happen in?

- The dog bite laws vary from city to city, county to county, and state to state. This section of Dog Bite Law will tell you what the laws are where you live (see below).

The general rule is that a dog owner is strictly responsible for bites. Two-thirds of the states have statutes that make dog owners liable for dog bites *whether or not* there was negligence, violation of a law, or the dog was dangerous. In other words, a dog owner will be held responsible merely for owning the dog. These states are referred to as statutory strict liability states.

- Strict liability statutes are especially important to parents whose kids are injured by dogs belonging to family members and neighbors. It is unnecessary to accuse the dog owner of being negligent, breaking a law, or anything else. A dog bite claim, therefore, need not lead to arguments or resentment, because nobody has to be proven "wrong."
- Even if your state does not have a strict liability statute, every state imposes liability on dog owners and others for negligence, violation of a leash law or other municipal law that leads to injury, or any injury caused by a previously known dangerous propensity of the dog (including a prior dog bite). For further information about negligence, see below.

Exactly where did the attack take place?

Most dog bite statutes require the victim to prove that, at the time of the bite, he or she was in a public place or lawfully in a private place (including the property of the owner of the dog). In other words, it can be difficult or impossible for a trespasser to receive compensation for a dog attack.

What was the victim doing immediately before the attack?

- Trespassers and people committing crimes generally cannot make a successful claim for their injuries.
- A person who provokes a dog generally cannot receive compensation. The definition of "provocation" is tricky -- usually, it means that someone more than 5 years old physically injured the dog.
- A person engaged in providing a service to the dog (i.e., a veterinarian, veterinary technician, trainer, groomer) cannot make a claim because he or she is deemed to have assumed the risk of injury by the dog. However, this rule is not absolute, and has been limited by the courts.

What was the dog doing, and how was it being restrained or handled, immediately before the attack?

- Among other things, was the dog restrained at all? If so, by what? And by whom?
- Was someone doing something that might have gotten the dog overly excited, afraid or angry?
- Where did the dog come from? Sometimes a dog owner will deny that it was his dog, but if it came from his backyard then it probably was his dog.

What happened immediately before, during and after the attack?

The facts of the attack will suggest the legal basis for the claim, the precise people who are responsible for the victim's injuries, the witnesses, and raise (or shed light on) a number of other issues.

Did the dog actually bite the victim?

- Many dog bite laws specifically refer to a "bite." Bites usually break the skin, but sometimes they do not. See the discussion regarding what constitutes a "bite" in the Dog Bite Law Adviser. If the dog injured the victim in any other way, and if the applicable state, county and city laws apply only to "bites," then the victim will have to prove that the dog owner or handler was negligent.
- Is it clear *which* dog bit the victim? For example, a person who breaks up a dog fight might not be able to identify exactly which dog bit him. There are ways to prove it, ranging from the obvious (the pattern of lacerations might match only one of the dogs) to the exotic (DNA testing of saliva found in the victim's wounds). If it cannot be proved, however, the dog bite statutes might be inapplicable, although the victim might recover on a negligence theory.

In your opinion, why did the dog attack the victim?

Although the law is not concerned with a dog's "reasons" for attacking a person, it is important to articulate the reasons why the attack happened, because those reasons can suggest the identity of the persons to be held responsible, and whether the dog owner

might have a defense.

Has anyone expressed a contrary opinion? If so, what was it, and who said it?

- The dog owner often places blame on the victim. (Remember the Diane Whipple death case, in which the owners said that the dog killed the victim because she was wearing some kind of provocative perfume?)
- Witnesses and animal control officers may also shed light on issues that will impact the claim. They might blame someone other than the victim (for example, a different person might have injured the dog shortly before the attack), or might blame the victim himself.

In your opinion, who was responsible for the attack (meaning responsible in a practical sense, not necessarily a legal responsibility)?

- The victim frequently can direct a claim to other possible defendants, including **employers, landlords, day care operators, trainers and breeders**. It even would be possible to make a claim against someone who **negligently entrusted** a dog to someone who could not control it, like a child -- or who negligently supervised a child who, because of the negligent supervision, got bitten by a dog.
- Claims against people other than the owner might be crucial under certain circumstances, such as when the dog owner lacks insurance. (To research some of the causes of action mentioned here, see Lawyers.)

Has anyone said that the victim or someone else was responsible in some way? If so, what reasons were given, and who said it?

- Was the dog off the property of the dog owner? If so, was the dog unleashed? If it was unleashed, do you know whether there was a leash law where the attack happened?
- You can find this out by getting a copy of the dog laws from the city clerk. You also can research it yourself by starting on the FAQ page of dogbitelaw.com.
- Violation of leash law (sometimes referred to as a "running at large" law) constitutes "negligence per se," which is a variety of negligence.

Has the dog ever bitten anyone before this?

- This is important information in most cases, but it can be critically important when the accident happens in a "one-bite state." In a "one bite" state, the sure and usually easy way to establish liability is to prove that the dog previously bit another person. What do you know about the history of the dog? Did it ever bite anyone before this?
- In statutory strict liability states, it sometimes is important to know whether the dog has a prior track record of biting people, and it sometimes is useful to know about bites that happen *after* your accident too. For example, if the dog owner says that you provoked the dog, the dog's history of biting people might tend to prove that the dog is likely to bite even without being provoked.
- If the dog owner does not have insurance, it can be critically important to prove that the dog had a history of biting, because of the possibility of bankruptcy. By declaring bankruptcy, an uninsured dog owner can get out of paying for the dog's damage. However, if the dog is known to have bitten people before this accident, there is a way to prevent the dog owner from getting a discharge in bankruptcy as to this claim.

What did the dog do, and where did it go, immediately after the attack?

- o If the dog had to be dragged from the victim, then the attack was predatory, implying that the dog owner probably knew that the dog was dangerous.
- o If the dog ran into a backyard or a house, then the resident probably was the owner of the dog.

Can you identify the owner of the dog? If you can't, did the animal control department or police department do an investigation (because they might have found out the name of the dog owner)?

Did the dog owner have homeowner or renter insurance?

- o In order for your efforts to be successful, the dog owner (or other responsible person) has to have either insurance or a lot of money.
- o If an insurance company (other than your own) has contacted you, the answer is yes.
- o Ask the dog owner for his or her insurance information (homeowner insurance or renter insurance).
- o Find out whether the dog owner owned the house that he or she lived in. Go to KnowX.com and type in the address of the dog owner. For under ten dollars, you can get a property report that will list the name of the owner of the house. If the dog owner is a homeowner, there is a greater likelihood that insurance will be available.
- o Beware of the dog owner who has insurance that excludes coverage for canine accidents! The insurance industry is trying to sell policies that do not cover dog bites. If a dog owner has this kind of a policy, he or she is not insured.

Where is the dog now? If the dog is living, do you want the dog to be put down, or the dog owner to face charges in the criminal court or "dog court"?



Statutory strict liability states

Most states impose **statutory strict liability** for dog attacks. This means that the owner of a dog is fully responsible for all damages to the victim who was bitten by a dog (but see Who actually pays the damages, below). A dog does **not** get "one free bite" in a statutory strict liability state, and it is unnecessary to prove that the owner or handler was negligent. In some states, the statute applies to non-bite injuries as well as bites. In one state (Pennsylvania), a bite that causes little injury is "free," but not a bite that causes severe injury. And in some jurisdictions, the person having custody of the dog (referred to as the "keeper" or "harborer" in some laws) also is held responsible.

Even where the strict liability statute does not apply, any person can be held liable if he or she was negligent or maintained custody or control of the dog with knowledge that the dog was dangerous. In cities with a "leash law," violation of the leash law constitutes a form of negligence. Therefore, if the accident happened in a "one bite state," you need to understand the principles of negligence and must always research the law of your city and county. Read the section below entitled **Negligence**, and see below for instructions about researching the law.)

The usual exceptions to liability in statutory strict liability states are these:

- The victim was a trespasser
- The victim was a veterinarian who was treating the dog at the time of the incident
- The victim was committing a felony

DOG BITE LAW - LEGAL RIGHTS OF THE VICTIM

- The victim provoked the dog
- The victim assumed the risk (i.e., implicitly consented) to being bitten
- The dog was assisting the police or the military at the time of the incident

Here are the states that have statutory strict liability laws:

- Alabama (3 Ala. Code sec. 3-6-1)
- Arizona
- California
- Connecticut
- Delaware
- District of Columbia
- Florida
- Hawaii
- Illinois
- Indiana
- Iowa
- Kentucky (Ky. Rev. Stat. 258.275)
- Louisiana
- Maine (negligence codified, not strict liability unless dog is "dangerous dog")
- Massachusetts
- Michigan
- Minnesota
- Montana
- Nebraska
- New Hampshire
- New Jersey
- Ohio
- Oklahoma
- Pennsylvania
- Rhode Island
- South Carolina
- Utah
- Washington (state)
- West Virginia
- Wisconsin

"One-bite states"

A **"one-bite state"** (also referred to as a "one free bite" state) adheres to the ancient **"one-bite rule."** This rule acts as both a shield and a sword, in that it shields dog owners from liability for some dog bites, while it imposes liability (acts like a sword) for other dog bites. Specifically, it provides that:

- The dog owner (and everyone else who is connected with the dog) is privileged (or protected) from liability as to the first injury caused by the dog, unless the owner's (or other person's) negligence caused the injury to occur.
- The dog owner (and possibly other people, such as harborers and keepers) will be held strictly liable for dog bites and other harm caused by a **known dangerous propensity** of the dog. For example, if the dog previously bit someone, and the owner knew about it, then the owner will be

responsible every time the dog bites anyone else. Liability results from keeping a dog that was known to hurt people. The key to this type of liability is knowledge (which the law often refers to as "*scienter*").

Even if you live in a one-bite state, keep in mind that owners and others **will** be held liable for negligence and violation of a leash law or other municipal law that leads to injury. (See below for more information.)

The "one-bite states" generally do not have dog bite statutes. This means that a non-lawyer will not be able to find the law. Only a person who is skilled in legal research will be able to form a competent legal opinion about the particularities of dog bite law in these states. This makes it even more important to retain an attorney if your case arises in a "one-bite state."

Here is a list of the "one-bite states": 

- Alaska
- Arkansas
- Colorado
- Georgia (see below)
- Idaho
- Kansas
- Maryland
- Mississippi
- Missouri
- Nevada
- New Mexico
- New York
- North Carolina
- North Dakota
- Oregon
- Pennsylvania (see below)
- South Dakota
- Tennessee
- Texas
- Vermont
- Virginia
- Wyoming

Georgia and Pennsylvania are "combination" states, in that they require a combination of scienter and negligence under some circumstances. For details, read the web site pages for those states.



Negligence

In every jurisdiction, a person is liable for **all losses and damages** that result from his or her negligence. With certain exceptions, dog owners, people who handle dogs, people who harbor dogs, and everyone else connected in any way with a dog can be held responsible if their negligence causes injuries.

Negligence is usually defined as an **unreasonable action, or unreasonable omission** to take action or give a warning. An example of an unreasonable action would be a dog owner letting go of his dog's leash when another dog approaches, so that the dogs can "play." An unreasonable omission might be the failure to keep a dog away from guests, where the dog is known to play too roughly and knock people down. When an adult invites a child into the adult's home, the courts of many states say that a "special relationship" exists between that adult and child, requiring the adult to take more precautions than if the guest was an adult.

Another form of negligence is called **"negligence per se."** It refers to the consequence of breaking a law designed to prevent harm to people. For example, failing to abide by the leash law constitutes negligence per se if, because the dog is unleashed, it causes harm to a person.

The negligent act or omission to act must be the **proximate cause** of the losses. Proximate cause is a unique legal concept. Basically it means that the harmful result must be closely related to the negligent act or omission. For example, if a dog digs under a fence and gets out and hurts someone, that will be considered the fault of the dog's owner, and that negligence would be considered the proximate cause of the harm inflicted. However, if the dog gets loose and the victim, seeing it running around, decides to walk around the block but gets a heart attack because of the walk, there would be at least a big legal battle over whether the loose dog was the proximate cause of the heart attack.

The victim must be a person to whom the dog owner owes a **legal duty**. For example, the mother of a child victim who is bitten in the mother's presence is a person to whom a duty is owed. However, the child's best friend who was not a witness to the attack is not owed a duty even though he or she might suffer terrible emotional distress as a direct result of the injuries to the best friend.

The victim's own negligence sometimes is a cause of an accident. Depending on the **comparative negligence** (or **comparative fault**) laws in the state whose law applies to that accident, the victim's negligence will hurt or even destroy the possibility of receiving full compensation. For example, if the victim is walking his dog without a leash, and the handler of the attacking dog also is walking her dog without a leash, and the victim is injured trying to keep the dogs from fighting, it is probable that the victim will be held responsible for some part of his own injury. The consequence of such negligence depends on the law of the state where the accident happened:

- 5 jurisdictions apply the law of **contributory negligence**. This is an ancient doctrine that says that as little as 1% fault on the part of the victim will reduce his claim to nothing! Those jurisdictions are Alabama, Maryland, North Carolina, Virginia and the District of Columbia.
- 13 states have **"pure"** comparative fault, meaning that there is no minimum threshold of negligence that the tortfeasor must meet in order for the victim to get compensated. In a "pure" comparative fault state, the victim who proves that the tortfeasor was 50% responsible would receive 50% of the monetary value of his losses and damages.
- 22 states have a **51%** threshold, meaning that the tortfeasor must be 51% (or more) responsible for the accident, as compared with the victim, or else the victim gets nothing. In the example given above, if the victim was held to be 50% responsible and the other dog owner was held 50% responsible, the victim would receive nothing because the dog owner's (or handler's) conduct did not meet the threshold figure.
- 11 states have a **50%** threshold, so the victim would be entitled to recover 50% of his provable losses.

Some people are responsible for the negligence of others. In other words, some people have to pay for losses that they do not cause. This is called **respondent superior**. Examples are:

- Employers whose employees are negligent during the course and scope of their duties for the employer.
- People who direct the actions of someone else and expose them or the public to the risk of harm, or a greater risk of harm than usual.

There are exceptions to the usual rules of negligence:

- A **government agency or employee** can be sued for negligence only within the rules established by the government entity. In other words, if the government has not consented to be sued for something, it cannot be.
- A **young child** may be deemed incapable of negligence. For example, an 18-month-old baby will not be held comparatively negligent for pulling the tail of a dog.

Some victims cannot sue for negligence. Generally, people who assume the risk of injury cannot sue after being injured, because they are deemed to have consented to the injury. For example, veterinarians generally cannot sue for dog bites, unless the dog owner did something out of the ordinary that resulted in the injury. This is generally referred to as the "**fireman's rule**" or even "**veterinarian's rule.**"

There are other complications that arise in the negligence context (although they are often present in the strict liability cases also). Here are two of them:

- When an accident happens in "State A" and the victim lives in "State B," there might be a conflict of laws: one state might have statutory strict liability while the other state might require the victim to prove that the dog was dangerous or the owner was negligent. This conflict requires application of the principles of **jurisdiction, residence** and **choice of laws**.
- When two or more persons are responsible for an accident, some states have decided that each tortfeasor is responsible for all of the damages (so if one is insured but the other is not, the victim can recover 100% of his or her losses from the one who is). This is called **joint and several liability**. Other states have determined, however, that (a) each defendant is responsible only for his proportionate share of the general damages (i.e., the pain and suffering, compensation for disfigurement, and other non-economic losses) but any one defendant still can be "hit" with all of the economic losses, (b) only tortfeasors who are at least some percentage at fault (i.e., 20%) can be held responsible for paying all of the losses, or (c) other variations (see Footnote 1, below). This can result in a completely blameless victim receiving only a percentage of rightful compensation for his or her damages and losses.

Lay persons therefore need to understand that issues pertaining to negligence are complicated and generally beyond the scope of lay understanding. It requires an experienced tort lawyer to render a reliable opinion as to whether an act or omission constitutes negligence, and how the related rules will be applied in any particular state.



City and county law, and how to find it yourself

"Dog bite law" is a blend of city, county and state law. An accurate, reliable opinion about the law applicable to any mauling must consider all three sources of law. It is not possible to list all of the city and county laws on this website. Therefore, you must find the law yourself, or retain an attorney. Instructions for finding the law can be found on the FAQ page of Dog Bite Law.



Laws of foreign nations

- Ontario, Canada
- Ontario and other Canadian provinces and cities can be found on **Dogs Bite**, a great Canadian website about dog bites.



The amount of money the victim should receive

A dog bite victim can get money for all of the following things:

- Medical treatment such as first aid, emergency room, hospital, and ambulance
- Future medical treatment for scar reduction
- Psychological counseling to overcome the emotional trauma of the attack, fear of dogs, fear of being outdoors, and dealing with disfigurement
- Loss of earnings from work or the victim's business
- Torn clothing and broken glasses
- Medications
- Pain and suffering
- Future disability



Some dog bite victims are attacked with their dogs or other pets, which are injured or killed. Owners of injured animals may be entitled to compensation. If your pet was injured or killed, see Compensation for injury to or death of a dog.

Many states recognize that the person who is bitten might not be the only victim. A member of the immediate family might be suffering from emotional distress as a result of seeing the victim getting mauled. This would be the basis of what is called a "bystander claim." A spouse might suffer because the husband or wife is incapacitated in some way. This is called a "loss of consortium" claim. You must retain a lawyer to give you advice about the law in your particular state. For further information about bystander claims, read **Bystander claims** in The Dog Bite Law Adviser.

The foregoing is not a complete list of possible items of compensation. You must consult an attorney to determine what might be involved in your case. Here are two examples of unusual losses that resulted from real cases:

- The victim purchased airline tickets that had to be used on a certain day and were nonrefundable. The day before the trip, the victim was bitten very badly, and therefore he could not use the tickets. He received reimbursement from the owner of the dog.
- Another person was disabled because of the injury. The dog owner's insurance company had to pay for a nurse who visited the victim's home. When the victim got somewhat better, the insurance company paid for job training too.

Estimating the amount of compensation for a victim is a difficult task. Read about it in How injuries are given dollar values.



Who actually pays the damages

Many serious dog attacks involve the dog of a friend or family member. In fact, when the victim is a small child, there is a 75% chance that the dog owner is a family member, neighbor or friend. Therefore, victims frequently worry about who will pay their damages because they don't want a friend or family member to feel the burden. There is no reason to worry. Even though the dog owner is technically liable, the damages usually are paid by:

- Homeowner's insurance
- Renter's insurance
- Landlord's insurance
- Dog owner insurance
- Insurance covering employers and breeders, if they are responsible

Therefore, if you are a victim and the dog owner is a friend or family member who is covered by insurance, and if that insurance has a limit high enough to cover your needs, there is ***no possibility that your friend or family member will ever have to pay one cent toward your compensation.***

There have been cases where a defendant in a lawsuit had to pay for damages out of his or her pocket because:

- The insurance was inadequate
- There was no insurance
- The defendant acted with actual malice and intentionally caused the injury, and the damages were designed to punish him or her

However, ***the victim has complete control as to whether to ask for or collect such compensation.*** If the victim decides against pursuing certain damages, there is no possibility that the dog owner will have to pay them.



How to find out whether the liable person is insured

If you can speak to the dog owner, ask whether he or she has any of the insurance policies listed in Who actually pays the damages, above.

People frequently do not know, however, whether their insurance covers a particular type of loss, including a dog bite. Furthermore, some people deny they have insurance, when in fact they do have it. Therefore, ***do not rely on the dog owner's statement that he or she does not have insurance.*** Rather, consult with an experienced attorney who will find out the true insurance status of the dog owner. Furthermore, such an attorney will discover whether there are additional persons who might be liable for your damages.



What will happen to the dog

In most cases, absolutely nothing happens to the dog except that it *might* be quarantined for a few days (frequently at the dog owner's home). If the attack is brutal or other conditions are met, however, the local animal control authority or court may issue orders requiring that the dog be confined or destroyed. In California, a Court can declare a dog to be a "potentially dangerous dog" or a "vicious dog."

- A "potentially dangerous dog" has to be confined inside, or in a fenced yard that is escape-proof and child-proof. When off the owner's property, it has to be restrained by a substantial leash and under the control of a responsible adult.
- A "vicious dog" can be destroyed or, if the dog is to remain alive, severe conditions may be imposed for the protection of the public.

To read more about the legal aspects of vicious and dangerous dogs, see Dangerous dogs.

Dog bite victims often do not want anything to happen to the dog. If the local animal control department has not been notified, the victim can instruct his or her attorney to refrain from doing so. The attorney is required to do a client's bidding with regard to notification of the authorities (as well as anything else affecting the client's rights). A victim therefore can be assured that ***nothing will happen to a dog against the victim's will.***



More information for parents of injured kids

If your child was bitten, you have special responsibilities, morally and legally, as the guardian of his or her legal rights. Therefore, please read **Bodily and Emotional Injuries and Should Parents Get a Lawyer for Their Injured Child?**



Footnote 1:

The following is taken from the Preface to the Uniform Apportionment of Tort Responsibility Act (Sixth Tentative Draft, Styled, January 22, 2002), by the National Conference of Commissioners on Uniform State Laws:

"Many jurisdictions employing comparative fault today have been persuaded to severely limit joint and several liability. In some ways, one might observe that the law in this area has come full circle, as it were, and has returned in large part to the position of the early common law. As a general rule, where defendants have acted in concert, joint and several liability has been retained. In addition, some jurisdictions have retained joint and several liability where multiple defendants have engaged in conduct which results in environmental harm. Beyond these two situations, however, many jurisdictions today in some manner have abolished joint and several liability and, thereby, any necessity to recognize rights of contributions among joint tortfeasors. How has this trend manifested itself?

"In those jurisdictions that have not completely abolished joint and several liability outside of the two areas mentioned above (acting in concert and environmental harm), a number of different approaches have been taken

to limit joint and several liability. For example, some jurisdictions still permit joint and several liability for economic loss, but do not permit such for non-economic loss. Other jurisdictions do not allow a tortfeasor that is determined to be less than a certain percentage at fault, say 20 percentage, to be held jointly and severally liable with other tortfeasors whose individual responsibility is determined to be in excess of that figure. Still another variation is seen in those jurisdictions that, although initially prohibiting joint and several liability, permit claimants to show that a judgment entered severally against multiple defendants is not capable of being satisfied on that basis. Upon such as showing, a court may be permitted to reallocate the non-paying judgment debtor's obligation to others adjudged responsible for a portion of the harm suffered. (Footnote omitted.) The reallocation process may take one of several forms. For example, it may merely reallocate the non-paying judgment debtor's portion among the remaining judgment debtors. Or, it may take into account any contributory fault on the part of the plaintiff so that the allocation of responsibility itself is revised to take into account the relatively greater responsibility of the claimant once the responsibility of a non-paying judgment debtor is eliminated from the equation.

"In addition to the above, other issues have become more acute. For example, the issue of comparing intentional conduct with lesser forms of culpability has received much more attention since the Uniform Comparative Fault Act was promulgated. This includes the possibility of comparing any negligence on the part of a claimant with intentionally caused harm by a defendant as well as comparing the intentional conduct of one joint tortfeasor with the negligent conduct of other joint tortfeasors. The occasion for these issues to be raised has increased as the courts have expanded tort liability in areas involving an actor's obligation to protect a tort victim from the intentional tortious acts of a third party. (5) Present legislation dealing with apportionment of tort responsibility does not always address these issues and, where that is the case, court decisions have been anything but unanimous in resolving the problems." (Click here to return to the text.)

[Click here or on the dog's face to return to the Index Page](#)

www.dogbitelaw.com welcomes your feedback

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Dog Bite Law

California
Overview

Dangerous and Vicious Dogs

A dog can inflict severe injury and death. A potentially dangerous or vicious dog can be ordered destroyed or its owner ordered keep it under very strict conditions. The owner of a dangerous or vicious dog can face criminal prosecution. Laws banning certain dogs exist in some parts of the United States.

- Overview
- Killer dogs
- Other ways that dogs can be considered dangerous
- Recent dog attacks that killed or seriously injured a person
- Proceedings involving potentially dangerous and vicious dogs
- Criminal penalties for owners of dangerous dogs
- Banning certain breeds of dogs
- Dealing with a dangerous dog as a public nuisance

Also see Legal Rights of a Person Who Is Injured While Defending Another Person or a Pet from Attack

Overview

Exactly what is a dangerous dog? It depends on what is meant by "dangerous." There is a difference between using the words "dangerous dog" in an ordinary context, and using them in a legal context.

In law, there is a certain meaning for "dangerous dog." That meaning depends on what city, state and country you are in. For example, in England every pit bull is a dangerous dog under the law. In the United States, however, there are only a few cities that regard every pit bull as a dangerous dog. Most cities and states have a procedure by which a dog is classified as dangerous as a result of either the actions of the dog, or a "hearing" (i.e., a trial) by animal control officers following some actions of the dog.

Many people believe that pit bulls and Rottweilers are dangerous dogs. In law, the general rule in the United States is that no dog is dangerous because of its breed. Rather, it is dangerous only as a result of its actions. There are exceptions to this general rule. A few cities have classified all dogs of certain breeds (like pit bulls) as dangerous.

In most places, however, a dog is dangerous only after it behaves in a manner that is regarded, in that particular city or county, as posing unacceptable risks. Some laws classify a dog as "dangerous" for some reasons, and other laws make the distinction as a result of other reasons. In some places, for example, a dog that threatens a person is classified as dangerous, whereas in other places it is not.

Although we may feel that we know a dangerous dog when we see one, it turns out that the law on this subject is confusing and contradictory.



Killer dogs

Dogs provide many health and social benefits. Most of the approximately 55 million dogs in the United States never bite or kill humans. However, many people are indeed bitten and even killed by dogs every year. It is an unfortunate fact that some dogs are too dangerous.

The California State Legislature studied dog bites and passed this finding (which is codified as section 31601 of the Food & Agriculture Code):

31601. The Legislature finds and declares all of the following:

(a) Potentially dangerous and vicious dogs have become a serious and widespread threat to the safety and welfare of citizens of this state. In recent years, they have assaulted without provocation and seriously injured numerous individuals, particularly children, and have killed numerous dogs. Many of these attacks have occurred in public places.

(b) The number and severity of these attacks are attributable to the failure of owners to register, confine, and properly control vicious and potentially dangerous dogs.

(c) The necessity for the regulation and control of vicious and potentially dangerous dogs is a statewide problem, requiring statewide regulation, and existing laws are inadequate to deal with the threat to public health and safety posed by vicious and potentially dangerous dogs.

Similar findings can be found elsewhere in the law. For example, the bill that amended section 399 of the California Penal Code (Bill No. AB 1709) contained this:

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the public from the rising incidents of dog maulings across the state it is necessary for this act to take effect immediately as an urgency statute.

Here is another finding from Title 10 of the Los Angeles County Code:

10.37.010 Purpose of this chapter.

Within the county of Los Angeles there are potentially dangerous and vicious dogs that have become a serious and widespread threat to the safety and welfare of the citizens of the county which should be abated.

From 1979 through 1994, attacks by dogs resulted in 279 deaths of humans in the United States. (Sacks JJ, Sattin RW, Bonzo SE. Dog bite-related fatalities from 1979 through 1988. JAMA 1989;262:1489-92; Sacks JJ, Lockwood R, Hornreich J, Sattin RW. Fatal dog attacks, 1989-1994. Pediatrics 1996; 97:891-5.) Such attacks have prompted widespread review of existing local and state dangerous-dog laws, including proposals for adoption of breed-specific restrictions to prevent such episodes. Such attacks are called "dog bite related fatalities" ("DBRF's").

1995-1996 study

The Humane Society of the United States and the Center for Disease Control did a study of dog bite related fatalities (DBRF's) during 1995-1996. Here is what they found:

- At least 25 persons died as the result of dog attacks (11 in 1995 and 14 in 1996).
- Of the 25 DBRF's, 20 (80%) occurred among children (three were aged ≤ 30 days [neonates], one was aged 5 months, 10 were aged 1-4 years, and six were aged 5-11 years), and five occurred among adults (ages 39, 60, 75, 81, and 86 years).
- Most (18 [72%]) DBRF's occurred among males.
- Of 23 deaths with sufficient information for classification, seven (30%) involved an unrestrained dog off the owner's property, five (22%) involved a restrained dog on the owner's property, and 11 (48%) involved an unrestrained dog on the owner's property.
- Of the 25 deaths, nine (36%) involved one dog, nine (36%) involved two dogs, two (8%) involved three dogs, and five (20%) involved six to 11 dogs.
- All the attacks by unrestrained dogs off the owner's property involved more than one dog.
- Of the three deaths among neonates, all occurred on the dog owner's property and involved one dog and a sleeping child.
- Fatal attacks were reported from 14 states (California [four deaths]; Florida and Pennsylvania [three each]; Arizona, Arkansas, Colorado, and South Dakota [two each]; and Connecticut, Massachusetts, Missouri, North Carolina, Ohio, Tennessee, and Washington [one each]).
- The sources used for the study are thought to have underestimated the number of DBRF's by 26%.

Studies from other years

- During 1979-1996, fatal dog attacks occurred in 45 states.
- In 1986, nonfatal dog bites resulted in an estimated 585,000 injuries that required medical attention or restricted activity; in that year, dog bites ranked 12th among the leading causes of nonfatal injury in the United States.
- In 1994, an estimated 4.7 million persons (1.8% of the U.S. population) sustained a dog bite; of these, approximately 800,000 (0.3%) sought medical care for the bite.

Other ways that dogs can be considered dangerous

Killer dogs are not necessarily the only dangerous dogs. In some circumstances, any dog can be dangerous. Dogs that jump or are overly playful might be dangerous. Too many dogs might be dangerous; the City of Beverly Hills apparently thinks so, judging by this section of the Municipal Code:

Sec. 5-2.204. Walking dogs.

**It shall be unlawful for any person owning, controlling, or having in their care or custody, whether upon a leash or not, upon any public street, alley, or public place or upon any unenclosed land or property, four (4) or more dogs at any one time.
(5-1.206 Amd.)**

Recent dog attacks that killed or seriously injured a person

Ruby Sharum -- great-grandson's pit bull caused amputation of 91-year-old woman's arms

February 13, 2004, Orange, CA. A 91-year-old woman, Ruby Sharum, and her granddaughter were putting away groceries when her great-grandson's pit bull growled and then lunged at Sharum. The attack required doctors to amputate both of the woman's arms below the elbows. A neighbor, Shelbi Moore, said that she made 10 complaints to animal control authorities during the previous year.

Errol Flynn Oxendine Jr. -- motorist attacked by a pack of dogs near Gila Wilderness

February 5, 2004, Pinos Altos, New Mexico. As 36-year-old Errol Flynn Oxendine Jr. was driving through New Mexico to California, he pulled his car over, got out to move some items in the trunk, and turned around to find himself surrounded by a pack of at least 16 dogs. They attacked him and left him on the road. A day later, another motorist discovered him and summoned aid. Oxendine suffered not only dog bites but also frostbite. A citation was issued to the owner of three of the dogs. Most of the others were captured.

For cases that have resulted in criminal charges, see Criminal Penalties for a Dog Bite (on www.dogbitelaw.com).



Proceedings involving potentially dangerous and vicious dogs

The California Civil Code and the Food and Agriculture Code provide remedies for potentially dangerous and vicious dogs. There are also city and county laws which should be researched in particular cases (for example, the Beverly Hills Municipal Code has its own definition of "dangerous dog" and makes it a misdemeanor to possess one).

Civil Code

The Civil Code requires owners to take reasonable steps to protect other people from dog bites from dogs previously known to bite:

3342.5. (a) The owner of any dog that has bitten a human being shall have the duty to take such reasonable steps as are necessary to remove any danger presented to other persons from bites by the animal.

Do not assume, however, that California law permits every dog "one free bite." That is not the case; as seen in the section on Civil liability for dog bites, an owner is responsible in damages for that first bite and every subsequent one, and a dog that was trained to fight can be destroyed after the first bite, as will be seen below.

Any person, the local district attorney or city attorney may take action if the same dog has bitten a human being two or more times:

3342.5 (b) Whenever a dog has bitten a human being on at least two separate occasions, any person, the district attorney, or city attorney may bring an action

against the owner of the animal to determine whether conditions of the treatment or confinement of the dog or other circumstances existing at the time of the bites have been changed so as to remove the danger to other persons presented by the animal. This action shall be brought in the county where a bite occurred. The court, after hearing, may make any order it deems appropriate to prevent the recurrence of such an incident, including, but not limited to, the removal of the animal from the area or its destruction if necessary.

The "two bite" requirement of section 3342.5(b) is reduced to one bite, and any person may commence legal proceedings against the owner, if the dog has been trained to fight, attack or kill:

3342.5 (c) Whenever a dog trained to fight, attack, or kill has bitten a human being, causing substantial physical injury, any person, including the district attorney, or city attorney may bring an action against the owner of the animal to determine whether conditions of the treatment or confinement of the dog or other circumstances existing at the time of the bites have been changed so as to remove the danger to other persons presented by the animal. This action shall be brought in the county where a bite occurred. The court, after hearing, may make any order it deems appropriate to prevent the recurrence of such an incident, including, but not limited to, the removal of the animal from the area or its destruction if necessary.

The foregoing provisions do not authorize proceedings if the dog bit a trespasser or was being used for military or police work:

3342.5 (d) Nothing in this section shall authorize the bringing of an action pursuant to subdivision (b) based on a bite or bites inflicted upon a trespasser, or by a dog used in military or police work if the bite or bites occurred while the dog was actually performing in that capacity.

Food & Agriculture Code

The California Food & Agriculture Code contains a number of sections pertaining to dogs:

DIVISION 14. REGULATION AND LICENSING OF DOGS

CHAPTER 1. GENERAL PROVISIONS	30501-30503
CHAPTER 2. DISPOSITION OF FUNDS	30651-30656
CHAPTER 3. DOG TAGS	30801-30807
CHAPTER 3.5. GUIDE DOGS, SIGNAL DOGS, AND SERVICE DOGS	30850-30854
CHAPTER 4. REGULATION	30951-30956
CHAPTER 5. KILLING AND SEIZURE	
Article 1. Generally	31101-31109
Article 2. Optional Provisions	31151-31153
CHAPTER 6. FEES FOR IMPOUNDING	31251-31255
CHAPTER 7. VIOLATIONS	31401-31402
CHAPTER 8. CIVIL LIABILITY	31501-31508
CHAPTER 9. POTENTIALLY DANGEROUS AND VICIOUS DOGS	
Article 1. Findings, Definitions, and General Provisions . .	31601-31609
Article 2. Judicial Process	31621-31626
Article 3. Disposition of Potentially Dangerous or Vicious Dogs	31641-31646
Article 4. Penalties	31662-31663
Article 5. Miscellaneous	31681-31683

A "potentially dangerous dog" is a dog that meets the criteria set forth in section 31602 of the California Food & Agriculture Code:

31602. "Potentially dangerous dog" means any of the following:

(a) Any dog which, when unprovoked, on two separate occasions within the prior 36-month period, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the property of the owner or keeper of the dog.

(b) Any dog which, when unprovoked, bites a person causing a less severe injury than as defined in Section 31604.

(c) Any dog which, when unprovoked, on two separate occasions within the prior 36-month period, has killed, seriously bitten, inflicted injury, or otherwise caused injury attacking a domestic animal off the property of the owner or keeper of the dog.

A "vicious dog" is one that meets the criteria set forth in section 31603 from the same code:

31603. "Vicious dog" means any of the following:

(a) Any dog seized under Section 599a of the Penal Code and upon the sustaining of a conviction of the owner or keeper under subdivision (a) of Section 597.5 of the Penal Code.

(b) Any dog which, when unprovoked, in an aggressive manner, inflicts severe injury on or kills a human being.

(c) Any dog previously determined to be and currently listed as a potentially dangerous dog which, after its owner or keeper has been notified of this determination, continues the behavior described in Section 31602 or is maintained in violation of section 31641, 31642, or 31643.

A "severe injury" is defined as follows:

31604. "Severe injury" means any physical injury to a human being that results in muscle tears or disfiguring lacerations or requires multiple sutures or corrective or cosmetic surgery.

A potentially dangerous dog has to be registered as such. Then it has to be kept indoors or in a securely fenced yard from which it cannot escape, and into which children cannot trespass. When off the owner's property, it has to be restrained by a substantial leash and under the control of a responsible adult.

A vicious dog can be destroyed by the local animal control department. If it is not destroyed, the Court must impose conditions upon the ownership of the dog to protect the public.

Municipal and County Codes

Local jurisdictions may have laws about dogs that bite. The Los Angeles Municipal Code has a number of sections pertaining to vicious and dangerous dogs. See, for example, sections 53.33 ("*Vicious Animals -- Private Premises*"), 53.34.1 ("*Menacing Dogs*"), and the definition of "*dangerous animal*" in section 53.34.4(b). For more, see Criminal Penalties for a Dog Bite.

The City of Los Angeles also has its own procedure for determining whether a dog is "*dangerous*." See section 53.34.4.

The County of Los Angeles has extensive and detailed laws pertaining to dangerous and vicious dogs.

Some of the San Francisco Municipal Code sections pertaining to dangerous dogs are as follows:

SEC. 42. DEFINITIONS.

As used in Sections 42 through 42.5, inclusive, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) "Vicious and dangerous dog" means:

(1) Any dog that when unprovoked inflicts bites or attacks a human being or domestic animal either on public or private property, or in a vicious or terrorizing manner, approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public grounds or places; or

(2) Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or

(3) Any dog which engages in, or is found to have been trained to engage in, exhibitions of dog fighting; or

(4) Any dog at large found to attack, menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of any domestic animal or person.

(b) "Vicious and dangerous dog" does not mean:

(1) Any dog that attacks or inflicts bites upon a trespasser of a fully enclosed building; or

(2) Any dog used in the military or police if the bites or attack occurred while the dog was performing in that capacity.

(c) "Enclosure" means a fence or structure of at least six feet in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to humanely confine a dog with adequate exercise area, and posted with an appropriate warning sign, in conjunction with other measures which may be taken by the owner or keeper.

(d) "Animal Control" means any person designated under the Administrative Code as the City Pound Keeper or Animal Control Officer.

(e) "Impounded" means taken into the custody of the City pound.

(f) "Person" means a natural person or any legal entity, including but not limited to, a corporation, firm, partnership or trust.

(g) "Hearing officer" means any designated representative of the Department of Public Health or the Police Department who conducts a hearing pursuant to Section 42.4. (Added by Ord. 408-87, App. 10/9/87)

SEC. 42.2. REGISTRATION.

Any dog found to be vicious and dangerous either as a result of (1) the actions of the dog constituting vicious and dangerous behavior occurring in the presence of an animal control officer, or representative of the Department of Public Health or Police Department; and upon finding after hearing under Section 42.3; (2) a signed complaint or a verbal complaint with corroborating evidence by an animal control officer or representative of the Department of Public Health or Police Department; and (3) upon a finding after hearing under Section 42.3, shall be registered with the Department of Public Health, Bureau of Communicable Disease Control, Animal Bite Investigation Unit.

All such dogs shall be registered within 10 days of the effective date of the finding. The Department of Public Health shall establish a registration fee not to exceed \$50.

Furthermore, the keeping of a registered dog shall be subject to the following conditions:

(a) Number and Tattoo. The owner or keeper shall have the licensing number assigned to such dog, or such other identification number as the City shall determine, tattooed by a licensed veterinarian or Department of Public Health representative on the dog's upper inner lip, inner thigh or elsewhere as directed by the Department of Public Health. For the purposes of this section "tattoo" shall be defined as any permanent numbering of a dog by means of indelible or permanent ink with the number designated by the Department of Public Health, or any other permanent method of tattooing acceptable to the Department of Public Health.

(b) Display of Sign. The owner or keeper shall display a sign on his or her premises warning that there is a vicious and dangerous dog on the premises. Said sign shall be visible and capable of being read from the fronting street or public highway.

(c) Confinement Indoors. No registered dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition except to a secured enclosure. In addition, no such dog may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

(d) Confinement Outdoors. When outside, all registered

dogs shall be confined in a secure enclosure, except when necessary to obtain veterinary care or to comply with commands or directions of a City official. All such enclosures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

Whenever necessity requires a registered dog to be outside of the enclosure, the dog shall be securely muzzled and restrained with a chain having a minimum tensile strength of 300 pounds and not exceeding three feet in length, with handgrip, and shall be under the direct control and supervision of the owner or keeper of the dog.

(e) Reserved.

(f) Identification Photographs. All owners, keepers or harborers of a registered dog must, within 10 days of the effective date of this ordinance, provide to the Director of Communicable Disease Control, or his or her designee, two color photographs of the registered animal clearly showing the color and approximate size of the animal.

(g) Reporting Requirements. All owners, keepers or harborers of a registered dog must, within 10 days of the incident, report the following information in writing to the Director of Communicable Disease Control, or his or her designee:

(1) The removal from the City or death of a registered dog;

(2) The new address of a registered dog owner should the owner move within City limits.

(h) Sale or Transfer of Ownership Prohibited. No person shall sell, barter or in any other way dispose of a dog registered with the City to any person within the City; provided that the owner of a registered dog may sell or otherwise dispose of a registered dog or the offspring of such dog to persons who neither reside within the City nor intend to train, keep, harbor, own, or in any way possess such animal in the City providing written approval of such sale or transfer by an authorized officer or employee of the city or county where the dog is intended to be kept.

(i) Violation of Registration Requirements. It shall be unlawful for the owner, keeper or harborer of a dog registered with the City to fail to comply with the requirements and conditions set forth in this ordinance regarding registration. Any dog found to be the subject of a violation of these registration requirements shall be subject to seizure and impoundment. In addition, failure to comply will be cause for the revocation of the license of such animal resulting in the immediate removal of the animal from the

City. (Added by Ord. 408-87, App. 10/9/87)

SEC. 42.3. SEIZURE OF DOG: HEARINGS.

(a) Subject to Seizure. Upon the receipt of a signed complaint, or upon the personal observation of an Animal Control Officer, or a representative of the Department of Public Health or Police Department, that a dog is vicious and dangerous, and said dog is on its owner, keeper or harborer's property, the Animal Control Officer, or the Department of Public Health or Police Department representative, may find the dog presents a danger and is subject to seizure and impoundment. Upon a finding that the dog is subject to seizure, written notice of such finding shall be made to the owner, keeper or any adult in apparent control or possession of the dog. Prior to the seizure of the dog, the owner or keeper of the dog shall be entitled to a hearing as described in paragraph (c) of this section.

(b) Immediate Seizure. (i) Should any Animal Control Officer, representative of the Department of Public Health or the Police Department determine that probable cause exists to believe that a dog is vicious and dangerous and cannot be properly controlled, such dog is subject to immediate seizure. The owner or keeper of the dog shall be entitled to a hearing upon seizure as described in paragraph (c) of this section, and upon the hearing the owner of any dog found to be vicious or dangerous shall be assessed the costs of sheltering the dog and of administering the ordinance.

(ii) Upon the receipt of a signed complaint, or upon the personal observation of an Animal Control Officer, or a representative of the Department of Public Health or Police Department, that a dog has killed or wounded, or assisted in killing or wounding any domestic animal, or has attacked, assaulted, bit or otherwise injured any person or assisted in attacking, assaulting, biting or otherwise injuring any person, such dog shall be subject to immediate seizure and impoundment. The owner or keeper of the dog shall be entitled to a hearing upon seizure as described in paragraph (c) of this section.

(c) (i) Prior to the seizure of any dog authorized by paragraph (a) and within three days of the seizure of any dog pursuant to paragraph (b) a hearing officer shall inform, in writing, the owner or keeper of the dog that the person's dog is alleged to be vicious and dangerous and be subject to penalties under this ordinance. Unless the hearing is waived by the owner or keeper of the dog, or the hearing is scheduled on an agreed-upon date not later than 30 days from date of incident, the hearing officer shall fix a time not less than 30 nor more than 60 days from date of the incident, and fix a place for said hearing and

cause all parties to be notified, not less than 15 days before the date of such hearing. The hearing may be informal and the rules of evidence not strictly observed. It shall not be necessary, for the City, to prove that the owner or keeper of the dog knew that the dog was vicious and dangerous. Within 15 days following the hearing, the hearing officer shall issue his or her decision to all parties.

(ii) Should the hearing officer find the dog to be vicious and dangerous, the hearing officer shall order the dog be registered pursuant to Section 42.2, and that the dog be spayed or neutered. The hearing officer may, in addition, order the dog and the owner, keeper and any person in control of the dog attend and complete a basic obedience course under an approved and recognized obedience trainer or dog-training organization.

(iii) In the event the hearing officer concludes that the dog is vicious and dangerous and that the health, safety and welfare of the community is not adequately addressed by the requirements provided in Section 42.3(c)(ii), the hearing officer may order the dog destroyed.

(iv) The decision of the hearing officer is final. (Added by Ord. 408-87, App. 10/9/87)



Criminal penalties for owners of dangerous dogs

The term "dangerous dogs" has two different meanings, depending on the context:

- Prior to a hearing by the local animal control authorities, the term "dangerous dog" is simply a description, like "big dog," "mean dog," etc. Criminal penalties for the owners of such dogs are covered in the section of this web site entitled Criminal penalties for a dog bite.
- Following a hearing by animal control authorities, a dog might be declared to be a "dangerous dog" or a "vicious dog" pursuant to laws such as those discussed in this section. For example, California law provides that the owner of a dog determined to be a "vicious dog" (see definition above) may be prohibited by the city or county from owning, possessing, controlling, or having custody of any dog for a period of up to three years. A violation of that prohibition is a misdemeanor punishable by up to one year in the county jail. There are cities that have similar laws, such as Section 53.34.4 (*Dangerous Animal - Procedures*) of the Los Angeles Municipal Code.



Banning certain breeds of dogs

In a review of 109 fatal dog attacks, among the many breeds involved, the breeds most frequently implicated were pit bulls, rottweilers, and German shepherds. The identification of these breeds has

lead to the controversial practice of breed bans. (See generally, Lockwood R. Humane concerns about dangerous dog laws. University of Dayton Law Review 1988;13:267-77.) The Lockwood article suggests that, because the problem dog breeds change over the course of time, targeting a specific breed may be unproductive; a more effective approach may be to target chronically irresponsible dog owners.

California has no law **banning** any breed of dog. In fact, the California Legislature has made it illegal for California cities and counties to pass laws based on breed. Section 31683 of the Food and Agriculture Code provides:

31683. Nothing in this chapter shall be construed to prevent a city or county from adopting or enforcing its own program for the control of potentially dangerous or vicious dogs that may incorporate all, part, or none of this chapter, or that may punish a violation of this chapter as a misdemeanor or may impose a more restrictive program to control potentially dangerous or vicious dogs, provided that no program shall regulate these dogs in a manner that is specific as to breed.

In some other states and countries, however, there have been "breed bans." Click here to link to a web site that keeps track of breed bans and breed-specific laws in the United States. For example, laws in France and Britain make it illegal to import, breed, or sell pit bull terriers. Further, they must be registered, kept muzzled and on a lead when in public places, and, in order to ensure the type dies out, they must also be neutered. States like Ohio require pit bull owners to carry canine liability insurance in the amount of at least \$50,000.00.

In the United States, most such laws have been upheld. Lawyers can research this further by reading the article at 80 A.L.R.4th 70 (1991) [American Law Reports ALR4th, Volume 80 (1991) Current through the September, 1998, Supplement Annotation] VALIDITY AND CONSTRUCTION OF STATUTE, ORDINANCE, OR REGULATION APPLYING TO SPECIFIC DOG BREEDS, SUCH AS "PIT BULLS" OR "BULL TERRIERS" by Russell G. Donaldson, J.D.

In California, at least one city has laws **regulating**, but not banning, pit bulls. Although it is unclear whether Section 4.04.410 of the Santa Monica Municipal Code can be legally enforced in light of Section 31683 of the Food and Agriculture Code (see above), Section 4.04.410 states that pit bulls are not allowed on public property unless they are muzzled:

4.04.410 Vicious dogs.

(a) No person owning or harboring any pit bull or any other dog subject to this Section pursuant to subdivision (b) shall within the limits of the City allow or permit such dog, whether licensed or not, to be upon the public streets, public sidewalks, public parks, or any other public place within the City, or upon any private property which is not fully enclosed by fence or other barrier, except when muzzled and held under leash by an able bodied person.

(b) This Section shall apply to any dog for which the Animal Control Officer has issued, based upon the vicious or predatory nature of the dog, a written notice to the person owning or harboring such dog to keep the dog muzzled and leashed in accordance with this Section.

(c) For purposes of this Section, "pit bull" means any pit bull terrier of the Staffordshire Bull Terrier, American Staffordshire

Terrier, or American Pit Bull Terrier breed of dog or any mixed breed of dog which contains as an element of its breeding the breed of Staffordshire Bull Terrier, American Staffordshire Terrier, or American Pit Bull Terrier as to be identified as partially of the breed of Staffordshire Bull Terrier, American Staffordshire Terrier, or American Pit Bull Terrier.

The City of Akron, Ohio, has been at the forefront in connection with regulating aspects of the ownership of pit bulls and Presa Canarios. [Click here](#) to read their ordinance.

One problem with such laws has been the definition of "pit bull":

"What exactly is a pit bull? Defining it has proved to be a formidable legal hurdle because the pit bull is not a specific breed. Rather, it is a kind of dog, a generic catchall like hound or retriever. The breeds most commonly referred to as pit bulls are the American Staffordshire terrier, which is the term used by the American Kennel Club, and the American pit bull terrier, the term used by the United Kennel Club. The men who match pit bulls in fights today do not bother with such formalities; they refer to their animals as bulldogs -- a nickname which should not confuse pit bulls with the pug-faced and bowlegged English bulldog, a distant relative, or the bullterrier, another relation whose bloodline was softened long ago by crossbreeding with the English Terrier. Pit bulls come in almost any color; their ears may be cropped or uncropped; their noses either red or black; and their height and weight merely proportionate -- with the weight parameters ranging from under 20 pounds to upwards of 100. Their muzzles are wedgelike, their jaws powerful and their heads blocky. A pit bull's coat will be short and glossy, shimmering over a compact frame tightly bound in muscle." (E.M.SWIFT, THE PIT BULL: FRIEND AND KILLER. IS THE PIT BULL A FINE ANIMAL, AS ITS ADMIRERS CLAIM, OR IS IT A VICIOUS DOG, UNFIT FOR SOCIETY?, Sports Illustrated, 07-27-1987, pp 72.)

Another problem is determining which dogs are indeed dangerous.

"The primary difficulty in determining which breeds are most dangerous has to do with the floating numerator (ie, numerator floating without its denominator). It is important that we know not only the percentage of bites from a given breed but also the total number of that breed in the general canine population and the amount of time the dog spends around humans. Such denominator data are unavailable." (James R. Blackman, M.D., J Am Board Fam Pract 11 (2):167-169, 1998.)

Court cases generally acknowledge that dogs are dangerous because they are used to create danger, not necessarily because they are inherently dangerous. For example, in People v. Nealis (1991) 232 Cal.App.3d Supp. 1, the dog was commanded to attack, so the court held that the dog was a deadly weapon. In People v. Henderson (1999) 1999 Daily Journal D.A.R. 11862, pit bulls were used to threaten police, so the court held that the dogs were deadly weapons, not necessarily because of their breed, but because the defendant was using them as such.



Dealing with a dangerous dog as a public nuisance

When a dangerous dog terrorizes a neighborhood, it may be possible to invoke the public nuisance laws. Consider the situation that arises when a neighbor's dogs manage to get loose day after day, chasing children and preventing them from walking down the street. Those dogs might well qualify as

a public nuisance under laws such as California Penal Code sections 370 to 373a:

370. Anything which is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, or by any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a public nuisance.

371. An act which affects an entire community or neighborhood, or any considerable number of persons, as specified in the last section, is not less a nuisance because the extent of the annoyance or damage inflicted upon individuals is unequal.

372. Every person who maintains or commits any public nuisance, the punishment for which is not otherwise prescribed, or who willfully omits to perform any legal duty relating to the removal of a public nuisance, is guilty of a misdemeanor.

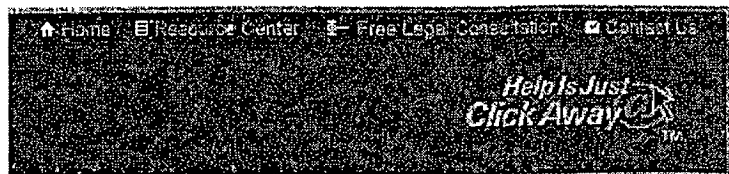
373a. Every person who maintains, permits, or allows a public nuisance to exist upon his or her property or premises, and every person occupying or leasing the property or premises of another who maintains, permits or allows a public nuisance to exist thereon, after reasonable notice in writing from a health officer or district attorney or city attorney or prosecuting attorney to remove, discontinue or abate the same has been served upon such person, is guilty of a misdemeanor, and shall be punished accordingly; and the existence of such nuisance for each and every day after the service of such notice shall be deemed a separate and distinct offense, and it is hereby made the duty of the district attorney, or the city attorney of any city the charter of which imposes the duty upon the city attorney to prosecute state misdemeanors, to prosecute all persons guilty of violating this section by continuous prosecutions until the nuisance is abated and removed.



[Click here](#) or on the dog's face to return to the Index Page

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New York

AGRICULTURE AND MARKETS LAW

ARTICLE 7. LICENSING, IDENTIFICATION AND CONTROL OF DOGS

NY CLS Agr & M § 121 (2003)

§ 121. Dangerous dogs

1. If any dog shall attack any person who is peaceably conducting himself in any place where he may lawfully be, such person or any other person witnessing the attack may destroy such dog while so attacking or while being pursued thereafter, and no liability in damages or otherwise shall be incurred on account of such destruction.

2. (a) If any dog shall attack, chase or worry any domestic animal, as defined in section one hundred eight of this article, while such animal is in any place where it may lawfully be, the owner or caretaker of such domestic animal, or any other person witnessing such attack may, for the purpose of preventing the killing or injury of such domestic animal, destroy such dog while so attacking, chasing, worrying or while being pursued thereafter, and no liability in damages or otherwise shall be incurred on account of such destruction.

(b) (Added, L 2000) If any dog shall attack and injure any service dog, guide dog or hearing dog, any person witnessing the attack may for the purpose of preventing the killing or injury of such service dog, guide dog or hearing dog, destroy such attacking dog and no liability in damages or otherwise shall be incurred on account of such destruction.

3. Any person may make a complaint of an attack upon a person or of an attack, chasing or worrying of a domestic animal to a dog control officer of the appropriate municipality. Such officer shall immediately inform the complainant of his right to commence a proceeding as provided in subdivision four of this section and, if there is reason to believe the dog is a dangerous dog, the officer shall forthwith commence such proceeding himself.

4. Any person may, and any dog control officer as provided in subdivision three hereof shall, make a complaint under oath or affirmation to any municipal judge or justice of such attack, chasing or worrying. Thereupon, the judge or justice shall immediately determine if there is probable cause to believe the dog is a dangerous dog and, if so, shall issue an order to any dog control officer, peace officer, acting pursuant to his special duties, or police officer directing such officer to immediately seize such dog and hold the same pending judicial determination as herein provided. Whether or not the judge or justice finds there is probable cause for such seizure, he shall, within five days and upon written notice of not less than two days to the owner of the dog, hold a hearing on the complaint. If satisfied that the dog is a dangerous dog, the judge or justice shall then order [fig 1] any dog control officer, peace officer, acting pursuant to his special duties, or police officer to [fig 2] cause the dog to be euthanized immediately, or shall order the owner to confine securely such dog permanently [fig 3] except as provided in subdivision six of this section. The owner shall confine the dog indoors or in an enclosed and locked pen or structure as provided for in the order. Such pen or enclosure shall have a secure top and sides and shall be designed to prevent an unauthorized entry of a person, the escape of the dog and to provide protection from the elements. If the owner fails [fig 4] to confine the dog as required by such order, any dog control officer, peace officer, acting pursuant to his special duties, or police officer shall destroy such dog on or off the premises of the owner.

5. (Added, L 1997) A dog shall not be declared dangerous if the court determines the conduct of the dog (a) was justified because the threat, injury or damage was sustained by a person who at the time was committing a crime or offense upon the owner or custodian

Current Law in New York

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or upon the property of the owner or custodian of the dog, or (b) was justified because the injured person was tormenting, abusing or assaulting the dog or has in the past tormented, abused or assaulted the dog; or (c) was responding to pain or injury, or was protecting itself, its kennels or its offspring.

6. (Added, L 1997) (a) In addition to an order of confinement, issued pursuant to subdivision four of this section, the judge or justice may order the owner or custodian to securely chain and muzzle the dog and require that the dog be under physical restraint of a responsible person when (i) confined in the presence of persons other than the owner or custodian, and (ii) outside such enclosure for brief periods only when and for the period necessary to urinate, defecate or receive medical treatment.

(b) The muzzle described in paragraph (a) of this subdivision shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal.

7. The owner of a dog who, through any act or omission, negligently permits his or her dog to bite a person, service dog, guide dog or hearing dog causing physical injury shall be subject to a civil penalty not to exceed four hundred dollars in addition to any other applicable penalties.

8. (Added, L 1997) The owner of a dog who, through any act or omission, negligently permits his or her dog to bite a person causing serious physical injury shall be subject to a civil penalty not to exceed eight hundred dollars in addition to any other applicable penalties.

9. (Added, L 1997) The owner of a dog who, through any act or omission, negligently permits his or her dog, which had previously been determined to be dangerous pursuant to this article, to bite a person causing serious physical injury, shall be guilty of a misdemeanor punishable by a fine of not more than one thousand dollars, or by a period of imprisonment not to exceed ninety days, or by both such fine and imprisonment in addition to any other applicable penalties.

10. (Added, L 1997) If any dog, which had previously been determined by a judge or justice to be a dangerous dog, as defined in section one hundred eight of this article, shall without justification kill or cause the death of any person who is peaceably conducting himself or herself in any place where he or she may lawfully be, regardless of whether such dog escapes without fault of the owner, the owner shall be guilty of a class A misdemeanor in addition to any other penalties.

11. (Added, L 1997) The owner shall not be liable pursuant to subdivision seven, eight, nine or ten of this section if the dog was coming to the aid or defense of a person during the commission or attempted commission of a murder, robbery, burglary, arson, rape in the first degree as defined in subdivision one or two of section 130.35 of the penal law, sodomy in the first degree as defined in subdivision one or two of section 130.50 of the penal law or kidnapping within the dwelling or upon the real property of the owner of the dog and the dog injured or killed the person committing such criminal activity.

12. (Added, L 1997) Nothing contained herein shall limit or abrogate any claim or cause of action any person who is injured by a dog with a vicious disposition or a vicious propensity may have under common law or by statute. The provisions of this section shall be in addition to such common law and statutory remedies.

13 Nothing contained herein shall restrict the rights and powers derived from the provisions of title four of article twenty-one of the public health law relating to rabies and any rule and regulation adopted pursuant thereto.

HISTORY: Add, L 1978, ch 220, § 2, eff Jan 1, 1980.

Former § 121, add, L 1929, ch 173, § 2, with substance transferred from § 122, amd, L 1970, chs 928, 1002, repealed, L 1978, ch 220, § 1, eff Jan 1, 1980.

Prior § 121, add, L 1922, ch 48, eff Apr 1, 1922, repealed, L 1929, ch 173, § 1, eff June 1, 1929.



Thursday, March 18, 2004

Bill Text - S05910

*Pending
Legislation*

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STATE OF NEW YORK

5910

IN SENATE

January 13, 2004

Introduced by Sen. MAZIARZ -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the agriculture and markets law, in relation to dangerous dogs and the regulation thereof and repealing certain provisions of such law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 24 of section 108 of the agriculture and
2 markets law, as amended by chapter 263 of the laws of 2000, is amended
3 to read as follows:

4 24. (A) "Dangerous dog" means any dog which {(a)} (I) without justifi-
5 cation attacks a person, COMPANION ANIMAL OR FARM ANIMAL and causes
6 physical injury or death, or {(b)} (II) BEHAVES IN A MANNER WHICH A
7 REASONABLE PERSON WOULD BELIEVE poses a serious and unjustified imminent
8 threat of {harm} SERIOUS PHYSICAL INJURY OR DEATH to one or more
9 persons, COMPANION ANIMALS OR FARM ANIMALS, or {(c)} (III) without
10 justification attacks a service dog, guide dog or hearing dog and causes
11 physical injury or death.

12 (B) "DANGEROUS DOG" DOES NOT INCLUDE A POLICE WORK DOG, AS DEFINED IN
13 SUBDIVISION EIGHTEEN OF THIS SECTION, WHICH ACTS IN THE MANNER DESCRIBED
14 IN THIS PARAGRAPH WHILE SUCH POLICE WORK DOG IS BEING USED TO ASSIST ONE
15 OR MORE LAW ENFORCEMENT OFFICERS IN THE PERFORMANCE OF THEIR OFFICIAL
16 DUTIES.

17 S 2. Section 108 of the agriculture and markets law is amended by
18 adding two new subdivisions 28 and 29 to read as follows:

19 28. "PHYSICAL INJURY" MEANS IMPAIRMENT OF PHYSICAL CONDITION OR
20 SUBSTANTIAL PAIN.

21 29. "SERIOUS PHYSICAL INJURY" MEANS PHYSICAL INJURY WHICH CREATES A
22 SUBSTANTIAL RISK OF DEATH, OR WHICH CAUSES DEATH OR SERIOUS OR
23 PROTRACTED DISFIGUREMENT, PROTRACTED IMPAIRMENT OF HEALTH OR PROTRACTED
24 LOSS OR IMPAIRMENT OF THE FUNCTION OF ANY BODILY ORGAN.

25 S 3. Section 121 of the agriculture and markets law, as amended by
26 chapter 530 of the laws of 1997, subdivisions 2 and 7 as amended by

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets

{ } is old law to be omitted.

LBD10249-03-4

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1 chapter 263 of the laws of 2000 and subdivision 11 as amended by chapter
2 264 of the laws of 2003, is amended to read as follows:

3 S 121. Dangerous dogs. 1. ~~{If any dog shall attack any person who is~~
4 peaceably conducting himself in any place where he may lawfully be, such
5 person or any other person witnessing the attack may destroy such dog
6 while so attacking or while being pursued thereafter, and no liability
7 in damages or otherwise shall be incurred on account of such
8 destruction.

9 2. (a) If any dog shall attack, chase or worry any domestic animal, as
10 defined in section one hundred eight of this article, while such animal
11 is in any place where it may lawfully be, the owner or caretaker of such
12 domestic animal, or any other person witnessing such attack may, for the
13 purpose of preventing the killing or injury of such domestic animal,
14 destroy such dog while so attacking, chasing, worrying or while being
15 pursued thereafter, and no liability in damages or otherwise shall be
16 incurred on account of such destruction.

17 (b) If any dog shall attack and injure any service dog, guide dog or
18 hearing dog, any person witnessing the attack may for the purpose of
19 preventing the killing or injury of such service dog, guide dog or hear-
20 ing dog, destroy such attacking dog and no liability in damages or
21 otherwise shall be incurred on account of such destruction.

22 3. ~~{}~~ Any person WHO WITNESSES AN ATTACK OR THREATENED ATTACK may make a
23 complaint of an attack OR THREATENED ATTACK upon a person, COMPANION
24 ANIMAL OR FARM ANIMAL AS DEFINED IN SUBDIVISION TWENTY-FOUR OF SECTION
25 ONE HUNDRED EIGHT OF THIS ARTICLE, or of an attack, chasing or worrying
26 of a domestic animal to a dog control officer OR POLICE OFFICER of the
27 appropriate municipality. Such officer shall immediately inform the
28 complainant of his right to commence a proceeding as provided in subdivi-
29 sion {four} TWO of this section and, if there is reason to believe the
30 dog is a dangerous dog, the officer shall forthwith commence such
31 proceeding himself.

32 {4.} 2. Any person WHO WITNESSES AN ATTACK OR THREATENED ATTACK may,
33 and any dog control officer OR POLICE OFFICER as provided in subdivision
34 {three hereof} ONE OF THIS SECTION shall, make a complaint under oath or
35 affirmation to any municipal judge or justice of such attack{, chasing
36 or worrying} OR THREATENED ATTACK. Thereupon, the judge or justice
37 shall immediately determine if there is probable cause to believe the
38 dog is a dangerous dog and, if so, shall issue an order to any dog
39 control officer, peace officer, acting pursuant to his special duties,
40 or police officer directing such officer to immediately seize such dog
41 and hold the same pending judicial determination as {herein} provided IN
42 THIS SECTION. Whether or not the judge or justice finds there is proba-
43 ble cause for such seizure, he shall, within five days and upon written
44 notice of not less than two days to the owner of the dog, hold a hearing
45 on the complaint. THE PETITIONER SHALL HAVE THE BURDEN AT SUCH HEARING
46 TO PROVE THE DOG IS A "DANGEROUS DOG" BY CLEAR AND CONVINCING EVIDENCE.

47 If satisfied that the dog is a dangerous dog, the judge or justice shall
48 then order {any dog control officer, peace officer, acting pursuant to
49 his special duties, or police officer to cause the dog to be euthanized
50 immediately, or shall order the owner to confine securely such dog
51 permanently except as provided in subdivision six of this section. The
52 owner shall confine the dog indoors or in an enclosed and locked pen or
53 structure as provided for in the order. Such pen or enclosure shall have
54 a secure top and sides and shall be designed to prevent an unauthorized
55 entry of a person, the escape of the dog and to provide protection from
56 the elements. If the owner fails to confine the dog as required by such

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1 order, any dog control officer, peace officer, acting pursuant to his
2 special duties, or police officer shall destroy such dog on or off the
3 premises of the owner.} NEUTERING OR SPAYING OF THE DOG, MICROCHIPPING
4 OF THE DOG AND ONE OR MORE OF THE FOLLOWING AS DEEMED APPROPRIATE UNDER
5 THE CIRCUMSTANCES AND AS DEEMED NECESSARY FOR THE PROTECTION OF THE
6 PUBLIC:

7 (A) EVALUATION OF THE DOG BY A CERTIFIED APPLIED BEHAVIORIST, A BOARD
8 CERTIFIED VETERINARY BEHAVIORIST, OR ANOTHER RECOGNIZED EXPERT IN THE
9 FIELD AND COMPLETION OF TRAINING OR OTHER TREATMENT AS DEEMED APPROPRI-
10 ATE BY SUCH EXPERT. THE OWNER OF THE DOG SHALL BE RESPONSIBLE FOR ALL
11 COSTS ASSOCIATED WITH EVALUATIONS AND TRAINING ORDERED UNDER THIS
12 SECTION;

13 (B) SECURE, HUMANE CONFINEMENT OF THE DOG FOR A PERIOD OF TIME AND IN
14 A MANNER DEEMED APPROPRIATE BY THE COURT BUT IN ALL INSTANCES IN A
15 MANNER DESIGNED TO: (1) PREVENT ESCAPE OF THE DOG, (2) PROTECT THE
16 PUBLIC FROM UNAUTHORIZED CONTACT WITH THE DOG, AND (3) TO PROTECT THE
17 DOG FROM THE ELEMENTS, SUCH CONFINEMENT SHALL NOT INCLUDE LENGTHY PERI-
18 ODS OF TYING, CHAINING OR OTHER RESTRAINT;

19 (C) DIRECT SUPERVISION BY AN ADULT EIGHTEEN YEARS OF AGE OR OLDER
20 WHENEVER THE DOG IS ON PUBLIC PREMISES;

21 (D) RESTRAINT OF THE DOG ON A LEASH WHENEVER THE DOG IS ON PUBLIC
22 PREMISES;

23 (E) MUZZLING THE DOG WHENEVER IT IS ON PUBLIC PREMISES IN A MANNER
24 THAT WILL PREVENT IT FROM BITING ANY PERSON OR ANIMAL, BUT THAT SHALL
25 NOT INJURE THE DOG OR INTERFERE WITH ITS VISION OR RESPIRATION; OR

26 (F) MAINTENANCE OF A LIABILITY INSURANCE POLICY IN AN AMOUNT DETER-
27 MINED BY THE COURT, BUT IN NO EVENT IN EXCESS OF ONE HUNDRED THOUSAND
28 DOLLARS FOR PERSONAL INJURY OR DEATH RESULTING FROM AN ATTACK BY SUCH
29 DANGEROUS DOG.

30 3. UPON A FINDING THAT A DOG IS DANGEROUS, THE JUDGE OR JUSTICE MAY
31 ORDER HUMANE EUTHANASIA OR PERMANENT CONFINEMENT OF THE DOG IF ONE OF
32 THE FOLLOWING AGGRAVATING CIRCUMSTANCES IS ESTABLISHED AT THE JUDICIAL
33 HEARING HELD PURSUANT TO SUBDIVISION TWO OF THIS SECTION:

34 (A) THE DOG, WITHOUT JUSTIFICATION, ATTACKED A PERSON CAUSING SERIOUS
35 PHYSICAL INJURY OR DEATH; OR

36 (B) THE DOG HAS A KNOWN VICIOUS PROPENSITY AS EVIDENCED BY A PREVIOUS
37 UNJUSTIFIED ATTACK ON A PERSON, WHICH CAUSED SERIOUS PHYSICAL INJURY OR
38 DEATH; OR

39 (C) THE DOG, WITHOUT JUSTIFICATION, CAUSED SERIOUS PHYSICAL INJURY OR
40 DEATH TO A COMPANION OR FARM ANIMAL, AND HAS, IN THE PAST TWO YEARS,
41 CAUSED UNJUSTIFIED PHYSICAL INJURY OR DEATH TO A COMPANION OR FARM
42 ANIMAL AS EVIDENCED BY A "DANGEROUS DOG" FINDING PURSUANT TO THE
43 PROVISIONS OF THIS SECTION.

44 AN ORDER OF HUMANE EUTHANASIA SHALL NOT BE CARRIED OUT UNTIL EXPIRATION
45 OF THE THIRTY DAY PERIOD PROVIDED FOR IN SUBDIVISION FIVE OF THIS
46 SECTION FOR FILING A NOTICE OF APPEAL, UNLESS THE OWNER OF THE DOG HAS
47 INDICATED TO THE JUDGE IN WRITING, HIS OR HER INTENTION TO WAIVE HIS OR
48 HER RIGHT TO APPEAL. UPON FILING OF A NOTICE OF APPEAL, THE ORDER SHALL
49 BE AUTOMATICALLY STAYED PENDING THE OUTCOME OF THE APPEAL.

50 {5.} 4. A dog shall not be declared dangerous if the court determines
51 the conduct of the dog (a) was justified because the threat, injury or
52 damage was sustained by a person who at the time was committing a crime
53 or offense upon the owner or custodian OF THE DOG or upon the property
54 of the owner or custodian of the dog{, or}; (b) was justified because
55 the injured, THREATENED OR KILLED person was tormenting, abusing {or},
56 assaulting OR PHYSICALLY THREATENING the dog or ITS OFFSPRING, OR has in

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1 the past tormented, abused {or}, assaulted OR PHYSICALLY THREATENED the

2 dog OR ITS OFFSPRING; {or} (c) WAS JUSTIFIED BECAUSE THE DOG was
3 responding to pain or injury, or was protecting itself, ITS OWNER,
4 CUSTODIAN, OR A MEMBER OF ITS HOUSEHOLD, its kennels or its offspring;
5 OR WAS JUSTIFIED BECAUSE THE INJURED, THREATENED OR KILLED COMPANION
6 ANIMAL OR FARM ANIMAL WAS ATTACKING OR THREATENING TO ATTACK THE DOG OR
7 ITS OFFSPRING. TESTIMONY OF A CERTIFIED APPLIED BEHAVIORIST, A BOARD
8 CERTIFIED VETERINARY BEHAVIORIST, OR ANOTHER RECOGNIZED EXPERT SHALL BE
9 RELEVANT TO THE COURT'S DETERMINATION AS TO WHETHER THE DOG'S BEHAVIOR
10 WAS JUSTIFIED PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION.

11 {6. (a) In addition to an order of confinement, issued pursuant to
12 subdivision four of this section, the judge or justice may order the
13 owner or custodian to securely chain and muzzle the dog and require that
14 the dog be under physical restraint of a responsible person when (i)
15 confined in the presence of persons other than the owner or custodian,
16 and (ii) outside such enclosure for brief periods only when and for the
17 period necessary to urinate, defecate or receive medical treatment.

18 (b) The muzzle described in paragraph (a) of this subdivision shall be
19 made in a manner that will not cause injury to the dog or interfere with
20 its vision or respiration but shall prevent it from biting any person or
21 animal.)

22 5. (A) THE OWNER OF A DOG FOUND TO BE A "DANGEROUS DOG" PURSUANT TO
23 THIS SECTION MAY APPEAL SUCH DETERMINATION, AND/OR THE COURT'S ORDER
24 CONCERNING DISPOSITION OF THE DOG TO THE COURT HAVING JURISDICTION TO
25 HEAR CIVIL APPEALS IN THE COUNTY WHERE THE "DANGEROUS DOG" FINDING WAS
26 MADE. THE OWNER SHALL COMMENCE SUCH APPEAL BY FILING A NOTICE OF APPEAL
27 WITH THE APPROPRIATE COURT WITHIN THIRTY DAYS OF THE FINAL ORDER PURSU-
28 ANT TO THIS SECTION. COURT RULES GOVERNING CIVIL APPEALS IN THE APPRO-
29 PRIATE JURISDICTION SHALL GOVERN THE APPEAL OF A DETERMINATION UNDER
30 THIS SECTION.

31 (B) UPON FILING A NOTICE OF APPEAL FROM AN ORDER OF HUMANE EUTHANASIA
32 PURSUANT TO THIS SECTION, SUCH ORDER SHALL BE AUTOMATICALLY STAYED PEND-
33 ING FINAL DETERMINATION OF ANY APPEAL. IN ALL OTHER CIRCUMSTANCES, THE
34 OWNER OF THE DOG MAY MAKE APPLICATION TO THE COURT TO ISSUE A STAY OF
35 DISPOSITION PENDING DETERMINATION OF THE APPEAL.

36 {7.} 6. The owner of a dog who, through any act or omission, negli-
37 gently permits his or her dog to bite a person, service dog, guide dog
38 or hearing dog causing physical injury shall be subject to a civil
39 penalty not to exceed four hundred dollars in addition to any other
40 applicable penalties.

41 {8.} 7. The owner of a dog who, through any act or omission, negli-
42 gently permits his or her dog to bite a person causing serious physical
43 injury shall be subject to a civil penalty not to exceed eight hundred
44 dollars in addition to any other applicable penalties.

45 {9.} 8. The owner of a dog who, through any act or omission, negli-
46 gently permits his or her dog, which had previously been determined to
47 be dangerous pursuant to this article, to bite a person causing serious
48 physical injury, shall be guilty of a misdemeanor punishable by a fine
49 of not more than one thousand dollars, or by a period of imprisonment
50 not to exceed ninety days, or by both such fine and imprisonment in
51 addition to any other applicable penalties.

52 {10.} 9. If any dog, which had previously been determined by a judge
53 or justice to be a dangerous dog, as defined in section one hundred
54 eight of this article, shall without justification kill or cause the
55 death of any person who is peaceably conducting himself or herself in
56 any place where he or she may lawfully be, regardless of whether such

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1 dog escapes without fault of the owner, the owner shall be guilty of a
2 class A misdemeanor in addition to any other penalties.

3 10. THE OWNER OR LAWFUL CUSTODIAN OF A DANGEROUS DOG SHALL, EXCEPT IN
4 THE CIRCUMSTANCES ENUMERATED IN SUBDIVISIONS FOUR AND ELEVEN OF THIS

5 SECTION, BE STRICTLY LIABLE FOR MEDICAL COSTS RESULTING FROM INJURY
6 CAUSED BY SUCH DOG TO A PERSON, COMPANION OR FARM ANIMAL.

7 11. The owner shall not be liable pursuant to subdivision {seven,
8 eight, nine or ten} SIX, SEVEN, EIGHT, NINE OR TEN of this section if
9 the dog was coming to the aid or defense of a person during the commis-
10 sion or attempted commission of a murder, robbery, burglary, arson, rape
11 in the first degree as defined in subdivision one or two of section
12 130.35 of the penal law, criminal sexual act in the first degree as
13 defined in subdivision one or two of section 130.50 of the penal law or
14 kidnapping within the dwelling or upon the real property of the owner of
15 the dog and the dog injured or killed the person committing such crimi-
16 nal activity.

17 12. Nothing contained herein shall limit or abrogate any claim or
18 cause of action any person who is injured by a dog with a vicious dispo-
19 sition or a vicious propensity may have under common law or by statute.
20 The provisions of this section shall be in addition to such common law
21 and statutory remedies.

22 13. Nothing contained herein shall restrict the rights and powers
23 derived from the provisions of title four of article twenty-one of the
24 public health law relating to rabies and any rule and regulation adopted
25 pursuant thereto.

26 14. (A) THE DEPARTMENT SHALL ESTABLISH AND MAINTAIN A REGISTRY OF
27 DANGEROUS DOGS. EACH OWNER OF A DOG DETERMINED TO BE DANGEROUS PURSUANT
28 TO THIS CHAPTER SHALL BE REQUIRED TO REGISTER SUCH DOG WITH THE DEPART-
29 MENT OR WITH A LOCAL GOVERNMENTAL AGENCY AS DESIGNATED BY THE DEPART-
30 MENT. SUCH REGISTRATION SHALL CONTAIN THE NAME AND ADDRESS OF THE OWNER,
31 THE BREED, AGE, SEX, COLOR AND IDENTIFYING MARKS OF THE DOG, THE
32 LOCATION WHERE THE DOG IS BEING HOUSED AS WELL AS ANY OTHER INFORMATION
33 DEEMED RELEVANT BY THE COMMISSIONER.

34 (B) EACH DOG REGISTERED SHALL BE ASSIGNED AN OFFICIAL REGISTRATION
35 NUMBER BY THE DEPARTMENT OR BY THE LOCAL AGENCY AS DESIGNATED BY THE
36 DEPARTMENT. THE REGISTRATION NUMBER SHALL BE INSCRIBED ON A METAL TAG,
37 WHICH SHALL BE ATTACHED TO THE DOG'S COLLAR AT ALL TIMES.

38 (C) A REGISTRATION FEE OF TWENTY-FIVE DOLLARS SHALL ACCOMPANY THE
39 APPLICATION FOR A DANGEROUS DOG REGISTRATION.

40 (D) THE DANGEROUS DOG REGISTRY SHALL BE MADE AVAILABLE TO POLICE, FIRE
41 DEPARTMENTS, EMERGENCY SERVICES WORKERS, ANIMAL CONTROL OFFICERS, HUMANE
42 SOCIETIES, AND ANY OTHER ORGANIZATIONS AS DETERMINED BY THE DEPARTMENT
43 AS NECESSARY IN THE INTERESTS OF PUBLIC SAFETY.

44 (E) FAILURE TO REGISTER A DOG FOUND TO BE DANGEROUS SHALL SUBJECT AN
45 OWNER OF SUCH DOG TO THE PENALTIES ENUMERATED IN SUBDIVISION FIFTEEN OF
46 THIS SECTION.

47 S 4. Paragraphs (d) and (e) of subdivision 1 of section 119 of the
48 agriculture and markets law are REPEALED.

49 S 5. The agriculture and markets law is amended by adding a new
50 section 121-a to read as follows:

51 S 121-A. EXEMPTION FROM CIVIL LIABILITY. 1. IF ANY DOG SHALL, WITHOUT
52 JUSTIFICATION, ATTACK A PERSON, OR BEHAVES IN A MANNER WHICH A REASON-
53 ABLE PERSON WOULD BELIEVE POSES A SERIOUS AND UNJUSTIFIED IMMINENT
54 THREAT OF SERIOUS PHYSICAL INJURY TO A PERSON, WHEN SUCH PERSON IS
55 PEACEABLY CONDUCTING HIMSELF IN A PLACE WHERE HE MAY LAWFULLY BE, SUCH
56 PERSON OR ANY OTHER PERSON WITNESSING THE ATTACK OR THREATENED ATTACK

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1 MAY DESTROY SUCH DOG WHILE SO ATTACKING, AND NO LIABILITY IN DAMAGES OR
2 OTHERWISE SHALL BE INCURRED ON ACCOUNT OF SUCH DESTRUCTION.

3 2. IF ANY DOG SHALL, WITHOUT JUSTIFICATION, ATTACK A COMPANION ANIMAL
4 OR FARM ANIMAL, OR SHALL BEHAVE IN A MANNER WHICH A REASONABLE PERSON
5 WOULD BELIEVE POSES A SERIOUS AND UNJUSTIFIED IMMINENT THREAT OF SERIOUS
6 PHYSICAL INJURY OR DEATH TO A COMPANION ANIMAL OR FARM ANIMAL, WHERE
7 SUCH ANIMAL IS IN ANY PLACE WHERE IT MAY LAWFULLY BE, THE OWNER OR CARE-

8 TAKER OF SUCH ANIMAL, OR ANY OTHER PERSON WITNESSING THE ATTACK, MAY
9 DESTROY SUCH DOG, AND NO LIABILITY IN DAMAGES OR OTHERWISE SHALL BE
10 INCURRED ON ACCOUNT OF SUCH DESTRUCTION.

11 S 6. The closing paragraph of subdivision 1 of section 118 of the
12 agriculture and markets law, as added by chapter 530 of the laws of
13 1997, is amended to read as follows:

14 Promptly upon seizure the dog control officer shall commence a
15 proceeding as provided for in subdivision {four} TWO of section one
16 hundred twenty-one of this article.

17 S 7. This act shall take effect on the one hundred twentieth day after
18 it shall have become a law; provided, however, that effective immediate-
19 ly, the addition, amendment and/or repeal of any rule or regulation
20 necessary for the implementation of this act on its effective date is
21 authorized and directed to be made and completed on or before such
22 effective date.

.SO DOC S 5910

END

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2003

Contact Webmaster

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MEMORANDUM

DATE: March 19, 2004
TO: Assemblyman R. Garn Mabey, Jr., M.D.
FROM: Allison Combs, Chief Principal Research Analyst
Research Division
SUBJECT: Dog Bite Laws

This memorandum responds to your request for information on the types of enhanced criminal or civil penalties that could be enacted against the owner of a dog when that dog attacks and kills another pet. You inquired about the laws in other states and referenced an attack in December 2003, in Las Vegas, Nevada, in which a pit bull attacked and killed a poodle. The same pit bull also injured several people.

SUMMARY

In general, an owner of a dog that bites or attacks a human being, or, in some situations, other animals, may be held criminally liable with monetary (or civil) penalties and possible confinement in jail or prison. An owner may also be civilly liable to another person for personal injury or property damage.

Nevada law currently imposes criminal penalties on the owner of an attacking dog. The penalties range from a misdemeanor to a felony depending upon the circumstances and, in some cases, the prior actions of the dog. Criminal penalties are also specified in certain situations involving attacks on other animals. In addition, local ordinances in Clark County and the City of Las Vegas may apply but do not impose a penalty greater than a misdemeanor.

Nevada is listed in the minority of states that allow "one bite" before the owner may be civilly liable to the person injured, but the *Nevada Revised Statutes* (NRS) does not appear to address specifically the circumstances in which an owner's actions may lead to the imposition of civil liability to the person injured. A majority of states hold the owner of a dog strictly liable for its actions either by statute or case law.

Suggestions for Possible Legislation

Based upon the information presented in the rest of this memorandum, following are a few areas you may wish to consider discussing with the Legal Division of the Legislative Counsel Bureau if you decide to request a bill draft for the 2005 Legislative Session:

- The civil liability of the owner of the attacking dog to the person who was injured or whose property was damaged.
- The criminal penalties and definitions of “dangerous” and “vicious” under NRS 202.500 (discussed below), which do not currently address attacks on other animals. In addition to considering inclusion of attacks on other animals, you may wish to review the prior actions necessary to qualify a dog as “dangerous” or “vicious” under this statute, a copy of which is enclosed.
- Expansion of the authorization under state law to destroy a “vicious” or “dangerous” dog, as defined under NRS 202.500. Such authorization could include a hearing and an appeal through either the local animal control authority, the court system, or both.

CURRENT LAW IN NEVADA

Under NRS 202.500, a person who knowingly owns or keeps a “vicious” dog for more than seven days after having actual notice that the dog is vicious, or who transfers ownership of such a dog, is guilty of a misdemeanor. Further, if substantial bodily harm results from an attack by a dog known to be “vicious,” its owner or keeper is guilty of a Category D felony. The law provides that, in lieu of, or in addition to, a criminal penalty, the judge may order the “vicious” dog whose attack results in substantial bodily harm to be humanely destroyed.

Definitions of “Vicious” and “Dangerous”

For the purposes of NRS 202.500, a dog is defined as “vicious” if it kills or inflicts substantial bodily harm upon a human being or it continues its “dangerous” behavior after the owner is notified of that behavior by law enforcement.

A “dangerous” dog is one that, without provocation, on *two separate occasions* within 18 months behaves menacingly to such a degree that would lead a reasonable person to defend himself against substantial bodily harm. The statute specifies that for the definition to apply, the dog must not be on the keeper’s or owner’s premises or be confined in a cage, pen, or vehicle. A dog may also be declared dangerous by a law enforcement agency if it is used in the commission of a crime by the dog’s owner or keeper.

Additional Statutes Relating to Vicious Animals or Dogs Injuring other Animals

- **Manslaughter** – Nevada law also provides that the owner of a vicious or dangerous animal that kills a human being may be guilty of manslaughter and punished for a Category D felony if the owner: (1) Knows the animal's propensities; and (2) Willfully or negligently allows the animal to go at large (NRS 200.240).
- **Allowing vicious animal to escape or run at large** – Every person who cares for any animal known to possess any vicious or dangerous tendencies, and who allows it to escape or run at large in any place that may endanger the safety of any person, is guilty of a misdemeanor. In addition, any person may lawfully and without liability for damages kill such an animal when reasonably necessary to protect himself or the public safety, or if the animal bothers, injures, or kills livestock. For the purposes of this statute, "livestock" means all animals of the bovine, caprine, equine, ovine, and porcine species, and all domesticated fowl and rabbits (NRS 575.020).
- **Permitting a dog to chase, worry, injure, or kill domestic animals on open range or private property** – It is a misdemeanor to permit a dog to chase, worry, injure, or kill cattle, sheep, or other domestic animals on the open range or on private property. An exception is provided for dogs used to herd domestic animals (NRS 568.370). "Domestic animal" is not specifically defined in the NRS.

Civil Liability to Person Injured

Nevada's statutes do not appear to include a provision specifying the circumstances in which the owner of a dog is civilly liable to another person for an attack by his or her dog.

Authority to Enact Local Ordinances in Nevada Relating to Dogs

Boards of county commissioners are authorized to enact and enforce ordinances "regulating or prohibiting the running at large and disposal of all kinds of animals" under NRS 244.359. In addition boards of county commissioners may also enact and enforce ordinances that:

- Fix, impose, and collect an annual license fee on dogs and provide for the capture and disposal of all dogs on which the license fee is not paid.
- Establish a pound, appointing a poundkeeper and prescribing his duties.
- Prohibit cruelty to animals.
- Designate an animal as inherently dangerous and require the owner of such an animal to obtain a policy of liability insurance for the animal in an amount determined by the board of county commissioners (NRS 244.359).

A board of county commissioners may impose a maximum civil liability of \$500 for violation of an ordinance regulating animals instead of a criminal penalty. However, an ordinance enacted pursuant NRS 244.359 that creates an offense relating to bites of animals, vicious or dangerous animals, horse tripping, or cruelty to animals must impose a criminal penalty for the offense. Enclosed is a document that provides a summary of some of the related ordinances enacted in Clark County.

PENALTIES AND CIVIL LIABILITY FOR DOG BITES IN OTHER STATES

Like Nevada, laws in other jurisdictions governing animals may be found in both the state statutes and local ordinances. In an effort to obtain an overview of the laws in other jurisdictions, I contacted the National Conference of State Legislatures (NCSL) and was referred to a Web site maintained by a Kenneth Phillips, a prominent attorney based in California who specializes in cases involving dog bites throughout the country. The site is entitled "Dog Bite Law" and is located at www.dogbitelaw.com.

As you may expect, Mr. Phillips' Web site focuses on an owner's civil liability for dog attacks, but also provides some information on criminal liability as well. With regard to civil liability of an owner, Mr. Phillips explains in his article "Legal Rights of a Dog Bite Victim," that the majority of states impose "statutory strict liability," which means that "the owner of the dog is fully responsible for all damages to the victim who was bitten by a dog." In other states, like Nevada, an owner may be civilly liable after "one bite," but in many of these states, the owner's civil liability is not set forth in statute. A copy of the referenced article is enclosed.

Statute Regarding Attacks by Dogs on Other Dogs - Colorado

Colorado is one of several states that include attacks on domestic animals in the criminal statutes governing actions of dangerous dogs. Colorado's law includes graduated criminal penalties for owners whose dogs inflict injury on persons, or injure or destroy domestic animals. By statutory definition, "domestic animals" include dogs, cats, or livestock. *Colorado Revised Statutes* 18-9-204.5 also requires the court to impose additional conditions on a person convicted of ownership of a dangerous dog, which may include confinement of the dog, restitution to the victim, and confiscation and destruction of the dog. A copy of the referenced statute is enclosed.

Washington is another state that specifically includes attacks on domestic animals in its criminal statute governing dangerous dogs, and its laws are outlined below.

Sampling of Laws from Other States

Unfortunately, it is not feasible to provide a succinct overview of the laws in other jurisdictions because multiple state and local laws typically apply in these situations. Following is a sampling of the laws in Arizona, California, New York, and Washington:

- **Arizona** – In Arizona, the owner of a dog that bites a person is liable for damages suffered by that person “regardless of the former viciousness of the dog or the owner’s knowledge of its viciousness.” (*Arizona Revised Statutes Annotated* 11-1025). Other states have similar language under their liability statutes, including Hawaii, Indiana, Michigan, Montana, New Jersey, Utah, and Washington.

Criminal laws – The “county enforcement agent” (the person in each county responsible for enforcement of the animal laws) must destroy a “vicious animal” (as defined by statute) by order of a justice of the peace or a city magistrate. A justice of the peace or city magistrate may issue an order to destroy a vicious animal after notice to the parties involved and a hearing. The statute authorizes the court to impose additional procedures or processes to protect all parties in the interest of justice, and any decision may be appealed to the superior court (*Arizona Revised Statutes Annotated* 11-1014).

A “vicious animal” is defined as any animal “of the order carnivora that has a propensity to attack, to cause injury to or to otherwise endanger the safety of human beings without provocation, or that has been so declared after a hearing before a justice of the peace or a city magistrate” (*Arizona Revised Statutes Annotated* 11-1001).

Failure to comply with the state statutes governing the keeping and handling of animals is a misdemeanor (*Arizona Revised Statutes Annotated* 11-1019).

- **California** – Enclosed is an overview of California’s extensive state and local laws regarding dangerous dogs prepared by Mr. Phillips (referenced above).
- **New York** – According to Mr. Phillips (referenced above), New York is a state like Nevada in which “one bite” is necessary before a dog’s owner may be civilly liable to a person for a subsequent attack.

Under the statutes establishing criminal penalties, a “dangerous dog” means any dog which (a) without justification attacks a person and causes physical injury or death, or (b) poses a serious and unjustified imminent threat of harm to one or more persons, or (c) without justification attacks a service dog, guide dog or hearing dog and causes physical injury or death (*New York Agriculture and Markets Law*, Article 7, §108).

Judicial procedures are set forth for determining whether a dog is a dangerous dog (*New York Agriculture and Markets Law*, Article 7, §121). If a dog is determined to be

dangerous, the judge may order the dog to be euthanized immediately or order the owner to confine the dog in a specific manner. Sections 7 through 9 of the statute set forth the graduated civil and criminal penalties based upon the owner's actions or negligence and whether the dog had previously been determined by a judge to be a dangerous dog.

2004 Legislation Pending in New York

A measure currently pending in the New York Legislature would revise the definition of "dangerous dog" to include attacks on "companion animals" or farm animals. A copy of Senate Bill 5910 is enclosed.

Please note that S.B. 5910 also appears to make it more difficult for the court to find that a dog is dangerous by requiring "clear and convincing evidence." The bill also revises the existing law to provide that the judge may order a dog to be euthanized **only** upon the finding of an aggravating circumstance, as set forth in the bill (relevant sections of the enclosed bill are tabbed and highlighted). Finally, if the judge orders that the dog be euthanized, an appeal process is also created.

- **Washington** – Washington law specifies that the owner of a dog that bites any person who is in a public place or who is lawfully in a private place (including the owner's property) is liable for damages suffered, regardless of the former viciousness of the dog or the owner's knowledge of the viciousness (*Revised Code of Washington* 16.08.040).

Criminal Liability – Washington has established definitions for "potentially dangerous dog" and "dangerous dog," both of which include certain actions toward a domestic animal (*Revised Code of Washington* 16.08.070). For example, the definition of a "dangerous dog" includes a dog that kills a domestic animal without provocation while the dog is off the owner's property. Washington does not specify in statute a definition of "domestic animal" for the purposes of these provisions.

Procedures are established under which the local animal control authority notifies the dog's owner and provides an opportunity for the owner to give reasons or information as to why the dog should not be declared dangerous. If the dog is declared dangerous, the owner must be notified by certified mail. An appeal process is provided (*Revised Code of Washington* 16.08.080 and 16.08.090).

Dangerous dogs must be immediately confiscated if the dog is not validly registered; the owner does not secure the required liability insurance coverage; the dog is not maintained in the proper enclosure; or the dog is outside the enclosure, the owner's dwelling, or not in the restraint of the responsible person. If the owner does not pay the costs of confinement and control the dog must be destroyed and the owner is guilty of a gross misdemeanor (*Revised Code of Washington* 16.08.100).

The owner of a dangerous dog that attacks or bites a person or another domestic animal is guilty of a felony. In addition, the owner of any dog that aggressively attacks and causes severe injury or death of any human, regardless of whether the dog has been declared potentially dangerous or dangerous, may also be convicted of a felony. Such an animal must be immediately confiscated by the animal control authority and destroyed in an expeditious and humane manner after being placed in quarantine for the proper length of time (*Revised Code of Washington* 16.08.100).

Marauding Dogs – Washington also imposes a duty on the owner of any dog found killing any domestic animal to kill the dog within 48 hours after being notified of that fact (*Revised Code of Washington* 16.08.030). Failure to do so is a misdemeanor. However, it is unclear how this statute interacts with the other statutes described above.

CONCLUDING REMARKS

I hope this information is helpful. If you would like for me to provide a copy of this memorandum to the Legal Division of the Legislative Counsel Bureau for a bill draft request, please let me know. Finally, if you have any questions or would like additional assistance, please do not hesitate to contact me.

AC/bbh.W40694
Enc

Document 1 of 1

Colorado

Source:

Colorado Statutes/TITLE 18 CRIMINAL CODE/ARTICLE 9 OFFENSES AGAINST PUBLIC PEACE, ORDER, AND DECENCY/PART 2 CRUELTY TO ANIMALS/18-9-204.5. Unlawful ownership of dangerous dog.

18-9-204.5. Unlawful ownership of dangerous dog.

(1) The general assembly hereby finds, determines, and declares that dangerous dogs are a serious and widespread threat to the safety and welfare of citizens throughout the state because of the number and serious nature of attacks by such dogs.

(2) As used in this section, unless the context otherwise requires:

(a) "Bodily injury" means any physical injury that results in severe bruising, muscle tears, or skin lacerations requiring professional medical treatment or any physical injury that requires corrective or cosmetic surgery.

* (b) "Dangerous dog" means any dog that:

(I) Has inflicted bodily or serious bodily injury upon or has caused the death of a person or domestic animal; or

(II) Has demonstrated tendencies that would cause a reasonable person to believe that the dog may inflict injury upon or cause the death of any person or domestic animal; or

(III) Has engaged in or been trained for animal fighting as described and prohibited in section 18-9-204.

(c) "Dog" means any domesticated animal related to the fox, wolf, coyote, or jackal.

* (d) "Domestic animal" means any dog, cat, or livestock.

(e) "Owner" or "owns" means any person, firm, corporation, or organization owning, possessing, harboring, keeping, having financial or property interest in, or having control or custody of a domestic animal, as the term is defined in paragraph (d) of this subsection (2), including a dangerous dog as the term is defined in paragraph (b) of this subsection (2).

(f) "Serious bodily injury" has the same meaning as such term is defined in section 18-1-901 (3) (p).

Penalties
(3) (a) A person commits ownership of a dangerous dog if such person owns, possesses, harbors, keeps, has a financial or property interest in, or has custody or control over a dangerous dog.

(b) Any owner who violates paragraph (a) of this subsection (3) whose dog inflicts bodily injury upon any person commits a class 3 misdemeanor. Any owner involved in a second or subsequent violation under this paragraph (b) commits a class 2 misdemeanor.

(c) Any owner who violates paragraph (a) of this subsection (3) whose dog inflicts serious bodily injury to a person commits a class 1 misdemeanor. Any owner involved in a second or subsequent violation under this paragraph (c) commits a class 6 felony.

(d) Any owner who violates paragraph (a) of this subsection (3) whose dog causes the death of a person commits a class 5 felony.

(e) (I) Any owner who violates paragraph (a) of this subsection (3) whose dog injures or destroys any domestic

animal commits a class 3 misdemeanor.

(II) Any owner involved in a second or subsequent violation under this paragraph (e) commits a class 2 misdemeanor. The minimum fine specified in section 18-1.3-501 for a class 2 misdemeanor shall be mandatory.

(III) (A) The court shall order the convicted owner and any owner who enters into a deferred judgment or deferred prosecution to make restitution to the injured or dead domestic animal's owner pursuant to applicable provisions of title 16, C.R.S., governing restitution.

(B) Restitution shall be equal to the greater of the fair market value or the replacement cost of the domestic animal on the date, but before the time, the animal was injured or destroyed plus any reasonable and necessary medical expenses incurred in treating the animal and any actual costs incurred in replacing the injured or destroyed animal.

(C) Any owner whose dog destroys property shall make restitution to the owner of such property in an amount equal to the greater of the fair market value or the replacement cost of such property before its destruction plus any actual costs incurred in replacing such property.

(e.5) The court shall order any owner of a dangerous dog who has been convicted of a violation of this section to confine such dangerous dog in a building or enclosure designed to be escape-proof and, whenever such dog is outside of such building or enclosure, keep the dog under such owner's control by use of a leash. In addition, if the conviction is for a second or subsequent offense, such dangerous dog shall also be muzzled whenever it is outside of the building or enclosure.

(f) In addition to any other penalty set forth in this subsection (3), upon an owner's entry of a guilty plea or the return of a verdict of guilty by a judge or jury or a deferred judgment or deferred prosecution for a violation that results in bodily injury, serious bodily injury, or death to a person, the court, pursuant to applicable provisions of title 16, C.R.S., governing restitution, shall order the defendant to make restitution in accordance with said provisions.

(g) In addition to the penalties set forth in paragraphs (b) to (e) of this subsection (3), upon an owner's entry of a guilty plea or the return of a verdict of guilty by a judge or jury or a deferred judgment or deferred prosecution for a violation that results in serious bodily injury to a person or death to a person or domestic animal or for a second or subsequent violation of said paragraph (b) or (e) resulting in a conviction or a deferred judgment or a deferred prosecution involving the same dog of the same owner, the court may order that the dangerous dog be immediately confiscated and placed in a public animal shelter and shall order that, upon exhaustion of any right an owner has to appeal a conviction based on a violation of this subsection (3), the owner's dangerous dog be destroyed by lethal injection administered by a licensed veterinarian.

(h) (I) An affirmative defense to the violation of this subsection (3) shall be:

(A) That, at the time of the attack by the dangerous dog which causes injury to or the death of a domestic animal, the domestic animal was at large, was an stray, and entered upon the property of the owner and the attack began, but did not necessarily end, upon such property;

(B) That, at the time of the attack by the dangerous dog which causes injury to or the death of a domestic animal, said animal was biting or otherwise attacking the dangerous dog or its owner;

(C) That, at the time of the attack by the dangerous dog which causes injury to or the death of a person, the victim of the attack was committing or attempting to commit a criminal offense, other than a petty offense, against the dog's owner, and the attack did not occur on the owner's property;

(D) That, at the time of the attack by the dangerous dog which causes injury to or the death of a person, the

victim of the attack was committing or attempting to commit a criminal offense, other than a petty offense, against a person on the owner's property or the property itself and the attack began, but did not necessarily end, upon such property; or

(E) That the person who was the victim of the attack by the dangerous dog tormented, provoked, abused, or inflicted injury upon the dog in such an extreme manner which resulted in the attack.

(II) The affirmative defenses set forth in subparagraph (I) of this paragraph (h) shall not apply to any dog that has engaged in or been trained for animal fighting as said term is described in section 18-9-204.

(4) Upon taking an owner into custody for an alleged violation of this section or the issuing of a summons and complaint to the owner, pursuant to the Colorado rules of criminal procedure and part 1 of article 4 of title 16, C.R.S., the owner's dangerous dog shall be taken into custody and placed in a public animal shelter, at the owner's expense, pending final disposition of the charge against the owner. In addition, in the event the court, pursuant to the Colorado rules of criminal procedure and part 1 of article 4 of title 16, C.R.S., sets bail for an owner's release from custody pending final disposition, the court shall require, as a condition of bond, that the owner's dangerous dog be placed at the owner's expense in a public animal shelter, licensed boarding facility, or veterinarian's clinic of the owner's choosing, pending final disposition of the alleged violation of this section. The owner shall be liable for the total cost of board and care for a dog placed pursuant to this subsection (4).

(5) (a) Nothing in this section shall be construed to prohibit a municipality from adopting any rule or law for the control of dangerous dogs.

(b) Nothing in this section shall be construed to abrogate a county's authority under part 1 of article 15 of title 30, C.R.S., to adopt dog control and licensing resolutions and to impose the penalties set forth in section 30-15-102, C.R.S.

(6) The provisions of this section shall not apply to the following:

(a) To any dog that is used by a peace officer while the officer is engaged in the performance of peace officer duties;

(b) To any dog that inflicts bodily or serious bodily injury to any veterinary health care worker, dog groomer, humane agency personnel, professional dog handler, trainer, or dog show judge each acting in the performance of his or her respective duties; or

(c) To any dog that inflicts injury upon or causes the death of a domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of or under the control of the dog's owner and the injury or death was to a domestic animal naturally associated with the work of such dog.

Source: L. 91: Entire section added, p. 413, § 1, effective July 1. L. 99: (2)(a) amended, p. 797, § 10, effective July 1; (3)(e) amended and (3)(e.5) added, p. 274, § 1, effective July 1. L. 2002: (3)(e)(II) amended, p. 1517, § 206, effective October 1.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (3)(e)(II), see section 1 of chapter 318, Session Laws of Colorado 2002.

AGENDA SUMMARY PAGE
RECOMMENDING COMMITTEE MEETING OF: MAY 3, 2004

DEPARTMENT: CITY ATTORNEY

DIRECTOR: BRADFORD R. JERBIC

☐

CONSENT

☒

DISCUSSION

SUBJECT:

NEW BILL:

Bill No. 2004-32 – Ordinance Creating Special Improvement District No. 607 - Cliff's Edge.
Sponsored By: Step Requirement

Fiscal Impact

☐

No Impact

Amount: \$51,187,785.00

☐

Budget Funds Available

Dept./Division: Public Works/SID

☒

Augmentation Required

Funding Source: Capital Projects Fund - Special Assessments

PURPOSE/BACKGROUND:

Acquisition, construction and installation of street, sanitary sewer, storm sewer/drainage improvements, and water main projects. Costs will be recovered over a 20-year period through the levy and collection of special assessments.

RECOMMENDATION:

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

BACKUP DOCUMENTATION:

Bill No. 2004-32

COMMITTEE RECOMMENDATION:

COUNCILWOMAN MONCRIEF recommended Bill 2004-32 be forwarded as a First Amendment to the Full Council with a "Do Pass" recommendation. **COUNCILMAN WEEKLY** concurred.

MINUTES:

COUNCILMAN WEEKLY declared the Public Hearing open.

MIKE THOMPSON, Public Works, indicated that the proposed bill was essentially in order, but required text changes to reflect the development's name change from Cliff's Edge to Providence. The same text changes would be required in related Bills No. 2004-33 and 2004-5. In addition, the text reflecting adoption of the bills on 5/5/2004 will be changed to 5/19/2004.

RECOMMENDING COMMITTEE MEETING OF MAY 3, 2004

City Attorney

Item 3 – Bill No. 2004-32

MINUTES – Continued:

No one appeared in opposition.

COUNCILMAN WEEKLY declared the Public Hearing closed.

(4:15 – 4:17)

1-373

Summary – An ordinance creating the City of Las Vegas, Nevada, Special Improvement District No. 607 (Cliff's Edge), ratifying action taken by City officers toward the creation of such District, providing other matters related thereto, and providing an effective date.

BILL NO. 2004-32

ORDINANCE NO. _____

AN ORDINANCE CREATING THE CITY OF LAS VEGAS, NEVADA, SPECIAL IMPROVEMENT DISTRICT NO. 607 (CLIFF'S EDGE); ORDERING A STREET PROJECT, STORM SEWER PROJECT, SANITARY SEWER PROJECT AND WATER PROJECT, WITHIN THE CITY OF LAS VEGAS, NEVADA; AND PROVIDING OTHER MATTERS RELATED THERETO.

WHEREAS, the City Council (the "Council") of City of Las Vegas, Nevada (the "City"), deems it necessary to create the City of Las Vegas, Nevada, Special Improvement District No. 607 (Cliff's Edge) (the "District") for the purpose of acquiring and improving a street project, storm sewer project, sanitary sewer project and water project (collectively, the "Project"), and to defray the entire cost and expense of the Project by special assessments, according to benefits levied against the benefited lots, tracts and parcels of land in the District; and

WHEREAS, pursuant to Chapter 271 of Nevada Revised Statutes ("NRS") and all laws amendatory thereof and supplemental thereto (the "Act"), there has previously been presented to the Council a written petition from Cliffs Edge, LLC, a Nevada limited liability company (the "Developer"), requesting the City to initiate the acquisition and improvement of the Project, to issue bonds and levy assessments and requesting the City to proceed with certain actions required by the Act; and

WHEREAS, the City, the Developer and other owners of assessable property in the District (collectively, with the Developer, the "Owners") have entered into agreements (collectively, the "Financing Agreement") for the acquisition and improvement of the Project which contains the terms and conditions required by NRS 271.710 and 271.720; and

WHEREAS, the Owners are collectively the owners of 100% of the assessable property comprising the District; and

WHEREAS, the Council and the officers of the City have done or caused to be done all things necessary and preliminary to the creation of the District, including but not limited to the filing by the City Engineer (the “Engineer”) with the City Clerk of an accurate estimate of cost, full and detailed plans and specifications, an assessment plat and map and an assessment roll, and the Council now desires to authorize the Project by this ordinance; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAS VEGAS, IN THE STATE OF NEVADA, DOES ORDAIN:

Section 1. This ordinance shall be known as and may be cited by the short title “District No. 607 Creation Ordinance” (this “Ordinance”).

Section 2. There shall be, and hereby is, created in the City an improvement district designated as the “City of Las Vegas, Nevada, Special Improvement District No. 607 (Cliff’s Edge)” for the purpose of acquiring and improving the Project, as more particularly described below. The Council, pursuant to NRS 271.325(1), has also determined and does hereby declare as follows:

(a) The public convenience and necessity require the creation of the District.

(b) The creation of the District is economically sound and feasible.

(c) The market value of each of the benefited lots, tracts and parcels of land in the District will be increased by an amount directly attributable to the Project for which the assessment is to be made.

Section 3. The Project, which is hereby ordered to be acquired and improved, shall be located within the boundaries of the District and shall be as shown on the full and detailed plans and specifications for the District filed with the City Clerk. The kind and location of the Project (without mentioning minor details) is as follows:

The Project consists of the acquisition and construction of certain improvements within the District to include streets, sanitary sewers, storm sewers, and water mains, in and along the property described in Section 4, and all appurtenances and incidentals necessary, useful or desirable, including real and other property therefor, which is more particularly described (with all segment lengths to be current approximations subject to minor adjustment) as set forth below. For the purposes of this section, the following terms have the following meanings:

Storm Drain Projects

These projects provide for the safe conveyance of both off-site storm runoff discharged by the Kyle Canyon Detention Basin that is currently conveyed through the project by natural washes and on-site storm water within the District area on alignments that do not follow the on-site roadway project alignments. The projects include 18" to 78" RCP storm drain and all appurtenant facilities.

Sanitary Sewer Projects

These projects provide for the conveyance of sanitary sewer flows within the District to existing and proposed off-site sewer facilities outside of the District area. They include the installation of 8" to 15" sanitary sewer mains, manholes, and all appurtenant facilities.

Roadway Projects – Improvements "A"

These projects provide for the transportation needs within the District area and provide access to the off-site road network. These projects include rough grading, excavation of embankments, sub-grade preparation, curb and gutter, median islands, paving, and temporary striping and signage associated with a roadway segment. The project also includes the cost of on-site storm drain facilities that follow the roadway alignments and all appurtenances.

Roadway Projects – Streetlights "B"

These projects include the cost of trenching, conduit, pull boxes, service points, and transformers for streetlights and streetlight installation for a particular road segment. These improvements also include, where applicable, costs for future traffic signal poles when installed for use as the streetlight pole at applicable intersections, future traffic signal underground improvements, including associated conduit and pull boxes.

Roadway Projects – Final Paving "C"

These projects include the cost of the final paving for a roadway segment, including final striping, valve/manhole adjustments, and signage adjustments.

Potable Water Projects

These projects provide for the distribution of potable water and water for fire protection to residential and commercial sub-developments within the District. These projects include the installation of 10" to 42" water mains, reservoirs, tanks, pumping stations and all appurtenant facilities. There are two (2) pressure zones within the District area.

Project Master Plan

This project provides for the costs associated with master planning the project including traffic and drainage studies, survey, mapping, and engineering which allows for the completion of the development projects.

The District projects are described in the following paragraphs.

Project 1.1 Off-Site Storm Drain: Kyle Canyon Detention Basin to Puli Road

This project consists of approximately 2300 lineal feet of 78" RCP and all appurtenant facilities. This project runs from Kyle Canyon Detention Basin to the intersection of Puli Road and Grand Teton Drive. Projected construction completion date is June 2004.

Project 1.2 On-Site Storm Drain: Alpine Ridge Way and Severance Lane from Farm Road to Egan Crest Way

This project consists of approximately 2350 lineal feet of 48" and 66" RCP and all appurtenant facilities. This project runs from Farm Road to Severance Lane on Alpine Ridge Way. Also runs from Alpine Ridge Way to Egan Crest Way on Severance Lane. Projected construction completion date is June 2005.

Project 1.3 On-Site Storm Drain: The Paseo from Shaumber Road to Egan Crest Way

This project consists of approximately 2640 lineal feet of 48" RCP and all appurtenant facilities. This project runs from Shaumber Road to Egan Crest Way in the Paseo on the Elkhorn Road alignment. Projected construction completion date is April 2005.

Project 2.1 Off-Site Sanitary Sewer: Severance Lane from Hualapai Way to Grand Canyon Drive

This project consists of approximately 2660 lineal feet of 12" and 15" sewer pipeline and all appurtenant facilities. This project runs from Hualapai Way to Grand Canyon Drive on Severance Lane. Projected construction completion date is September 2004.

Project 2.2 Off-Site Sanitary Sewer: Elkhorn Road from Hualapai Way to Grand Canyon Drive

This project consists of approximately 2660 lineal feet of 12" and 15" sewer pipeline and all appurtenant facilities. This project runs from Hualapai Way to Grand Canyon Drive on Elkhorn Road. Projected construction completion date is September 2004.

Project 2.3 Off-Site Sanitary Sewer: Deer Springs Way from Hualapai Way to Tee Pee Lane

This project consists of approximately 3953 lineal feet of 12" sewer pipeline and all appurtenant facilities. This project runs from Hualapai Way to Tee Pee Lane on Deer Springs Way. Projected construction completion date is September 2004.

Project 2.4 Off-Site Sanitary Sewer: Centennial Parkway from Shaumber Road to Park Street

This project consists of approximately 9751 lineal feet of 12" sewer pipeline and all appurtenant facilities. The cost to oversize from a nominal 8" to a 12" sewer pipeline is not included in the District. This project runs from approximately 330' east of Shaumber Road and Centennial Parkway to Michelli Crest Way, south to Reiss Lane, east to Hualapai Way, south to Tropical Parkway, east to Park Street. Projected construction completion date is October 2004.

Project 2.5 Sanitary Sewer: Centennial Parkway from Puli Road to the Western Beltway

This project consists of approximately 1730 lineal feet of 12" sanitary sewer pipeline from Puli Road to the Western Beltway on Centennial Parkway, approximately 800 lineal feet of 8" sanitary sewer pipeline along the right of way of the Western Beltway north of Centennial Parkway, approximately 1730 lineal feet of 8" sanitary sewer pipeline north of Centennial in Shaumber Road, and all associated appurtenant facilities. Projected construction completion date is January 2005.

Project 2.6 Sanitary Sewer: Deer Springs Way from Shaumber Road to Hualapai Way

This project consists of approximately 4160 lineal feet of 8" and 1360 lineal feet of 10" sewer pipeline and all appurtenant facilities from 740' north of Deer Springs on Shaumber Road, along Deer Springs Way from Shaumber Road to Hualapai Way, and from the Western Beltway to Deer Springs Way on Egan Crest Way. Projected construction completion date is July 2005.

Project 2.7 Sanitary Sewer: Dorrell Lane from Shaumber Road to Hualapai Way

This project consists of approximately 5320 lineal feet of 8" sanitary sewer pipeline from 1360' north of Dorrell Lane on Shaumber Road then continuing along Dorrell Lane from Shaumber Road to Hualapai Way, approximately 1360 lineal feet of 10" sanitary sewer pipeline from Dorrell Lane to Elkhorn Road on Hualapai Way, and all appurtenant facilities. The projected construction completion date is February 2005.

Project 2.8 Sanitary Sewer: Elkhorn Road from 1600' West of Egan Crest Way to Hualapai Way

This project consists of approximately 4450 lineal feet of 8" sanitary sewer pipeline and all appurtenant facilities. This project runs from 1600' west of Egan Crest Way to Hualapai Way on the Elkhorn Road alignment and includes 1490' on Egan Crest Way, north of Elkhorn Road. The projected construction completion date is December 2004.

Project 2.9 Sanitary Sewer: Farm Road from Shaumber Road to Hualapai Way

This project consists of approximately 4930 lineal feet of 10" sanitary sewer pipeline on Farm Road from Shaumber Road to Hualapai Way and on Egan Crest Way 930' north of Farm Road, approximately 2260 lineal feet of 8" sanitary sewer pipeline of which 1310' is located on Shaumber Road north of Farm Road and 950' is located on Hualapai Way north of Farm Road, approximately 1380 lineal feet of 12" sanitary sewer pipeline on Hualapai Way south from Farm Road, and all appurtenant facilities. The projected construction completion date is December 2005.

Project 2.10 Sanitary Sewer: Grand Teton Drive from Puli Road to Hualapai Way

This project consists of approximately 5600 lineal feet of 12" sanitary sewer pipeline on Grand Teton Drive from Puli Road to Hualapai Way, approximately 2400 lineal feet of 8" sanitary sewer pipeline located south of Grand Teton Drive of which 700' is on Shaumber Road, 1000' is on Egan Crest Way and 700' is on Hualapai Way, and all associated appurtenant facilities. Projected construction completion date is February 2005.

Project 3.1A Roadway Improvements: Centennial Parkway from Puli Road to the Western Beltway

This project consists of approximately 1730 lineal feet of 48'-wide half-street improvements on Centennial Parkway. This phase includes rough grade, base materials, 30" to 36" storm drain pipelines with all associated appurtenant facilities, curb & gutter, sidewalk, curb inlets, bus turnouts, excavation, 5" thick asphalt paving, temporary striping and signage. This project runs from Puli Road to the Western Beltway on Centennial Parkway. Projected construction completion date is April 2006.

Project 3.1B Streetlights: Centennial Parkway from Puli Road to the Western Beltway

This project consists of approximately 1730 lineal feet of streetlight conduit, streetlights and all appurtenant facilities. This project runs from Puli Road to the Western Beltway on Centennial Parkway. Projected construction completion date is June 2006.

Project 3.2A Roadway Improvements: Dorrell Lane from Puli Road to Hualapai Way

This project consists of approximately 5450 lineal feet of full-street improvements on Dorrell Lane. This phase includes rough grade, base materials, 24" to 54" storm drain pipeline with all appurtenant facilities, curb inlets, curb & gutter, excavation, 14'-wide medians, 66'-wide and 52'-wide 4" thick asphalt paving, temporary striping and signage. This project runs from Puli Road to Hualapai Way on Dorrell Lane. The projected construction completion date is March 2006.

Project 3.2B Streetlights: Dorrell Lane from Puli Road to Hualapai Way

This project consists of approximately 5450 lineal feet of streetlight conduit, streetlights and all appurtenant facilities. This project runs from Puli Road to Hualapai Way on Dorrell Lane. Projected construction completion date is May 2006.

Project 3.2C Final Paving: Dorrell Lane from Puli Road to Hualapai Way

This project consists of approximately 5450 lineal feet of 52'-wide and 66'-wide open grade pavement, final striping and signage. This project runs from Puli Road to Hualapai Way on Dorrell Lane. Projected construction completion date is July 2006.

Project 3.3A Roadway Improvements: Elkhorn Road from Egan Crest Way to Hualapai Way

This project consists of approximately 1360 lineal feet of full-street improvements on Elkhorn Road. This phase includes rough grade, base materials, 48" and 60" storm drain pipelines with all appurtenant facilities, curb inlets, curb & gutter, excavation, 14'-wide medians, 62'-wide 4" thick asphalt paving, temporary striping and signage. This project runs from Egan Crest Way to Hualapai Way on Elkhorn Road. The projected construction completion date is January 2006.

Project 3.3B Streetlights: Elkhorn Road from Egan Crest Way to Hualapai Way

This project consists of approximately 1360 lineal feet of streetlight conduit, streetlights and all appurtenant facilities. This project runs from Egan Crest Way to Hualapai Way on Elkhorn Road. Projected construction completion date is March 2006

Project 3.3C Final Paving: Elkhorn Road from Egan Crest Way to Hualapai Way

This project consists of approximately 1360 lineal feet of 62'-wide open grade pavement, final striping and signage. This project runs from Egan Crest Way to Hualapai Way on Elkhorn Road. Projected construction completion date is June 2006.

Project 3.4A Roadway Improvements: Farm Road from Puli Road to Hualapai Way

This project consists of approximately 5450 lineal feet of full-street improvements on Farm Road. This phase includes rough grade, base materials, 36" and 60" storm drain pipeline with all appurtenant facilities, curb inlets, curb & gutter, excavation, 14'-wide medians, 66'-wide and 52'-wide 4" thick asphalt paving, temporary striping and signage. This project runs from Puli Road to Hualapai Way on Farm Road. The projected construction completion date is May 2006.

Project 3.4B Streetlights: Farm Road from Puli Road to Hualapai Way

This project consists of approximately 5450 lineal feet of streetlight conduit, streetlights and all appurtenant facilities. This project runs from Puli Road to Hualapai Way on Farm Road. Projected construction completion date is July 2006.

Project 3.4C Final Paving: Farm Road from Puli Road to Hualapai Way

This project consists of approximately 5450 lineal feet of 66'-wide and 52'-wide open grade pavement, final striping and signage. This project runs from Puli Road to Hualapai Way on Farm Road. Projected construction completion date is September 2006.

Project 3.5A Roadway Improvements: Grand Teton Drive from Puli Road to Hualapai Way

This project consists of approximately 5600 lineal feet of 48'-wide half-street improvements on Grand Teton Drive. This phase includes rough grade, base materials, 66" storm drain pipeline and all associated appurtenant facilities, curb & gutter, curb inlets, bus turnouts, excavation, 5" thick asphalt paving, temporary striping and signage. This project runs from Puli Road to Hualapai Way on Grand Teton Drive. Projected construction completion date is September 2006.

Project 3.5B Streetlights: Grand Teton Drive from Puli Road to Hualapai Way

This project consists of approximately 5600 lineal feet of streetlight conduit, streetlights and all appurtenant facilities. This project runs from Puli Road to Hualapai Way on Grand Teton Drive. Projected construction completion date is November 2006.

Project 3.6A Roadway Improvements: Puli Road from Centennial Parkway to Grand Teton Drive

This project consists of approximately 10600 lineal feet of 38'-wide half-street improvements on Puli Road. This phase includes rough grade, base materials, 18" to 42" storm drain pipeline, curb & gutter, curb inlets, bus turnouts, excavation, 4" thick asphalt paving, temporary striping and signage. This project runs from Centennial Parkway to Grand Teton Drive on Puli Road. Projected construction completion date is October 2006.

Project 3.6B Streetlights: Puli Road from Centennial Parkway to Grand Teton Drive

This project consists of 10600 lineal feet of streetlight conduit, streetlights and all appurtenant facilities. Traffic signal underground improvements will be installed on Puli Road at the intersections of Centennial Parkway, Dorrell Lane, Farm Road, and Grand Teton Drive. This project runs from Centennial Parkway to Grand Teton Drive on Puli Road. Projected construction completion date is December 2006.

Project 3.7A Roadway Improvements: Shaumber Road from Centennial Parkway to Grand Teton Drive

This project consists of approximately 10600 lineal feet of full-street improvements on Shaumber Road. This phase includes rough grade, base materials, 18" to 60" storm drain pipeline with all appurtenant facilities, curb inlets, curb & gutter, excavation, 14'-wide medians, 52'-wide 4" thick asphalt paving, temporary striping and signage. This project runs from Centennial Parkway to Grand Teton Drive on Shaumber Road. The projected construction completion date is April 2006.

Project 3.7B Streetlights: Shaumber Road from Centennial Parkway to Grand Teton Drive

This project consists of approximately 10600 lineal feet of streetlight conduit, streetlights and all appurtenant facilities. This project runs from Centennial Parkway to Grand Teton Drive on Shaumber Road. Projected construction completion date is June 2006.

Project 3.7C Final Paving: Shaumber Road from Centennial Parkway to Grand Teton Drive

This project consists of approximately 10600 lineal feet of 52'-wide open grade pavement, final striping and signage. This project runs from Centennial Parkway to Grand Teton Drive on Shaumber Road. Projected construction completion date is August 2006.

Project 3.8A Roadway Improvements: Egan Crest Way from Dorrell Lane to Grand Teton Drive

This project consists of approximately 6800 lineal feet of full-street improvements on Egan Crest Way. This phase includes rough grade, base materials, 30" to 78" storm drain pipeline with all appurtenant facilities, curb inlets, curb & gutter, excavation, 14'-wide medians, 66'-wide and 52'-wide 4" thick asphalt paving, temporary striping and signage. This project runs from Dorrell Lane to Grand Teton Drive on Egan Crest Way. The projected construction completion date is April 2006.

Project 3.8B Streetlights: Egan Crest Way from Dorrell Lane to Grand Teton Drive

This project consists of 6800 lineal feet of streetlight conduit, streetlights and all appurtenant facilities. Traffic signal underground improvements will be installed on Egan Crest way at the intersections of Dorrell Lane, Elkhorn Road, Farm Road, and Grand Teton Drive. This project runs from Dorrell Lane to Grand Teton Drive on Egan Crest Way. Projected construction completion date is June 2006.

Project 3.8C Final Paving: Egan Crest Way from Dorrell Lane to Grand Teton Drive

This project consists of approximately 6800 lineal feet of 66'-wide and 52'-wide open grade pavement, final striping and signage. This project runs from Dorrell Lane to Grand Teton Drive on Egan Crest Way. Projected construction completion date is September 2006.

Project 3.9A Roadway Improvements: Hualapai Way from the Western Beltway to Grand Teton Drive

This project consists of approximately 8100 lineal feet of full-street and half-street improvements on Hualapai Way. This phase includes rough grade, base materials, 24" to 78" storm drain pipeline with all appurtenant facilities, curb inlets, curb & gutter, bus turnouts, excavation, 14'-wide medians, 72'-wide and 48'-wide 5" thick asphalt paving, temporary striping and signage. This project runs from the Western Beltway to Grand Teton Drive on Hualapai Way. The projected construction completion date is February 2006.

Project 3.9B Streetlights: Hualapai Way from the Western Beltway to Grand Teton Drive

This project consists of 8100 lineal feet of streetlight conduit, streetlights and all appurtenant facilities. Traffic signal underground improvements will be installed on Hualapai Way at the intersections of Dorrell Lane, Elkhorn Road, Farm Road, and Grand Teton Drive with all appurtenant facilities. This project runs from the Western Beltway to Grand Teton Drive on Hualapai Way. Projected construction completion date is April 2006.

Project 3.9C Final Paving: Hualapai Way from the Western Beltway to Grand Teton Drive

This project consists of approximately 8100 lineal feet of 72'-wide and 48'-wide open grade pavement, final striping and signage. This project runs from the Western Beltway to Grand Teton Drive on Hualapai Way. The projected construction completion date is June 2006.

Project 4.1 On-Site 3090 Water Main: Egan Crest Way from Grand Teton Drive to Dorrell Lane

This project consists of approximately 5940 lineal feet of 10" and 12" water pipeline and all appurtenant facilities. This project runs from Grand Teton Drive to Dorrell Lane on Egan Crest Way. Projected construction completion date is July 2005.

Project 4.2 On-Site 3090 Water Main: Grand Teton Drive from Pressure Zone Boundary to 330' west of Hualapai Way

This project consists of approximately 2640 lineal feet of 12" water pipeline and all appurtenant facilities. This project runs from the 3090 and 3205 Pressure Zone Boundary to 330' west of Hualapai Way on Grand Teton Drive. Projected construction completion date is October 2005.

Project 4.3 On-Site 3090 Water Main: Farm Road from Pressure Zone Boundary to Hualapai Way

This project consists of approximately 2600 lineal feet of 10" water pipeline and all appurtenant facilities. This project runs from east of the 3090 and 3205 Pressure Zone Boundary to west of Hualapai Way on Farm Road. Projected construction completion date is August 2005.

Project 4.4 On-Site 3090 Water Main: Elkhorn Road from Pressure Zone Boundary to 660' east of Egan Crest Way

This project consists of approximately 2640 lineal feet of 10" water pipeline and all appurtenant facilities. This project runs from the Pressure Zone Boundary to 660' east of Egan Crest Way on Elkhorn Road. Projected construction completion date is July 2005.

Project 4.5 On-Site 3090 Water Main: Dorrell Lane from Shaumber Road to Egan Crest Way

This project consists of approximately 2730 lineal feet of 10" water pipeline and all appurtenant facilities. This project runs from Shaumber Road to Egan Crest Way on Dorrell Lane. Projected construction completion date is April 2005.

Project 4.6 On-Site 3090 Water Main: Shaumber Road from Dorrell Lane to Centennial Parkway

This project consists of approximately 3960 lineal feet of 12" water pipeline and all appurtenant facilities. This project runs from Dorrell Lane to Centennial Parkway on Shaumber Road. Projected construction completion date is March 2005.

Project 4.7 On-Site 3205 Water Main: Shaumber Road from Grand Teton Drive to Elkhorn Road

This project consists of approximately 5280 lineal feet of 12" and 24" water pipeline and all appurtenant facilities. This project runs from Grand Teton Drive to Elkhorn Road on Shaumber Road, and Shaumber Road to 660' east on Elkhorn Road. Projected construction completion date is August 2005

Project 4.8 On-Site 3205 Water Main: Puli Road from Centennial Parkway to Dorrell Lane

This project consists of approximately 5210 lineal feet of 24" water pipeline and all appurtenant facilities. This project runs from Centennial Parkway to Dorrell Lane on Puli Road, and Puli Road to Shaumber Road on Dorrell Lane. Projected construction completion date is September 2005.

Project 4.9 On-Site 3205 Water Main: Grand Teton Drive from Puli Road to Pressure Zone Boundary

This project consists of approximately 2310 lineal feet of 12" and 16" water pipeline and all appurtenant facilities. This project runs from Puli Road to the 3090 and 3205 Pressure Zone Boundary on Grand Teton Drive. Projected construction completion date is November 2005.

Project 4.10 On-Site 3090 Water Main: Farm Road from Egan Crest Way to 1320' west of Egan Crest Way

This project consists of approximately 1320 lineal feet of 12" water pipeline and all appurtenant facilities. This project runs on Farm Road from Egan Crest Way 1320' west. Projected construction completion date is August 2005.

Project 4.11 On-Site 3090 Water Main: Centennial Parkway from Puli Road to 1320' east of the Western Beltway

This project consists of approximately 6270 lineal feet of 24" water pipeline and all appurtenant facilities. This project runs from Puli Road to 1320' east of the Western Beltway on Centennial Parkway. Projected construction completion date is July 2005.

Project 4.12 Off-Site Water: Cliff's Edge 2975 Reservoir - (OVA2-109026)

This project consists of a permanent reservoir for the 2975 pressure zone. It will be located on the north side of Elkhorn Road between Shaumber Road and Alpine Ridge Way. The Las Vegas Valley Water District (LVVWD) will fund the construction cost of this project. The District will fund the design and agency review costs. Projected construction completion date is June 2006.

Project 4.13 Off-Site Water: Cliff's Edge 3090/3205 Pumping Station (OVA2-109031)

This project consists of permanent pumping stations on Alpine Ridge Way and Elkhorn Road for pressure zones 3090 and 3205. The LVVWD will fund the construction cost of this project. The District will fund the design and agency review costs. Projected construction completion date is June 2006

Project 4.14 On-Site Water: Cliff's Edge 2975 Reservoir Inlet/Outlet Pipeline - (OVA2-109330)

This project consists of 2970 lineal feet of 48" water pipeline oversized from a 30" water pipeline. The project runs along the Elkhorn Road alignment from the 2975 Reservoir to Hualapai Way. The LVVWD will pay for the construction cost of this project less the Developer's contribution. The District will fund the design and agency review costs plus the Developer's contribution. Projected construction completion date is December 2005.

Project 4.15 Off-Site Water: Cliff's Edge 3205 North Interim Tank & Inlet/Outlet Pipeline - (OVA2-109154)

This project consists of a 5 million gallon interim tank for the 3205-pressure zone, approximately 4500 lineal feet of 24" inlet/outlet pipeline, an earthen berm for flood protection and an access road. The interim tank is at the intersection of Witch Mountain Street and Centennial Parkway and the inlet outlet/pipeline runs from the tank to Puli Road. Projected construction completion date is March 2006.

Project 4.16 On-Site Egan Crest Way 3090 Zone North Pipeline

This project consists of approximately 14955 lineal feet of 30" and 36" water pipeline and all appurtenant facilities. The waterlines in this project will be oversized from 12", 16", 20", and 24" waterlines. The cost to oversize the waterlines are not included in the District. This project runs from Centennial Parkway to Dorrell Lane on Shaumber Road,

Shaumber Road to Egan Crest Way on Dorrell Lane, Dorrell Lane to Grand Teton Drive on Egan Crest Way and Egan Crest Way to 3090 Zone Pumping Station on Elkhorn Road. Projected construction completion date is July 2005.

Project 4.17 On-Site 3205 Zone North Pipeline

This project consists of approximately 12015 lineal feet of 30" and 42" water pipeline and all appurtenant facilities. The waterlines in this project will be oversized from 12" and 20" waterlines. The cost to oversize the waterlines are not included in the District. This project runs from Dorrell Lane to Grand Teton Drive on Puli Road, Puli Road to Shaumber Road on Farm Road, Farm Road to Elkhorn Road on Shaumber Road and Shaumber Road to the 3205 Zone Pumping Station on Elkhorn Road. Projected construction completion date is July 2005.

Project 4.18 On-Site 2795 Water Main – Elkhorn Road and Dorrell Lane from Hualapai Way to 660' west of Hualapai Way

This project consists of approximately 1320 lineal feet of 10" water pipeline and all appurtenant facilities. This project runs from Hualapai Way to 660' west on both Elkhorn Road and Dorrell Lane. Projected construction completion date is July 2005.

Project 5.1 Project Master Plan

This project includes costs associated with master planning the project including survey, mapping, traffic studies, drainage studies, and master planning engineering.

Section 4. The boundaries of the District, including the parcels to be assessed, are as follows:

**LEGAL DESCRIPTION
CLIFF'S EDGE
S.I.D. NO. 607
ASSESSABLE PROPERTY**

THIS LEGAL DESCRIBES A PARCEL OF LAND GENERALLY LOCATED SOUTHWESTERLY OF GRAND TETON DRIVE AND HUALAPAI WAY FOR SPECIAL IMPROVEMENT DISTRICT DESCRIPTION PURPOSES.

BEING PORTIONS OF SECTION 13 AND PORTIONS OF SECTION 24, TOWNSHIP 19 SOUTH, RANGE 59 EAST, M.D.M., CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 13, SAME BEING THE CENTERLINE INTERSECTION OF GRAND TETON DRIVE AND PULI ROAD; THENCE NORTH 87°50'15" EAST, ALONG THE NORTH LINE OF SAID SECTION 13, COINCIDENT WITH THE CENTERLINE OF SAID GRAND TETON DRIVE, 687.41 FEET; THENCE SOUTH 00°49'59" EAST, DEPARTING SAID NORTH LINE AND SAID

CENTERLINE, 659.40 FEET; THENCE NORTH 87°56'49" EAST, 343.30 FEET; THENCE NORTH 00°47'57" WEST, 660.07 FEET TO THE NORTH LINE OF SAID SECTION 13, SAME BEING THE CENTERLINE OF GRAND TETON DRIVE; THENCE NORTH 87°50'15" EAST, ALONG SAID NORTH LINE AND ALONG SAID CENTERLINE, 1718.52 FEET; THENCE NORTH 87°49'54" EAST, CONTINUING ALONG SAID NORTH LINE AND ALONG SAID CENTERLINE, 2063.72 FEET; THENCE SOUTH 00°20'43" EAST, DEPARTING SAID NORTH LINE AND SAID CENTERLINE, 668.87 FEET; THENCE NORTH 87°58'52" EAST, 686.70 FEET TO THE EAST LINE OF SAID SECTION 13, SAME BEING THE CENTERLINE OF HUALAPAI WAY; THENCE SOUTH 00°14'47" EAST, ALONG SAID EAST LINE AND ALONG SAID CENTERLINE, 1006.02 FEET; THENCE SOUTH 88°11'24" WEST, DEPARTING SAID EAST LINE AND SAID CENTERLINE, 684.89 FEET; THENCE SOUTH 00°20'43" EAST, 334.60 FEET; THENCE NORTH 88°14'56" EAST, 342.15 FEET; THENCE SOUTH 00°17'45" EAST, 669.92 FEET; THENCE NORTH 88°22'02" EAST, 341.55 FEET TO THE EAST LINE OF SAID SECTION 13, SAME BEING THE CENTERLINE OF HUALAPAI WAY;

THENCE SOUTH 00°19'04" EAST, ALONG SAID EAST LINE AND ALONG SAID CENTERLINE, 2674.27 FEET TO THE NORTHEAST CORNER OF SECTION 24, SAID TOWNSHIP AND RANGE; THENCE SOUTH 00°08'16" WEST, ALONG THE EAST LINE OF SAID SECTION 24 AND ALONG SAID CENTERLINE, 2010.01 FEET; THENCE DEPARTING SAID EAST LINE AND SAID CENTERLINE, ALONG THE FOLLOWING TWENTY-ONE (21) COURSES: (1) SOUTH 88°49'24" WEST, 340.19 FEET; (2) SOUTH 00°08'25" WEST, 669.93 FEET; (3) SOUTH 88°50'11" WEST, 340.21 FEET; (4) NORTH 00°08'34" EAST, 1339.70 FEET; (5) SOUTH 88°48'37" WEST, 680.32 FEET; (6) SOUTH 00°08'51" WEST, 1339.39 FEET; (7) SOUTH 88°50'46" WEST, 339.29 FEET; (8) SOUTH 00°08'10" WEST, 334.58 FEET; (9) SOUTH 88°51'59" WEST, 339.14 FEET; (10) SOUTH 00°06'42" WEST, 334.46 FEET; (11) SOUTH 88°53'13" WEST, 338.99 FEET; (12) NORTH 00°05'14" EAST, 668.66 FEET; (13) NORTH 00°05'44" EAST, 669.37 FEET; (14) SOUTH 88°49'41" WEST, 339.49 FEET; (15) SOUTH 88°51'15" WEST, 681.95 FEET; (16) NORTH 00°08'09" EAST, 668.77 FEET; (17) SOUTH 88°48'43" WEST, 681.28 FEET; (18) SOUTH 00°11'38" WEST, 1336.56 FEET; (19) SOUTH 00°11'10" EAST, 1335.91 FEET; (20) NORTH 88°55'50" EAST, 339.85 FEET; (21) SOUTH 00°07'16" EAST, 1336.70 FEET TO THE SOUTH LINE OF SAID SECTION 24, SAME BEING THE CENTERLINE OF CENTENNIAL PARKWAY; THENCE SOUTH 89°00'28" WEST, ALONG SAID SOUTH LINE AND ALONG SAID CENTERLINE, 1691.81 FEET TO THE WEST LINE OF SAID SECTION 24, SAME BEING THE CENTERLINE OF PULI ROAD; THENCE NORTH 00°27'06" WEST ALONG SAID WEST LINE AND ALONG SAID CENTERLINE, 2668.61 FEET; THENCE NORTH 00°19'26" EAST, CONTINUING ALONG SAID WEST LINE AND ALONG SAID CENTERLINE, 2670.69 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 13; THENCE NORTH 00°55'58" WEST, ALONG THE WEST LINE OF SAID SECTION 13, AND ALONG THE CENTERLINE OF SAID PULI ROAD, 2635.04 FEET; THENCE NORTH 00°54'05" WEST, CONTINUING ALONG SAID WEST LINE AND ALONG SAID CENTERLINE, 2632.30 FEET TO THE **POINT OF BEGINNING**, AS SHOWN ON THE EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION", ATTACHED HERETO AND MADE A PART HEREOF.

CONTAINING 1013.83 ACRES, MORE OR LESS AS DETERMINED BY COMPUTER METHODS.

EXCEPTING THEREFROM THE SOUTH HALF (S 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 13, SAID TOWNSHIP AND RANGE;

CONTAINING 20.70 ACRES, MORE OR LESS AS DETERMINED BY COMPUTER METHODS.

FURTHER EXCEPTING THEREFROM THE EAST HALF (E 1/2) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW1/4) AND THE NORTHWEST QUARTER (NW1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 13, SAID TOWNSHIP AND RANGE;

CONTAINING 62.44 ACRES, MORE OR LESS AS DETERMINED BY COMPUTER METHODS.

CONTAINING A TOTAL AREA OF 930.69 ACRES, MORE OR LESS AS DETERMINED BY COMPUTER METHODS.

BASIS OF BEARINGS:

NORTH 87°50'15" EAST, BEING THE BEARING OF THE NORTH LINE OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 13, TOWNSHIP 19 SOUTH, RANGE 59 EAST, M.D.M., CITY OF LAS VEGAS, CLARK COUNTY, NEVADA, AS SHOWN ON THAT CERTAIN RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY RECORDER, CLARK COUNTY, NEVADA, IN FILE 124 OF SURVEYS, PAGE 94.

**LEGAL DESCRIPTION
NON-ASSESSABLE PARCELS**

KYLE CANYON OUTFALL (PROJECT 1.1)

BEING A PORTION OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 14 AND A PORTION OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 11, TOWNSHIP 19 SOUTH, RANGE 59 EAST, M.D.M., CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SECTION 14, SAID TOWNSHIP AND RANGE, SAME BEING THE CENTERLINE INTERSECTION OF PULI ROAD AND GRAND TETON DRIVE; THENCE SOUTH 89°08'54" WEST, 57.85 FEET; THENCE SOUTH 28°43'52" WEST, 2026.30 FEET; THENCE SOUTH 02°30'14" WEST, 311.87 FEET; THENCE NORTH 89°22'31" WEST, 242.93 FEET; THENCE NORTH 00°00'00" EAST, 322.76 FEET; THENCE NORTH 90°00'00" EAST, 93.06 FEET; THENCE NORTH 28°43'52" EAST, 2007.59 FEET; THENCE SOUTH 89°08'54" WEST, 19.65 FEET; THENCE NORTH

00°42'00" WEST, 250.92 FEET; THENCE NORTH 89°35'30" EAST, 257.65 FEET; THENCE SOUTH 01°03'45" WEST, 249.06 FEET TO **THE POINT OF BEGINNING**, AS SHOWN ON THE "EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION", ATTACHED HERETO AND MADE A PART HEREOF.

CONTAINING 10.24 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

L.V.V.W.D. RESERVOIR SITE (PROJECTS 1.3, 2.5, 2.6, 3.7, 4.4, 4.7, 4.12, 4.13, 4.14, 4.16, 4.17)

BEING THE SOUTH HALF (S 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 13, TOWNSHIP 19 SOUTH, RANGE 59 EAST, M.D.M., CITY OF LAS VEGAS, CLARK COUNTY, NEVADA, AS SHOWN ON THE "EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION", ATTACHED HERETO AND MADE A PART HEREOF.

CONTAINING 20.70 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

SEVERANCE LANE OFF-SITE SEWER ALIGNMENT (PROJECT 2.1)

BEING THE SOUTH 20.00 FEET OF THE NORTH HALF (N 1/2) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 18, TOWNSHIP 19 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVADA.

CONTAINING 1.22 ACRES (53,261 SQUARE FEET), MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

ELKHORN ROAD OFF-SITE SEWER ALIGNMENT (PROJECT 2.2)

BEING THE NORTH 20.00 FEET OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 19, TOWNSHIP 19 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVADA.

CONTAINING 1.83 ACRES (79,883 SQUARE FEET), MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

DEER SPRINGS WAY OFF-SITE SEWER ALIGNMENT (PROJECT 2.3)

BEING THE SOUTH 20.00 FEET OF THE SOUTH HALF (S 1/2) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 19, TOWNSHIP 19 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVADA.

THE SOUTH 20.00 FEET OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 19, SAID TOWNSHIP AND RANGE.

THE NORTH 20.00 FEET OF THE EAST HALF (E 1/2) OF THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 19, SAID TOWNSHIP AND RANGE.

THE NORTH 20.00 FEET OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 19, SAID TOWNSHIP AND RANGE.

THE NORTH 20.00 FEET OF THE WEST HALF (W 1/2) OF THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 19, SAID TOWNSHIP AND RANGE.

CONTAINING 2.14 ACRES (93,121 SQUARE FEET), MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

CENTENNIAL PARKWAY OFF-SITE SEWER ALIGNMENT (PROJECT 2.4)

BEING PORTIONS OF SECTION 25, TOWNSHIP 19 SOUTH, RANGE 59 EAST, AND PORTIONS OF SECTION 30, TOWNSHIP 19 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS;

THE NORTH 20.00 FEET OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 25, SAID TOWNSHIP AND RANGE;

THE NORTH 20.00 FEET OF THE WEST HALF (W 1/2) OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 25, SAID TOWNSHIP AND RANGE;

THE WEST 20.00 FEET OF THE EAST HALF (E 1/2) OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 25 SAID TOWNSHIP AND RANGE;

THE WEST 20.00 FEET OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHEAST QUARTER (NE 1/4), OF SECTION 25, SAID TOWNSHIP AND RANGE;

THE NORTH 20.00 FEET OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SAID TOWNSHIP AND RANGE;

THE NORTH 20.00 FEET AND THE EAST 20.00 FEET OF THE SOUTH HALF (S 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 25, SAID TOWNSHIP AND RANGE;

THE NORTH 20.00 FEET OF THE EAST 20.00 FEET OF THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 25, SAID TOWNSHIP AND RANGE;

THE NORTH 20.00 FEET OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 30, SAID TOWNSHIP AND RANGE;

THE NORTH 20.00 FEET OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 30, SAID TOWNSHIP AND RANGE, AS SHOWN ON THE "EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION", ATTACHED HERETO AND MADE A PART HEREOF.

CONTAINING A TOTAL AREA OF 5.23 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

PROJECT 2.5

BEING A PORTION OF THE SOUTH HALF (S 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 24, TOWNSHIP 19 SOUTH, RANGE 59 EAST, M.D.M., CLARK COUNTY, NEVADA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST SIXTEENTH CORNER COMMON TO SECTION 24 AND SECTION 25, SAID TOWNSHIP AND RANGE; THENCE NORTH 89°00'28" EAST, ALONG THE SOUTH LINE OF SAID SOUTH HALF (S 1/2), A DISTANCE OF 308.25 FEET; THENCE NORTH 00°59'32" WEST, DEPARTING SAID SOUTH LINE, 50.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 3205.00 FEET, SAME BEING THE POINT OF BEGINNING, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 65°16'28" WEST;

THENCE NORTHEASTERLY, 733.09 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 13°06'20"; THENCE NORTH 88°58'09" EAST, 38.65 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 3175.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 51°43'53" WEST; THENCE SOUTHWESTERLY, 736.01 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 13°16'55"; THENCE SOUTH 89°00'28" WEST, 33.33 FEET TO **THE POINT OF BEGINNING**, AS SHOWN ON THE "EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION", ATTACHED HERETO AND MADE A PART HEREOF.

CONTAINING 22,036 SQUARE FEET (0.51 ACRES), MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

PROJECT 2.6

BEING A PORTION OF THE WEST HALF (W 1/2) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 24, TOWNSHIP 19 SOUTH, RANGE 59 EAST, M.D.M., CLARK COUNTY, NEVADA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID WEST HALF (W 1/2); THENCE NORTH 88°50'11" EAST, ALONG THE NORTH LINE OF SAID WEST HALF (W 1/2), A DISTANCE OF 680.41 FEET; THENCE SOUTH 00°11'31" WEST, DEPARTING SAID NORTH LINE, 20.01 FEET; THENCE SOUTH 88°50'11" WEST, 630.39 FEET; THENCE SOUTH 00°09'39" WEST, 793.78 FEET; THENCE SOUTH 71°11'39" WEST, 52.87 FEET; THENCE NORTH 00°09'39" EAST, 829.81 FEET TO **THE POINT OF BEGINNING**, AS SHOWN ON THE "EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION", ATTACHED HERETO AND MADE A PART HEREOF.

CONTAINING 53,698 SQUARE FEET (1.23 ACRES), MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

PROJECT 2.6

BEING A PORTION OF THE WEST HALF (W 1/2) OF THE NORTHWEST QUARTER (NW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 24, TOWNSHIP 19 SOUTH, RANGE 59 EAST, M.D.M., CLARK COUNTY, NEVADA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID WEST HALF (W 1/2); THENCE NORTH 88°50'46" EAST, ALONG THE NORTH LINE OF SAID WEST HALF (W 1/2), A DISTANCE OF 339.29 FEET; THENCE SOUTH 00°05'14" WEST, DEPARTING SAID NORTH LINE, 668.66 FEET; THENCE SOUTH 32°25'37" EAST, 484.87 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 3175.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 23°27'37" WEST; THENCE SOUTHWESTERLY, 101.00 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 01°49'22"; THENCE NORTH 32°25'37" WEST, 499.88 FEET; THENCE NORTH 00°05'14" EAST, 645.65 FEET; THENCE SOUTH 88°50'46" WEST, 238.89 FEET; THENCE NORTH 00°20'25" WEST, 50.01 FEET TO **THE POINT OF BEGINNING**, AS SHOWN ON THE "EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION", ATTACHED HERETO AND MADE A PART HEREOF.

CONTAINING 2.97 ACRES (129,380 SQUARE FEET), MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

PROJECTS 2.6, 2.7, 3.2, 3.7, 4.5, 4.6, 4.16

BEING A PORTION OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 24, TOWNSHIP 19 SOUTH, RANGE 59 EAST, M.D.M., CLARK COUNTY, NEVADA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER (SE 1/4); THENCE NORTH 88°48'43" EAST, ALONG THE NORTH LINE SAID SOUTHEAST QUARTER (SE 1/4), A DISTANCE OF 681.28 FEET; THENCE SOUTH 00°08'09" WEST, DEPARTING SAID NORTH LINE, 668.77 FEET; THENCE NORTH 88°51'15" EAST, 681.95 FEET; THENCE SOUTH 00°04'41" WEST, ALONG THE EAST LINE OF SAID SOUTHEAST QUARTER (SE 1/4), A DISTANCE OF 669.26 FEET; THENCE SOUTH 88°53'47" WEST, DEPARTING SAID EAST LINE AND ALONG THE SOUTH LINE OF

SAID SOUTHEAST QUARTER (SE 1/4), A DISTANCE OF 1365.23; THENCE NORTH 00°11'38" EAST, DEPARTING SAID SOUTH LINE AND ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER (SE 1/4), A DISTANCE OF 1336.56 FEET TO **THE POINT OF BEGINNING**;

CONTAINING 31.40 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCEL OF LAND:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER (SE 1/4); THENCE NORTH 88°48'43" EAST, ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER (SE 1/4), 89.83 FEET; THENCE SOUTH 01°11'17" EAST, DEPARTING SAID NORTH LINE, 70.00 FEET TO **THE POINT OF BEGINNING**;

THENCE NORTH 88°48'43" EAST, 527.96 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 44.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 38°12'45" EAST; THENCE SOUTHEASTERLY, 39.87 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 51°55'24"; THENCE SOUTH 00°08'09" WEST, 474.56 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 85.00 FEET; THENCE SOUTHWESTERLY, 29.30 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 19°45'00" TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 85.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 70°06'51" WEST; THENCE SOUTHEASTERLY, 194.02 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 130°46'54" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 85.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 20°53'45" WEST; THENCE NORTHEASTERLY, 29.30 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 19°45'00"; THENCE NORTH 88°51'15" EAST, 532.53 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 15.00 FEET; THENCE SOUTHEASTERLY, 23.88 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 91°13'26"; THENCE SOUTH 00°04'41" WEST, 549.18 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 15.00 FEET; THENCE SOUTHWESTERLY, 23.25 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 88°49'06"; THENCE SOUTH 88°53'47" WEST, 1223.97 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 44.00 FEET; THENCE NORTHWESTERLY, 39.72 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 51°43'24"; THENCE NORTH 00°01'10" EAST, 1156.12 FEET TO THEN BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 90.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 22°51'58" EAST; THENCE NORTHEASTERLY, 71.37 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 45°26'12" TO **THE POINT OF BEGINNING**, AS SHOWN ON THE "EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION", ATTACHED HERETO AND MADE A PART HEREOF.

CONTAINING 25.62 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

CONTAINING A TOTAL AREA OF 5.78 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

PROJECTS 2.6, 3.2

BEING A PORTION OF THE WEST HALF (W 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 24, TOWNSHIP 19 SOUTH, RANGE 59 EAST, M.D.M., CLARK COUNTY, NEVADA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID WEST HALF (W 1/2); THENCE NORTH 00°08'51" EAST, ALONG THE WEST LINE OF SAID WEST HALF (W 1/2), A DISTANCE OF 1339.39 FEET; THENCE NORTH 88°48'37" EAST, DEPARTING SAID WEST LINE AND ALONG THE NORTH LINE OF SAID WEST HALF (W 1/2), 680.32 FEET; THENCE SOUTH 00°08'34" WEST, DEPARTING SAID NORTH LINE, 65.02 FEET; THENCE SOUTH 88°48'37" WEST, 559.76 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 90.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 71°43'06" EAST; THENCE SOUTHWESTERLY, 97.82 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 62°16'19"; THENCE SOUTH 00°08'51" WEST, 1195.31 FEET; THENCE NORTH 88°50'11" EAST, 630.41 FEET; THENCE SOUTH 00°08'34" WEST, ALONG THE EAST LINE OF SAID WEST HALF (W 1/2), A DISTANCE OF 20.01 FEET; THENCE SOUTH 88°50'11" WEST, DEPARTING SAID EAST LINE AND ALONG THE SOUTH LINE OF SAID WEST HALF (W 1/2), A DISTANCE OF 680.43 FEET TO **THE POINT OF BEGINNING**, AS SHOWN ON THE "EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION", ATTACHED HERETO AND MADE A PART HEREOF.

CONTAINING 2.83 ACRES (123,449 SQUARE FEET), MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

PROJECTS 2.6, 3.7, 4.6, 4.16

BEING A PORTION OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 24, TOWNSHIP 19 SOUTH, RANGE 59 EAST, M.D.M., CLARK COUNTY, NEVADA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER (NE 1/4); THENCE NORTH 00°11'10" WEST, ALONG THE WEST LINE SAID NORTHEAST QUARTER (NE 1/4), A DISTANCE OF 1335.91 FEET TO THE NORTH LINE OF SAID NORTHEAST QUARTER (NE 1/4); THENCE NORTH 88°53'47" EAST, DEPARTING SAID WEST LINE AND ALONG SAID NORTH LINE, 1365.23 FEET; THENCE SOUTH 00°20'25" EAST, DEPARTING SAID NORTH LINE, 50.01 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 85.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 20°51'09" EAST; THENCE WESTERLY, 58.60 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF

39°29'55" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 85.00 FEET, A RADIAL LINE OT SAID BEGINNING BEARS NORTH 18°38'46" EAST; THENCE WESTERLY, 29.30 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 19°45'00"; THENCE SOUTH 88°53'47" WEST, 1199.40 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 44.00 FEET; THENCE WESTERLY, 38.00 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 49°28'35"; THENCE SOUTH 00°01'10" WEST, 1225.59 FEET; THENCE NORTH 88°55'50" EAST, 687.71 FEET;

THENCE SOUTH 00°03'23" EAST, 50.01 FEET TO THE SOUTH LINE OF SAID NORTHEAST QUARTER (NE 1/4); THENCE SOUTH 88°55'50" WEST, ALONG SAID SOUTH LINE, 729.71 TO THE POINT OF BEGINNING, AS SHOWN ON THE "EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION", ATTACHED HERETO AND MADE A PART HEREOF.

CONTAINING 3.53 ACRES (153,627 SQUARE FEET), MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

PROJECTS 2.6, 3.9

BEING THE NORTH 20.00 FEET AND THE EAST 80.00 FEET OF THE EAST HALF (E 1/2) OF THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 24, TOWNSHIP 19 SOUTH, RANGE 59 EAST, M.D.M., CLARK COUNTY, NEVADA, AS SHOWN ON THE "EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION", ATTACHED HERETO AND MADE A PART HEREOF.

CONTAINING 58,832 SQUARE FEET (1.35 ACRES), MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

PROJECTS 2.7, 2.9, 2.10, 3.9

BEING THE WEST 50.00 FEET OF SECTION 18, TOWNSHIP 19 SOUTH, RANGE 59 EAST, M.D.M., CLARK COUNTY, NEVADA;

THE WEST 50.00 FEET OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 19, SAID TOWNSHIP AND RANGE;

AND THE WEST 50.00 FEET OF THE NORTHWEST QUARTER (NW 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 19, SAID TOWNSHIP AND RANGE;

CONTAINING 9.99 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

PROJECTS 2.9, 3.4, 4.10

BEING A PORTION OF THE EAST HALF (E 1/2) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 13, TOWNSHIP 19 SOUTH, RANGE 59 EAST, M.D.M., CLARK COUNTY, NEVADA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF EAST HALF (E 1/2) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 13, SAID TOWNSHIP AND RANGE; THENCE SOUTH 00°32'25" EAST, ALONG THE EAST LINE OF SAID EAST HALF (E 1/2), A DISTANCE OF 80.02 FEET; THENCE SOUTH 88°20'44" WEST, DEPARTING SAID EAST LINE, 634.00 FEET; THENCE SOUTH 00°38'46" EAST, 1179.38 FEET; THENCE NORTH 88°31'50" EAST, 630.79 FEET; THENCE NORTH 88°34'47" EAST, 1.00 FEET; THENCE SOUTH 00°32'25" EAST, ALONG THE EAST LINE AND SAID EAST HALF (E 1/2), A DISTANCE OF 65.01 FEET; THENCE SOUTH 88°31'50" WEST, DEPARTING SAID EAST LINE AND ALONG THE SOUTH LINE OF SAID EAST HALF (E 1/2), A DISTANCE OF 681.67 FEET; THENCE NORTH 00°38'46" WEST, DEPARTING SAID SOUTH LINE AND ALONG THE WEST LINE OF SAID EAST HALF (E 1/2), A DISTANCE OF 1324.23 FEET; THENCE NORTH 88°20'44" EAST, DEPARTING SAID WEST LINE AND ALONG THE NORTH LINE OF SAID EAST HALF (E 1/2), A DISTANCE OF 684.16 FEET TO **THE POINT OF BEGINNING**, AS SHOWN ON THE "EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION", ATTACHED HERETO AND MADE A PART HEREOF.

CONTAINING 3.63 ACRES (158,004 SQUARE FEET), MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

PROJECTS 2.9, 3.4, 3.8, 4.1, 4.10, 4.16

BEING A PORTION OF THE NORTHWEST QUARTER (NW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 13, TOWNSHIP 19 SOUTH, RANGE 59 EAST, M.D.M., CLARK COUNTY, NEVADA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID NORTHWEST QUARTER (NW 1/4); THENCE NORTH 88°21'18" EAST, ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER (NW 1/4), A DISTANCE OF 1366.89 FEET; THENCE SOUTH 00°26'16" EAST, DEPARTING SAID NORTH LINE AND ALONG THE EAST LINE OF SAID NORTHWEST QUARTER (NW 1/4), 1331.88 FEET; THENCE SOUTH 88°34'47" WEST, DEPARTING SAID EAST LINE AND ALONG THE SOUTH LINE OF SAID NORTHWEST QUARTER (NW 1/4), A DISTANCE OF 1364.42 FEET; THENCE NORTH 00°32'25" WEST, DEPARTING SAID SOUTH LINE AND ALONG THE WEST LINE OF SAID NORTHWEST QUARTER (NW 1/4), A DISTANCE OF 65.01 FEET; THENCE NORTH 88°34'47" EAST, DEPARTING SAID WEST LINE, 1294.52 FEET; THENCE NORTH 00°26'16" WEST, 1142.37 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 90.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 19°02'00" WEST; THENCE NORTHWESTERLY, 67.44 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 42°56'02"; THENCE SOUTH 88°21'18" WEST, 1245.40 FEET; THENCE SOUTH 88°20'44" WEST, 1.56 FEET; THENCE NORTH 00°32'25" WEST, ALONG THE WEST LINE OF SAID NORTHWEST QUARTER (NW 1/4), A DISTANCE OF 80.02 FEET TO **THE POINT OF BEGINNING**, AS SHOWN ON THE "EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION", ATTACHED HERETO AND MADE A PART HEREOF.

CONTAINING 6.48 ACRES (282,483 SQUARE FEET), MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

PROJECTS 2.10, 3.5, 4.2, 4.9

BEING THE SOUTH 120.00 FEET OF SECTION 12, TOWNSHIP 19 SOUTH, RANGE 59 EAST, M.D.M., CITY OF LAS VEGAS, CLARK COUNTY, NEVADA, AS SHOWN ON THE "EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION", ATTACHED HERETO AND MADE A PART HEREOF.

CONTAINING 14.54 ACRES, NOMINAL, BASED UPON A STANDARD SECTION.

PROJECT 3.1

BEING THE NORTH 50.00 FEET OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHWEST QUARTER (NW 1/4), AND THE NORTH 50.00 FEET OF THE WEST HALF (W 1/2) OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 25, TOWNSHIP 19 SOUTH, RANGE 59 EAST, M.D.M., CITY OF LAS VEGAS, CLARK COUNTY, NEVADA, AS SHOWN ON THE "EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION", ATTACHED HERETO AND MADE A PART HEREOF.

CONTAINING 1.59 ACRES, NOMINAL, BASED UPON A STANDARD SECTION.

PROJECTS 3.6, 4.17

BEING THE EAST 120.00 FEET OF SECTION 14, TOWNSHIP 19 SOUTH, RANGE 59 EAST, M.D.M., CITY OF LAS VEGAS, CLARK COUNTY, NEVADA, AS SHOWN ON THE "EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION", ATTACHED HERETO AND MADE A PART HEREOF.

CONTAINING 14.54 ACRES, NOMINAL, BASED UPON A STANDARD SECTION.

PROJECTS 3.6, 4.8, 4.17

BEING THE EAST 120.00 FEET OF SECTION 23, TOWNSHIP 19 SOUTH, RANGE 59 EAST, M.D.M., CITY OF LAS VEGAS, CLARK COUNTY, NEVADA, AS SHOWN ON THE "EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION", ATTACHED HERETO AND MADE A PART HEREOF.

CONTAINING 14.54 ACRES, NOMINAL, BASED UPON A STANDARD SECTION.

PROJECT 4.11

BEING PORTIONS OF SECTION 24, TOWNSHIP 19 SOUTH, RANGE 59 EAST, M.D.M., CLARK COUNTY, NEVADA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE SOUTH 50.00 FEET OF THE EAST HALF (E 1/2) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4);

THE SOUTH 50.00 FEET OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4); AND

THE SOUTH 50.00 FEET OF THE WEST HALF (W 1/2) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4), AS SHOWN ON THE "EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION", ATTACHED HERETO AND MADE A PART HEREOF.

CONTAINING 67,668 SQUARE FEET (1.55 ACRES), MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

PROJECT 4.15

BEING THE SOUTH 50.00 FEET OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 23, TOWNSHIP 19 SOUTH, RANGE 59 EAST, M.D.M., CLARK COUNTY, NEVADA;

EXCEPTING THEREFROM THE EAST 120.00 FEET THEREOF;

THE SOUTH 50.00 FEET OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 18, SAID TOWNSHIP AND RANGE;

AND THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 18, SAID TOWNSHIP AND RANGE.

CONTAINING 14.53 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

Section 5. The District shall constitute one construction unit with the projects and subprojects described in Section 3.

Section 6. All of the costs of the Project will be defrayed by assessments. The assessments, levied in the principal amount not to exceed \$51,187,785, plus interest thereon, shall be payable in semiannual installments payable semiannually at the office of the City Treasurer. One assessment principal installment of \$5,000 shall be due from the Developer on April 1, 2005 and shall be credited against the assessment due on such portion of the Property as specified by the Developer. Two semi-annual interest payments shall be due on October 1, 2004 and April 1, 2005 (provided that there shall be credited against such installments of interest the amount of capitalized interest available to pay the next installment of interest on the Bonds). Thirty-eight fully amortized assessment installments of principal and interest will be due semi-annually on April 1 and October 1 of each year, commencing on October 1, 2005 and ending on April 1, 2024. The assessments will be levied on an area basis; except that for property which

has been subdivided for single-family residential purposes the assessments will be levied on a per lot basis, as more fully described in the ordinance levying the assessments.

Section 7. All actions, proceedings and matters previously taken, had and done by the Council and the officers of the City (not inconsistent with the provisions of this Ordinance), concerning the District and the Project, including but not limited to the performing of all prerequisites to the creation of the District, the entering into of the Financing Agreement, the acquisition and improvement of the Project, the determination of the specially benefited property therein, and the levy of assessments for that purpose be, and the same hereby are, ratified, approved and confirmed.

Section 8. The officers of the City be, and they hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance, including without limiting the generality of the foregoing, the preparation of all necessary documents, legal proceedings and other items necessary or desirable for the completion of the levying of the assessments for the District and the issuance of the bonds for the Project.

Section 9. Immediately upon the final adoption of this Ordinance, the Council shall, and hereby directs the City Clerk to, file in the office of the County Recorder of Clark County, Nevada, a certified copy of the list of the tracts to be assessed and the amount of maximum benefits estimated to be assessed against each tract in the District, as shown on the final assessment plat and map. Notwithstanding the foregoing, neither the failure to record such list nor any defect or omission in such list regarding any tract to be included in the District shall affect the validity of any assessment, the lien for the payment thereof or the priority of that lien.

Section 10. If bonds are issued for the Project, the Engineer is hereby authorized to approve all requests by the Developer for payment by the City for the acquisition of each subproject described in the Financing Agreement, subject to and in accordance with the applicable provisions of the Financing Agreement. Upon such approval, the City Treasurer is hereby authorized to make such payments to the Developer, without the necessity of any further authorization or approval by the Council.

Section 11. All ordinances, resolutions, bylaws and orders, or parts thereof, in conflict with the provisions of this Ordinance are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance, resolution, bylaw or order, or part thereof, previously repealed.

Section 12. When first proposed, this Ordinance must be read to the Council by title, after which an adequate number of copies of this Ordinance must be deposited with the City Clerk for public examination and distribution. Notice of the deposit must be published once in a newspaper published and having general circulation in the City at least 10 days before the adoption of the Ordinance, such publication to be in substantially the following form:

(Form of Publication of Notice of Deposit of an Ordinance)

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE CREATING THE CITY OF LAS VEGAS, NEVADA, SPECIAL IMPROVEMENT DISTRICT NO. 607 (CLIFF'S EDGE); ORDERING A STREET PROJECT, STORM SEWER PROJECT, SANITARY SEWER PROJECT AND WATER PROJECT, WITHIN THE CITY OF LAS VEGAS, NEVADA; AND PROVIDING OTHER MATTERS RELATED THERETO.

PUBLIC NOTICE IS HEREBY GIVEN that an adequate number of typewritten copies of the above-numbered and entitled proposed Ordinance are available for public inspection and distribution at the office of the City Clerk of the City of Las Vegas, at her office in City Hall, 400 Stewart Avenue, Las Vegas, Nevada, and that such Ordinance was proposed April 21, 2004, and will be considered for adoption at the a regular meeting of the City Council of the City of Las Vegas held on May 5, 2004.

/s/ Barbara Jo Ronemus
City Clerk

(End of Form of Publication of Notice of Deposit of An Ordinance)

Section 13. After this Ordinance is signed by the Mayor and attested and sealed by the City Clerk, this Ordinance shall be published once by its title only, together with the names of the Council members voting for or against its passage, such publication to be made in the Las Vegas Review-Journal, a newspaper published and having a general circulation in the City, such publication to be in substantially the following form:

(Form of Publication of Adoption of Ordinance)

ORDINANCE NO. _____

(of Las Vegas, Nevada)

AN ORDINANCE CREATING THE CITY OF LAS VEGAS, NEVADA, SPECIAL IMPROVEMENT DISTRICT NO. 607 (CLIFF'S EDGE); ORDERING A STREET PROJECT, STORM SEWER PROJECT, SANITARY SEWER PROJECT AND WATER PROJECT, WITHIN THE CITY OF LAS VEGAS, NEVADA; AND PROVIDING OTHER MATTERS RELATED THERETO.

PUBLIC NOTICE IS HEREBY GIVEN that such Ordinance was proposed on April 21, 2004, and was passed at the meeting held on May 5, 2004, by the following vote of the City Council:

Those Voting Aye:

Those Voting Nay:

Those Absent:

This Ordinance shall be in full force and effect from and after the 9th day of May, 2004, i.e., the day after the publication of such Ordinance by its title only.

IN WITNESS WHEREOF, the City Council of the City of Las Vegas, Nevada, has caused this Ordinance to be published by title only.

DATED this _____, 2004.

/s/ Oscar B. Goodman

Mayor

Attest:

/s/ Barbara Jo Ronemus

City Clerk

(End of Form of Publication)

Section 14. If any section, paragraph, clause or other provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or other provision shall not affect any of the remaining provisions of this Ordinance.

Oscar B. Goodman, Mayor

(SEAL)

Attest:

Barbara Jo Ronemus, City Clerk

Approved as to Form:

4-8-'04 Madeline J. Diekman-D'Amico
Date Deputy City Attorney

This Ordinance shall be in full force and effect from and after May 9, 2004, i.e., the date after the publication of such ordinance by its title.

STATE OF NEVADA)
)
COUNTY OF CLARK :ss.
)
CITY OF LAS VEGAS)

I, Barbara Jo Ronemus, the duly chosen, qualified and acting City Clerk of Las Vegas (the "City"), in the State of Nevada, do hereby certify:

1. The foregoing pages constitute a true, correct, complete and compared copy of an ordinance which was introduced at the meeting of the Council on April 21, 2004 and finally adopted and approved on May 5, 2004.

2. The following members of the Council were present at the April 21, 2004 Council meeting:

Mayor:	Oscar B. Goodman
Council members:	Gary Reese
	Larry Brown
	Lynette Boggs McDonald
	Lawrence Weekly
	Michael Mack
	Janet Moncrief

Those Absent:

3. The foregoing Ordinance was first proposed and read by title to the City Council on April 21, 2004, and referred to a committee composed of _____ for recommendation; thereafter the said committee reported favorably on said Ordinance on May 5, 2004, which was a regular meeting of said Council; that at said regular meeting, the proposed Ordinance was again read by title to the City Council and adopted. The members of the City Council were present at the May 5, 2004 meeting and voted upon the adoption of the Ordinance as follows:

Those Voting Aye:

Mayor:	Oscar B. Goodman
Council members:	Gary Reese
	Larry Brown
	Lynette Boggs McDonald
	Lawrence Weekly
	Michael Mack
	Janet Moncrief

Those Voting Nay:

Those Absent:

4. The original of the Ordinance has been approved and authenticated by the signatures of the Mayor of the City and myself as the City Clerk, and sealed with the seal of the City, and has been recorded in the journal of the Council kept for that purpose in my office, which record has been duly signed by such officers and properly sealed.

5. All members of the Council were given due and proper notice of the meetings held on April 21 and May 5, 2004. Pursuant to Section 241.020, Nevada Revised Statutes, written notice of the meetings was given no later than 9:00 a.m. on the third working day before the meetings including in the notice the time, place, location, and agenda of the meeting:

(a) By posting a copy of the notice by 9:00 a.m. at least three working days before the meetings at the principal office of the Council, or if there is no principal office, at the building in which the meeting is to be held, and at least three (3) other separate, prominent places within the jurisdiction of the Council, to wit:

- (i) Court Clerk's Office Bulletin Board
City Hall Plaza
Las Vegas, Nevada
- (ii) City Hall Plaza
Special Outside Posting Bulletin Board
Las Vegas, Nevada
- (iii) Las Vegas Library
833 Las Vegas Boulevard North
Las Vegas, Nevada
- (iv) Clark County Government Center
500 South Grand Central Parkway
Las Vegas, Nevada
- (v) Grant Sawyer Building
555 E. Washington Avenue
Las Vegas, Nevada

and

(b) By mailing a copy of the notice by 9:00 a.m. no later than three working days before the meetings to each person, if any, who has requested notice of the meetings of the Council in the same manner in which notice is required to be mailed to a member of the Council.

6. A copy of such notice so given of the meeting of the Council on April 21, 2004 is attached to this certificate as Exhibit A and a copy of the notice so given of the meeting of the Council on May 5, 2004 is attached to this certificate as Exhibit B.

7. A copy of the notice of each meeting was posted on the City's website no later than 9:00 a.m. on the third working day prior to each meeting.

8. A copy of the affidavit of publication of notice of deposit of the Ordinance is attached to this certificate as Exhibit C. A copy of the affidavit of publication of adoption of the Ordinance is attached to this certificate as Exhibit D.

9. Upon request, the Council, at no charge, at least one copy of the agenda for its public meetings, any proposed ordinance or regulation which will be discussed at the public meeting, and any other supporting materials provided to the members of the Council for an item on the agenda, except for certain confidential materials and materials pertaining to the closed meetings, as provided by law.

IN WITNESS WHEREOF, I have hereunto set my hand on this _____, 2004.

City Clerk

(SEAL)

EXHIBIT A

(Attach Copy of Notice of April 21, 2004 Meeting)

EXHIBIT B

(Attach Copy of Notice of May 5, 2004 Meeting)

EXHIBIT C

**(Attach Affidavit of Publication of Notice of Deposit of
the Ordinance)**

EXHIBIT D

(Attach Affidavit of Publication of Adoption of Ordinance)

AGENDA SUMMARY PAGE
RECOMMENDING COMMITTEE MEETING OF: MAY 3, 2004

DEPARTMENT: CITY ATTORNEY

DIRECTOR: BRADFORD R. JERBIC

☐

CONSENT

☒

DISCUSSION

SUBJECT:

NEW BILL

Bill No. 2004-33 – Levies Assessments for Special Improvement District No 607 - Cliff's Edge.
Sponsored By: Step Requirement

Fiscal Impact

☐

No Impact

Amount: \$51,187,785.00

☒

Budget Funds Available

Dept./Division: Public Works/SID

☐

Augmentation Required

Funding Source: Capital Projects Fund - Special Assessments

PURPOSE/BACKGROUND:

Acquisition, construction and installation of street, sanitary sewer, storm sewer/drainage improvements, and water main projects. Costs will be recovered over a 20-year period through the levy and collection of special assessments.

RECOMMENDATION:

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

BACKUP DOCUMENTATION:

Bill No. 2004-33

COMMITTEE RECOMMENDATION:

COUNCILWOMAN MONCRIEF recommended Bill 2004-33 be forwarded as a First Amendment to the Full Council with a "Do Pass" recommendation. **COUNCILMAN WEEKLY** concurred.

MINUTES:

COUNCILMAN WEEKLY declared the Public Hearing open.

MIKE THOMPSON, Public Works, stated that his comments pertaining to Bill No. 2004-32 applied to this proposed bill as well.

No one appeared in opposition.

COUNCILMAN WEEKLY declared the Public Hearing closed.

(4 17)

1-422

Summary – An ordinance levying assessments in City of Las Vegas, Nevada, Special Improvement District No. 607 (Cliff's Edge), ratifying action taken by City officers toward the levy of assessments, and providing other matters related thereto.

BILL NO. 2004-33

ORDINANCE NO. _____

(of City of Las Vegas, Nevada)

AN ORDINANCE CONCERNING THE CITY OF LAS VEGAS, NEVADA SPECIAL IMPROVEMENT DISTRICT NO. 607 AND ASSESSING THE COST OF LOCAL IMPROVEMENTS AGAINST THE ASSESSABLE PROPERTY BENEFITED BY THE LOCAL IMPROVEMENTS; AND PROVIDING OTHER MATTERS RELATED THERETO.

WHEREAS, the City Council (the "Council") of the City of Las Vegas, Nevada (the "City"), has previously, pursuant to the requisite preliminary proceedings, created the City of Las Vegas, Nevada, Special Improvement District No. 607 (Cliff's Edge) (the "District") for the purpose of acquiring and improving streets, sanitary sewers, storm sewers and water mains (the "Project"), and has provided that the entire cost and expense of the Project shall be paid by special assessments, according to benefits received by the benefited lots, tracts and parcels of land in the District; and

WHEREAS, there has previously been presented to the Council a written petition from Cliffs Edge, LLC, a Nevada limited liability company (the "Developer") requesting the City to initiate the acquisition and improvement of the Project, to issue bonds and levy assessments and requesting the City to proceed with certain actions required by Chapter 271 of Nevada Revised Statutes ("NRS") and all laws amendatory thereof and supplemental thereto (the "Act"); and

WHEREAS, the City and the Developer and other owners of assessable property in the District (collectively, with the Developer, the "Owners") have entered into agreements (collectively, the "Financing Agreement") for the acquisition and improvement of the Project, which contain the terms and conditions required by NRS 271.710 and 271.720; and

WHEREAS, the Owners are the owners of 100% of the assessable property comprising the District; and

WHEREAS, the District has been created by an ordinance designated as the “City of Las Vegas, Nevada, Special Improvement District No. 607 (Cliff’s Edge) Creation Ordinance” previously approved by the Council under the provisions of the Act; and

WHEREAS, the Council has previously determined that the entire cost and expense to the City of the acquisition and improvement of the Project is to be paid by special assessments levied against the benefited lots, tracts and parcels of land in the District; and

WHEREAS, such cost and expense of the Project includes the costs and expenses of the City to be incurred in connection with the issuance of the bonds by the City (the “Bonds”) to finance the cost of the acquisition and improvement of the Project and the amount of reserve and other funds for the Bonds; and

WHEREAS, the Council has previously determined and does hereby declare that the net cost to the City of the Project is \$51,187,785, of which \$-0- is available from other sources and \$51,187,785 is to be assessed upon the benefited lots, tracts and parcels of land in the District; and

WHEREAS, the Council, by resolution duly adopted, directed the City Engineer, (the “Engineer”) to make out a preliminary assessment roll; and

WHEREAS, after determination of the cost and expense of the acquisition and improvement of the Project to be paid by the property specially benefited, the Council, together with the Engineer, made out an assessment roll containing, among other things, the name and address of the last-known owner of the property to be assessed, a description of each lot, tract and parcel of land to be assessed, and the amount of the assessment thereon and has filed the assessment roll with the City Clerk; and

WHEREAS, the Council, by resolution duly adopted and confirmed the assessment roll to be in final form; and

WHEREAS, the assessments do not exceed the benefits to the property assessed nor the total cost and expense of the acquisition and improvement of the Project payable from assessments as previously determined and do not exceed the reasonable market value of the lots, tracts and parcels of land to be assessed; and

WHEREAS, it is incumbent upon the Council to provide when said assessments shall become due and the penalties payable after any delinquency; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAS VEGAS, IN THE STATE OF NEVADA, DOES ORDAIN:

Section 1. This ordinance shall be known as and may be cited by the short title "District No. 607 Assessment Ordinance" (this "Ordinance").

Section 2. All actions, proceedings and matters previously taken, had and done by the City and the officers thereof (not inconsistent with the provisions of this Ordinance) concerning the District, including, but not limited to, the acquisition and improvement of the Project, the levy of assessments for those purposes, and the validation and confirmation of the assessment roll and the assessments therein, are ratified, approved and confirmed.

Section 3. For the purpose of paying the cost and expense of acquisition and improvement of the Project by the City, there are hereby levied and assessed against the lots, tracts and parcels of land in the District specially benefited by the Project and described in the assessment roll for the District in the form on file in the office of the City Clerk on the date of adoption of this Ordinance, the amounts and assessments shown in the assessment roll (as so filed and confirmed). The Council hereby finds and determines that such assessments do not exceed the benefits to the property assessed nor the total cost and expense of the acquisition and improvement of the Project payable from assessments as previously determined and do not exceed the reasonable market value of the lots, tracts and parcels of land to be assessed.

Section 4. The Owners pursuant to the Financing Agreement have elected to pay the assessments in installments, with interest as hereinafter provided, and the Council hereby authorizes such manner of payment. One assessment principal installment of \$5,000 shall be due on April 1, 2005, and two semi-annual interest payments shall be due on October 1, 2004 and April 1, 2005 (provided that there shall be credited against such installments of interest the amount of capitalized interest available to pay the next installment of interest on the Bonds). The balance of the unpaid assessments shall be payable on April 1 and October 1 of each year, commencing on October 1, 2005, in thirty-eight (38) semi-annual substantially equal installments of principal and interest until paid in full, with interest in all cases on the unpaid and deferred installments of principal from the effective date of this Ordinance at a rate or rates, which shall not exceed by more than one percent (1%) the highest rate of interest on the Bonds issued for the District. The principal and interest on such assessments shall be payable semiannually at the office of the City Treasurer on April 1 and October 1 in each year. Before

Bonds are issued, the Council shall by resolution fix the rate or rates of interest on the unpaid and deferred installments of the assessments. The effective interest rate on the Bonds will not exceed the statutory maximum rate (i.e., will not exceed by more than three percent (3%) the "Index of Twenty Bonds" that is most recently published in The Bond Buyer before a negotiated offer for the sale of the Bonds is accepted).

The installments of the assessments shall be payable at the office of the City Treasurer. Pursuant to NRS 271.415(5), the City Treasurer shall notify the owners of real property within the District of the amounts becoming due and each such owner shall be deemed notified and shall be responsible for any penalties or delinquencies regardless of such owner's failure to maintain an accurate mailing address with the County Assessor. Such notice shall state that the assessment installment is payable not later than the April 1 or October 1 next succeeding such notice. Except as herein provided, failure to pay any installment, whether of principal or interest, when due shall cause the whole amount of the unpaid principal of such assessment to become due and payable immediately, at the option of the City, the exercise of said option shall be indicated by the commencement of foreclosure or sale proceedings by the City. The whole amount of the unpaid principal and the interest that has accrued thereon shall, commencing fifteen (15) days after the date on which the delinquent installment became due, whether or not the option to accelerate the due date for the payment of the unpaid principal is exercised, bear a penalty at the rate of 2% (or at any higher rate authorized by statute, or any lower rate, which may be zero percent, for such period as determined by the City Treasurer) per month (not prorated for any portion of the month) on the unpaid balance of the assessment and accrued interest, until the day of the foreclosure sale or until paid; provided, however, that, in the event of the failure on the part of the Developer, or on the part of any merchant builder that has purchased property from the Developer or any of its successors in interest, to pay, on or before the date on which the same becomes due, any installment (either principal or interest) of the assessment against any lot or parcel that is then owned by it, but such delinquency is not cured within such fifteen (15) day period, the Developer or such merchant builder, as the case may be, shall pay, in addition to such delinquent installment, a penalty that is equal to 2% of the whole amount of the unpaid principal and the interest that has accrued thereon, prorated based upon a thirty day month, for the number of days during which such delinquency existed; and provided further that, at any time prior to the day of such sale, the owner of any such lot or parcel, including without

limitation the Developer, may pay the aggregate amount of all of the delinquent installments originally becoming due on or before the date of said payment, with accrued interest thereon and all penalties and costs of collection accrued, and shall thereupon be restored to the right thereafter to pay in installments in the same manner as if a default had not been suffered.

The owner of any property assessed and not in default as to any assessment installment or payment may, at any time (at the option of such owner), pay the whole or any portion of the unpaid principal with interest accruing thereon to the next assessment payment date, together with a prepayment premium equal to three percent (3%) of the principal amount so prepaid. If the Bonds (or any bonds issued to refund the Bonds) may then be redeemed without the payment of any premium, the City, in its sole discretion, may waive the requirement of payment of the redemption premium. No waiver for a particular prepayment premium shall be deemed to be a waiver for any other prepayment premium. The owner of any assessed property may, at any time, request the City to provide information as to the total amount which will be due in connection with a proposed prepayment of an assessment by such owner and the City will promptly (but in any event within five (5) business days) provide such information to the owner. After any partial prepayment of an assessment or refunding of the Bonds pursuant to NRS 271.488, the City Treasurer shall reamortize the assessment installments due on the parcel on which the partial prepayment was made or, in the case of a refunding, on all parcels, so that the remaining installments are semiannual substantially level installments of principal and interest with a final due date of April 1, 2024.

Assessment installments or assessment prepayments shall be reduced by the amount of any credits available for such installments or prepayments as provided in the Financing Agreement. This section does not prevent the City from amending this Ordinance, the Financing Agreement or any other documents executed in connection with the Bonds to provide for other uses of the interest earned on Bond proceeds, any excess Bond proceeds or the reserve fund established for the Bonds (the "Reserve Fund") in connection with a refunding of the Bonds; and the owners of the property assessed in the District have no entitlement to payment of any amounts in the interest earned on Bond proceeds, any excess Bond proceeds or the Reserve Fund in the event of such an amendment.

Section 5. The amounts assessed as provided in this Ordinance shall be a lien upon the lots, tracts and parcels of land from the effective date of this Ordinance until paid.

Pursuant to NRS Section 271.420, such lien shall be co-equal with the latest lien upon the lots, tracts and parcels to secure the payment of general taxes, shall not be subject to extinguishment by the sale of any property on account of the nonpayment of general taxes, and shall be prior and superior to all liens, claims, encumbrances and titles other than the lien of assessments and general taxes. The sale of any such lot, tract or parcel of land for general or other taxes shall not relieve such lot, tract or parcel of land from such assessment or the lien therefor. Such amounts shall continue to be a lien upon the lots, tracts and parcels of land assessed until paid in full (including all principal and the interest thereon, and any penalties and collection costs).

Section 6. (a) Should any lot, tract or parcel of land within the District be divided after the effective date of this Ordinance and before the collection of all the assessment installments, the Council may require the City Treasurer to apportion the uncollected amounts upon the several parts of land so divided on a net assessable area basis unless such land is divided into single-family residential lots, in which case the uncollected amounts will be divided on a per lot basis; provided that the applicant, at the time of such apportionment, may request that the uncollected amounts be apportioned on a net area basis (rather than on a per lot basis). The City may consider such request and, in its sole discretion, apportion the uncollected assessments accordingly. For purposes of such apportionment, the term "net assessable area" shall exclude (i) areas excluded from the definition of "assessable property" pursuant to NRS 271.040, (ii) areas designated on the assessment plat as being areas of non-assessment, and (iii) properties which are conveyed with restrictions limiting the uses of such properties to common areas, parks, landscaped areas and other permanent open space. In the event that any conflict exists between the provisions of the assessment plat and this Ordinance, the terms of this Ordinance shall control. The area of lands not included in the net assessable area may be estimated by the City in the case of any apportionment for which final legal descriptions of the excluded area are not yet available and any such estimate shall be final and conclusive absent fraud.

(b) The City may also reapportion assessments on tracts (whether currently within the District or latter added to the District) with the consent of property owners whose assessment will be increased thereby pursuant to NRS 271.425(3) or NRS 271.710(2) if the Council finds that the proposed action will not:

(i) materially or adversely impair the obligation of the City with respect to the Bonds; or

(ii) increase the principal balance of any assessment to an amount such that the aggregate amount which is assessed against a tract exceeds the minimum benefit to the tract that is estimated to result from the project which is financed by the assessment.

(c) The report of such an apportionment, when approved, shall be conclusive on all the parties, and all assessments thereafter made upon the tracts shall thereafter be according to the subdivision. The report, when approved, shall be recorded in the office of the County Recorder, together with a statement that the current payment status of any of the assessments may be obtained from the City Treasurer. Neither the failure to record the report nor any defect in the report as recorded shall affect the validity of the assessments, the lien for the payment thereof or the priority of that lien.

Section 7. In case any such lot, tract or parcel of land so assessed is delinquent in the payment of such assessment or any installment of principal or interest, the City Treasurer promptly (but in no event later than 60 days after the installment due date) shall mark the assessment installment delinquent on the assessment roll for the District and shall notify the owner of such delinquent property, if known, in writing of such delinquency, by first class mail, postage prepaid, addressed to the addressee's last-known address. Said assessment shall be enforced by the City Treasurer and other officers of the City, as provided in NRS 271.545 to 271.630, and the assessment roll and certified copy of this Ordinance shall be prima facie evidence of the regularity of the proceedings. Unless otherwise directed by the Council, in the case of such a collection, the City Treasurer shall determine whether to cause the whole amount of the unpaid assessment with respect to such property to be immediately due and payable. If any such collection is not promptly enforced by the City, any bondholder may file and prosecute a foreclosure action in the name of the City. Any bondholder may also proceed against the City to protect and enforce the rights of the owners of the Bonds under this Ordinance and the Act by suit, action or special proceedings in equity or at law, either for the appointment of a receiver or for the specific performance of any provision contained herein or in the Act or in an award of execution of any power herein granted for the enforcement of any proper legal or equitable remedy as such bondholder may deem most effectual to protect and enforce the rights aforesaid. All such proceedings at law or in equity shall be instituted, had and maintained for the equal

benefit of all owners of the Bonds then outstanding. The failure of the bondholders so to foreclose upon the property which is the subject of such delinquent assessments or so to proceed against the City, or both, shall not relieve the City or any of its officers, agents or employees of any duty so to take the actions hereinabove set forth.

Section 8. The City Clerk is hereby directed to deliver to the County Assessor, the County Recorder and the City Treasurer, a copy of the final assessment roll containing a description of the lots, tracts and parcels of land being assessed, with the amount of the assessment levied upon each and the name and address of the owner against whom the assessment was made, together with a statement that the current payment status of any of the assessments may be obtained from the City Treasurer. Neither the failure to record the assessment roll as provided in this Section, nor any defect in the roll as recorded shall affect the validity of the assessments, the lien for the payment thereof or the priority of that lien. The City Treasurer is hereby directed to collect the amounts assessed as a tax upon the lots, tracts and parcels of land to which they were assessed.

Section 9. In accordance with NRS 271.390(2), the City Clerk shall give written notice of the levy of assessments by mailing a copy of such notice, postage prepaid, either before or promptly after the effective date of this Ordinance, to the owners of all property upon which the assessment was levied at their last-known addresses. Proof of such mailing shall be made by the affidavit of the City Clerk, provided, however, that failure to mail any such notice or notices shall not invalidate any assessment or any other proceedings concerning the District. Proof of the mailing shall be maintained in the permanent records of the office of the City Clerk until all special assessments and all Bonds shall have been paid in full, as to both principal and interest, or until any claim is barred by an appropriate statute of limitations. The Council hereby determines that the manner of giving notice herein provided by mail is reasonably calculated to inform the parties of the proceedings concerning the District and the levy of assessments which may directly and adversely affect their legally protected interests.

Section 10. The notice provided for in NRS 271.390(2) and in Section 9 of this Ordinance shall be in substantially the following form:

(Form of Notice)

**NOTICE TO PROPERTY OWNERS OF THE LEVY OF ASSESSMENTS FOR
IMPROVEMENTS IN THE CITY OF LAS VEGAS, NEVADA, SPECIAL
IMPROVEMENT
DISTRICT NO. 607 (CLIFF'S EDGE)**

NOTICE IS HEREBY GIVEN to the owners of all property upon which an assessment has been levied that, by an ordinance duly passed, adopted, signed and approved on May 5, 2004 (the "Ordinance"), there were levied and assessed against the lots, tracts and parcels of land specially benefited by the local improvements in what is designated as the "City of Las Vegas, Nevada, Special Improvement District No. 607 (Cliff's Edge)" (said lots, tracts and parcels of land being more specifically described in the assessment roll designated in the Ordinance), the costs and expenses of such improvements.

The assessments are payable at the times and in the amounts specified in the Ordinance. Failure to pay any installment, whether of principal or interest, when due shall cause the whole amount of the unpaid principal of such assessment to become due and payable immediately at the option of the City, the exercise of said option shall be indicated by the commencement of sale proceedings by the City. The whole amount of the unpaid principal and the interest that has accrued thereon shall, commencing fifteen (15) days after the date on which the delinquent installment became due, whether or not the option to accelerate the due date for the payment of the unpaid principal is exercised, bear a penalty at the rate of 2% (or at any higher rate authorized by statute, or any lower rate, which may be zero percent, for such period as determined by the City Treasurer) per month (not prorated for any portion of the month) on the unpaid balance of the assessment and accrued interest, until the day of the sale, or until paid; provided, however, that, in the event of the failure on the part of the Developer (as defined in the Ordinance), or on the part of any merchant builder that has purchased property from the Developer or any of its successors in interest, to pay, on or before the date on which the same becomes due, any installment (either principal or interest) of the assessment against any lot or parcel that is then owned by it, but such delinquency is not cured within such fifteen (15) day period, the Developer or such merchant builder, as the case may be, shall pay, in addition to such delinquent installment, a penalty that is equal to 2% of the whole amount of the unpaid principal and the interest that has accrued thereon, prorated based upon a thirty day month, for the number

of days during which such delinquency existed; and provided further that, at any time prior to the day of such sale, the owner of any such lot or parcel, may pay the aggregate amount of all of the delinquent installments originally becoming due on or before the date of said payment, with accrued interest thereon and all penalties and costs of collection accrued, and shall thereupon be restored to the right thereafter to pay in installments in the same manner as if default had not been suffered.

Pursuant to NRS 271.395, within 15 days after the effective date of the Ordinance, any person who has filed a complaint, protest or objection in writing may commence an action or suit in any court of competent jurisdiction to correct or set aside such determination. Thereafter all actions or suits attacking the regularity, validity and correctness of the proceedings, of the assessment roll, of each assessment contained in the assessment roll, and of the amount of the assessment levied on each lot, tract and parcel of land including without limiting the generality of the foregoing, the defense of confiscation, are perpetually barred.

The amounts assessed as aforesaid constitute a lien upon said lots, tracts and parcels of land from May 9, 2004, which lien shall be coequal with the latest lien thereon to secure the payment of general (ad valorem) taxes and prior and superior to all other liens, claims, encumbrances and titles (other than the liens of assessments and general (ad valorem) taxes). The sale of any such lot, tract or parcel of land for general (ad valorem) taxes shall not relieve such lot, tract or parcel of land from such assessment or the lien therefor.

DATED this _____, 2004.

/s/ Barbara Jo Ronemus
City Clerk

Amount of assessment \$ _____

Description of property assessed _____

(End of Form of Notice)

Section 11. The officers of the City are authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance, including without limiting the generality of the foregoing, the preparation of all necessary documents, legal proceedings and other items necessary or desirable for the issuance of the Bonds.

Section 12. All ordinances, bylaws, resolutions and orders, or parts thereof, in conflict with the provisions of this Ordinance are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance, bylaw, resolution or order, or part thereof, previously repealed.

Section 13. When first proposed, this Ordinance must be read to the Council by title, after which an adequate number of copies of this Ordinance must be deposited with the City Clerk for public examination and distribution. Notice of the deposit must be published once in a newspaper published and having general circulation in the City at least 10 days before the adoption of the Ordinance, such publication to be in substantially the following form:

(Form of Publication of Notice of Deposit of an Ordinance)

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE CONCERNING THE CITY OF LAS VEGAS, NEVADA SPECIAL IMPROVEMENT DISTRICT NO. 607 AND ASSESSING THE COST OF LOCAL IMPROVEMENTS AGAINST THE ASSESSABLE PROPERTY BENEFITED BY THE LOCAL IMPROVEMENTS; AND PROVIDING OTHER MATTERS RELATED THERETO.

PUBLIC NOTICE IS HEREBY GIVEN that an adequate number of typewritten copies of the above-numbered and entitled proposed Ordinance are available for public inspection and distribution at the office of the City Clerk of the City of Las Vegas, at her office in City Hall, 400 Stewart Avenue, Las Vegas, Nevada, and that such Ordinance was proposed April 21, 2004, and will be considered for adoption at the a regular meeting of the City Council of the City of Las Vegas held on May 5, 2004.

/s/ Barbara Jo Ronemus
City Clerk

(End of Form of Publication of Notice of Deposit of An Ordinance)

Section 14. After this Ordinance is signed by the Mayor and attested and sealed by the City Clerk, this Ordinance shall be published once by its title only, together with the names of the Council members voting for or against its passage, such publication to be made in the Las Vegas Review-Journal, a newspaper published and having a general circulation in the City, such publication to be in substantially the following form:

(Form of Publication of Adoption of Ordinance)

ORDINANCE NO. _____

(of Las Vegas, Nevada)

AN ORDINANCE CONCERNING THE CITY OF LAS VEGAS, NEVADA SPECIAL IMPROVEMENT DISTRICT NO. 607 AND ASSESSING THE COST OF LOCAL IMPROVEMENTS AGAINST THE ASSESSABLE PROPERTY BENEFITED BY THE LOCAL IMPROVEMENTS; AND PROVIDING OTHER MATTERS RELATED THERETO.

PUBLIC NOTICE IS HEREBY GIVEN that such Ordinance was proposed on April 21, 2004, and was passed at the meeting held on May 5, 2004, by the following vote of the City Council:

Those Voting Aye:

Those Voting Nay:

Those Absent:

This Ordinance shall be in full force and effect from and after the 9th day of May, 2004, i.e., the day after the publication of such Ordinance by its title only.

IN WITNESS WHEREOF, the City Council of the City of Las Vegas, Nevada, has caused this Ordinance to be published by title only.

DATED this _____, 2004.

/s/Oscar B. Goodman

Mayor

Attest:

/s/Barbara Jo Ronemus

City Clerk

(End of Form of Publication)

Section 15. If any section, paragraph, clause or other provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or other provision shall not affect any of the remaining provisions of this Ordinance.

Oscar B. Goodman, Mayor

(SEAL)

Attest:

Barbara Jo Ronemus, City Clerk

Approved as to Form:

4-8-'04 *Madeline J. Diekmann-DiCicco*
Date Deputy City Attorney

This Ordinance shall be in full force and effect from and after May 9, 2004, i.e., the date after the publication of such ordinance by its title.

STATE OF NEVADA)
)
COUNTY OF CLARK):ss.
)
CITY OF LAS VEGAS)

I, Barbara Jo Ronemus, the duly chosen, qualified and acting City Clerk of Las Vegas (the "City"), in the State of Nevada, do hereby certify:

1. The foregoing pages constitute a true, correct, complete and compared copy of an ordinance which was introduced at the meeting of the Council on April 21, 2004 and finally adopted and approved on May 5, 2004.

2. The following members of the Council were present at the April 21, 2004 Council meeting:

Mayor:	Oscar B. Goodman
Council members:	Gary Reese
	Larry Brown
	Lynette Boggs McDonald
	Lawrence Weekly
	Michael Mack
	Janet Moncrief

Those Absent:

3. The foregoing Ordinance was first proposed and read by title to the City Council on April 21, 2004, and referred to a committee composed of _____ for recommendation; thereafter the said committee reported favorably on said Ordinance on May 5, 2004, which was a regular meeting of said Council; that at said regular meeting, the proposed Ordinance was again read by title to the City Council and adopted. The members of the City Council were present at the May 5, 2004 meeting and voted upon the adoption of the Ordinance as follows:

Those Voting Aye:

Mayor:	Oscar B. Goodman
Council members:	Gary Reese
	Larry Brown
	Lynette Boggs McDonald
	Lawrence Weekly
	Michael Mack
	Janet Moncrief

Those Voting Nay:

Those Absent:

4. The original of the Ordinance has been approved and authenticated by the signatures of the Mayor of the City and myself as the City Clerk, and sealed with the seal of the City, and has been recorded in the journal of the Council kept for that purpose in my office, which record has been duly signed by such officers and properly sealed.

5. All members of the Council were given due and proper notice of the meetings held on April 21 and May 5, 2004. Pursuant to Section 241.020, Nevada Revised Statutes, written notice of the meetings was given no later than 9:00 a.m. on the third working day before the meetings including in the notice the time, place, location, and agenda of the meeting:

(a) By posting a copy of the notice by 9:00 a.m. at least three working days before the meetings at the principal office of the Council, or if there is no principal office, at the building in which the meeting is to be held, and at least three (3) other separate, prominent places within the jurisdiction of the Council, to wit:

- (i) Court Clerk's Office Bulletin Board
City Hall Plaza
Las Vegas, Nevada
- (ii) City Hall Plaza
Special Outside Posting Bulletin Board
Las Vegas, Nevada
- (iii) Las Vegas Library
833 Las Vegas Boulevard North
Las Vegas, Nevada

(iv) Clark County Government Center
500 South Grand Central Parkway
Las Vegas, Nevada

(v) Grant Sawyer Building
555 E. Washington Avenue
Las Vegas, Nevada

; and

(b) By mailing a copy of the notice by 9:00 a.m. no later than three working days before the meetings to each person, if any, who has requested notice of the meetings of the Council in the same manner in which notice is required to be mailed to a member of the Council.

6. A copy of such notice so given of the meeting of the Council on April 21, 2004 is attached to this certificate as Exhibit A and a copy of the notice so given of the meeting of the Council on May 5, 2004 is attached to this certificate as Exhibit B.

7. A copy of the notice of each meeting was posted on the City's website no later than 9:00 a.m. on the third working day prior to each meeting.

8. A copy of the affidavit of publication of notice of deposit of the Ordinance is attached to this certificate as Exhibit C. A copy of the affidavit of publication of adoption of the Ordinance is attached to this certificate as Exhibit D.

9. Upon request, the Council, at no charge, at least one copy of the agenda for its public meetings, any proposed ordinance or regulation which will be discussed at the public meeting, and any other supporting materials provided to the members of the Council for an item on the agenda, except for certain confidential materials and materials pertaining to the closed meetings, as provided by law.

IN WITNESS WHEREOF, I have hereunto set my hand on this _____, 2004.

City Clerk

(SEAL)

EXHIBIT A

(Attach Copy of Notice of April 21, 2004 Meeting)

EXHIBIT B

(Attach Copy of Notice of May 5, 2004 Meeting)

EXHIBIT C

**(Attach Affidavit of Publication of Notice of Deposit of
the Ordinance)**

EXHIBIT D

(Attach Affidavit of Publication of Adoption of Ordinance)

AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: MAY 3, 2004

DEPARTMENT: CITY ATTORNEY

DIRECTOR: BRADFORD R. JERBIC

☐

CONSENT

☒

DISCUSSION

SUBJECT:

NEW BILL:

Bill No. 2004-34 – Levies Assessment for Special Improvement District No. 1485 - Alta Drive (Landscape Maintenance FY2005). Sponsored by: Step Requirement

Fiscal Impact

☐

No Impact

Amount: \$41,902.50

☒

Budget Funds Available

Dept./Division: Public Works/SID

☐

Augmentation Required

Funding Source: Capital Projects Fund - Special Assessments

PURPOSE/BACKGROUND:

Levies the assessment for the annual maintenance costs of street beautification improvements along Alta Drive from Rancho Drive to approximately 275 feet west of Lacy Lane. The fiscal amount reflects the estimated maintenance costs from July, 2004 through June, 2005.

RECOMMENDATION:

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

BACKUP DOCUMENTATION:

Bill No. 2004-34

COMMITTEE RECOMMENDATION:

COUNCILWOMAN MONCRIEF recommended Bill 2004-34 be forwarded to the Full Council with a "Do Pass" recommendation. COUNCILMAN WEEKLY concurred.

MINUTES:

COUNCILMAN WEEKLY declared the Public Hearing open.

MIKE THOMPSON, Public Works, commented that the proposed bill was in order

No one appeared in opposition.

COUNCILMAN WEEKLY declared the Public Hearing closed.

(4:17 – 4:18)

BILL NO. 2004-34

ORDINANCE NO. _____

AN ORDINANCE CONCERNING CITY OF LAS VEGAS, NEVADA, SPECIAL IMPROVEMENT DISTRICT NO. 1485 – ALTA DRIVE (LANDSCAPE MAINTENANCE FY2005); PROVIDING FOR THE PAYMENT OF THE COSTS AND EXPENSES OF MAINTAINING STREET BEAUTIFICATION IMPROVEMENTS; ASSESSING THE COST OF MAINTENANCE AGAINST THE ASSESSABLE LOTS, TRACTS, AND PARCELS OF LAND BENEFITED BY SAID MAINTENANCE; RATIFYING, APPROVING AND CONFIRMING ALL ACTION PREVIOUSLY TAKEN; PRESCRIBING DETAILS IN CONNECTION THEREWITH.

Summary: Levy Ordinance

WHEREAS, the City Council of the City of Las Vegas (hereinafter the "City Council" and "City", respectively) in the County of Clark and State of Nevada, has heretofore, pursuant to the requisite preliminary proceedings, created Las Vegas, Nevada, Special Improvement District No. 1485 – Alta Drive (Landscape Maintenance) (hereinafter the "District"), to defray the annual maintenance costs of a street beautification project within the District (hereinafter the "Maintenance Project") as defined in Chapter 271, Nevada Revised Statutes and has provided that the entire cost and expense of the Maintenance Project shall be paid by special assessments, according to benefits, levied against the benefited lots, tracts and parcels of land in the District; and

WHEREAS, the District has been properly created by an ordinance heretofore adopted under the provisions of the Consolidated Local Improvement Law; and

WHEREAS, the City Council has heretofore determined that the entire cost and expense of the Maintenance Project is to be paid by special assessments levied against the benefited lots, tracts and parcels of land in the District which the City Council has determined will receive special benefits (and corresponding market value increases) from the Maintenance Project; and

WHEREAS, in accordance with NRS 271.360 and NRS 271.378, the City Council has heretofore determined, and does hereby declare, that the net cost of the Maintenance Project for FY2005 (including all necessary incidentals which either have been or will be incurred in connection with the District) is \$41,902.50, of which, \$0.00 is available from other sources and of which \$41,902.50 is to be assessed upon the benefited lots, tracts and parcels of land in the District which the City Council has determined will receive special benefits (and corresponding market value increases) from the Maintenance Project, and

WHEREAS, the City Council, by resolution heretofore adopted and directed the Director of Public Works with the assistance of the Engineering Integration Division (hereinafter the "Engineer") to make out a final assessment roll; and

WHEREAS, after a determination of the costs of such work to be paid by the property specially benefited, the City Council, together with the Engineer made out a final assessment roll containing, among other things, the names and addresses of the last known owners of the property to be assessed, a description of each lot, tract, or parcel of land to be assessed, and the amount of the assessment thereon; and

WHEREAS, the Engineer has reported the final assessment roll to the City Council and has filed the final assessment roll with the City Clerk; and

WHEREAS, the City Council thereupon fixed a time and place, to wit: Wednesday, April 7, 2004, at 1:00 p.m., at the Las Vegas City Council Chambers, 400 Stewart Avenue, in Las Vegas, Nevada, when all complaints, protests and objections to the final assessment roll, to the amount of the assessments, and to the regularity of the proceedings in making such assessments, by the owners of the property specially benefited by, and proposed to be assessed for, the Maintenance Project in the District, by any person interested, and by any parties aggrieved by such assessments, would be heard and considered by the City Council; and

WHEREAS, the Engineer has, in accordance with the provisions of law relating thereto, given the requisite legal notice by both mail and publication that complaints, protests and objections to assessments for the Maintenance Project in the District should be filed with the City Clerk, and that the City Council would hear and consider any and all complaints, protests or objections on Wednesday, April 7, 2004, at 1:00 p.m., at the Las Vegas City Council Chambers, 400 Stewart Avenue, in Las Vegas, Nevada; and

WHEREAS, the City Council caused the final assessment roll ("Tabulation of Parcels") to be filed in the records of the office of the City Clerk on March 3, 2004; and

WHEREAS, the City Clerk, by publication and by mail, gave the requisite notice of the time and place of such hearing on April 7, 2004, of the filing of the final assessment roll in her office, of the date of filing the same, and of the right of any such person to object specifically in writing and of the waiver of any objection in the absence of such objection; and

WHEREAS, at the time and place so designated, the City Council met to hear and determine all objections filed or made orally by any interested party, and

WHEREAS, all complaints, protests and objections, both written and oral, were found to be without sufficient merit and overruled, except as provided in the District No. 1485 (FY2005) Assessment Protest Resolution; and

WHEREAS, by the District No. 1485 (FY2005) Assessment Protest Resolution, the City Council modified, corrected and revised the final assessment roll and modified, corrected, revised and confirmed the final assessment roll to be in final form; and

WHEREAS, the assessments do not exceed the benefits to the property assessed nor the total cost of the Maintenance Project payable from assessments as heretofore determined; and

WHEREAS, it is incumbent upon the City Council to provide when said assessments shall become due and penalties payable after any delinquency; and

WHEREAS, the City Council has determined, and does hereby determine, that the City shall pay the costs of the Maintenance Project, with funds completely derived from the levy of assessments.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES ORDAIN AS FOLLOWS:

Section 1. This Ordinance shall be known as, and may be cited by, the short title "District No. 1485 (FY2005) Levy Ordinance" (hereinafter the "Ordinance").

Section 2. The City Council has heretofore determined, and does hereby declare, that each and every complaint, protest and objection made in connection with the District is without sufficient merit and the same be, and the same hereby is, overruled, and finally passed on by the City Council, except as provided in the District No. 1485 (FY2005) Assessment Protest Resolution.

Section 3. All actions, proceedings, matters and things heretofore taken, had and done by the City and the officers thereof (not inconsistent with the provisions of this Ordinance) concerning Special Improvement District No. 1485 – Alta Drive (Landscape Maintenance FY2005) including, but not limited to, the creation of the District, the amount of the maintenance contract, the levy of assessments for those purposes, the determination that the tracts in the District will receive special benefits and market value

increases, and the validation and confirmation of the final assessment roll and the assessments therein, be, and the same hereby is, ratified, approved and confirmed.

Section 4. For the purpose of paying the costs and expenses of the Maintenance Project, the amounts and assessments shown in the final assessment roll (as so filed, modified and confirmed) are hereby levied and assessed against the lots, tracts and parcels of land in the District (being all those specially benefited by the Maintenance Project) and described in the final assessment roll for the District, as filed in the office of the City Clerk on March 3, 2004, and as modified and confirmed by the District No 1485 (FY2005) Assessment Protest Resolution duly adopted by the City Council on April 21, 2004

Section 5. The assessments shall be due and payable at the office of the City Treasurer within 30 days after this Ordinance becomes effective, without interest and without demand; provided that all or any part of such assessments may, at the election of the owner, be paid in installments, as hereinafter provided. Failure to pay the whole assessment within said period of 30 days shall be conclusively considered and held an election on the part of all persons interested, whether under disability or otherwise, to pay in installments the amount of the assessment then unpaid. In case of such election to pay in installments, the unpaid assessments shall be payable in four (4) substantially equal quarterly installments of principal until paid in full, without interest, payable at the office of the City Treasurer on July 1, 2004, October 1, 2004, January 3, 2005 and April 1, 2005. Failure to pay any installment when due shall cause the whole amount of the unpaid principal to become due and payable immediately, at the option of the City, the exercise of said option to be indicated by the commencement of foreclosure proceedings by the City; and the whole amount of the unpaid principal shall, after such delinquency, whether said option is or is not exercised, bear penalty interest at the rate of two percent (2%) (or at any higher rate authorized by statute, or any lower rate, which may be zero percent, for such period as determined by the City Treasurer) per month (not prorated for any portion of the month) on the unpaid balance of the assessment and accrued interest until the day of sale or until paid, but at any time prior to the date of the sale the owner may pay the amount of all delinquent installments originally becoming due on or before the date of said payment, and all penalty interest accrued, and shall thereupon be restored to the right thereafter to pay in installments in the same manner as if default had not been suffered. The

owner of any property assessed and not in default as to any installment or payment may, at any time (at the option of such owner), pay the whole or any installment of the unpaid principal.

Pursuant to NRS 271.357 and NRS 271.360, any assessment against property for which an application for Hardship Determination has been approved by the City Council shall be postponed. The assessment shall remain postponed until the earlier of the following occurrences: (a) the property is sold or transferred to a person other than one to whom a Hardship Determination has been granted; (b) the property owner's application for renewal of the Hardship Determination is disapproved; or (c) the property owner pays all previous and current assessments. The property owner shall file an application for renewal of the Hardship Determination each year when the Maintenance Project is levied. The owner shall also be subject to the lien as provided in Section 6 hereof.

Section 6. The amounts assessed shall be a lien upon the owner's lots, tracts and parcels of land from the effective date of this Ordinance (i.e. May 23, 2004) until paid. The lien shall be co-equal with the latest lien thereon to secure the payment of general taxes and prior and superior to all other liens, claims, encumbrances and titles (other than the liens of assessments and general taxes). The sale of any such lot, tract or parcel of land for general or other taxes shall not relieve such lot, tract or parcel of land from such assessment or the lien therefor. Such amounts shall continue to be a lien upon the lots, tracts and parcels of land assessed until paid in full (including all principal, penalties, and collection costs).

Section 7. Should any lot, tract or parcel of land within the District be divided after the effective date of this Ordinance and before the collection of all the assessment installments, or if any property in the District makes a request to do so, the City Council may require the City Treasurer to apportion, combine or reapportion the uncollected amounts upon the several parts of land so divided or combined in accordance with the provisions of NRS 271.425. The report of such an apportionment, combination or reapportionment, when approved, shall be conclusive on all the parties, and all assessments thereafter made upon the tracts shall thereafter be according to the subdivision. The report, when approved, shall be recorded in the office of the County Recorder of Clark County, Nevada, together with a statement that the current payment status of any of the assessments may be obtained from the City Treasurer. Neither the failure to record the report, nor any defect in the report as recorded, shall affect the validity of the assessments, the lien for the payment thereof or the priority of that lien.

Section 8. In case any lot, tract or parcel of land so assessed is delinquent in the payment of the assessment or any installment of principal, the City Council shall forthwith cause the owner of such delinquent property, if known, to be immediately notified in writing of such delinquency, by first-class mail, postage prepaid, addressed to the addressee's last known address. If such delinquency is not paid within 10 days after such notice was given by deposit in the United States mail, then said assessment shall be enforced by the City Treasurer and other officers of the City, as provided in NRS 271.545 to NRS 271.625. Nothing herein shall be construed as preventing the City, at the direction of the governing body, from collecting any assessment by suit in the name of the governing body. The final assessment roll and the certified copy of this Ordinance shall be prima facie evidence of the regularity of the proceedings in making the assessment and of the right to recover judgment therefor.

Section 9. The City Clerk is hereby directed to deliver to the City Treasurer a copy of the final assessment roll containing a description of the lots, tracts and parcels of land being assessed, with the amount of the assessment levied upon each and the name and address of the owner or owners against whom the assessment was made. The final assessment roll is to be recorded in the office of the County Recorder together with the statement that the current payment status of any assessment may be obtained from the City Treasurer. The City Treasurer is additionally directed to collect the several sums so assessed as a tax upon the several tracts to which they were assessed.

Section 10. In accordance with NRS 271.405(7) the City Clerk shall give notice by publication in the Las Vegas Review-Journal, a newspaper of general circulation in the City, and such notice to be published at least once a week, for three consecutive publications, by three weekly insertions, the first such publication to be at least 15 days prior to the end of the 30-day period stating that said assessments have been levied and are due and payable and the last day for their payment. It shall not be necessary that the notice be published on the same day of the week, but not less than 14 days shall intervene between the first publication and the last publication. Service by publication shall be verified by the affidavit of the publisher or his designee and filed with the City Clerk of the City. In accordance with NRS 271.390(2) the City Clerk or Deputy City Clerk shall also give written notice of the levying of the assessments by mailing a copy of such notice, postage prepaid, at least 20 days prior to the end of said 30-day period, to the owner or owners of all property upon which the assessment was levied at his or her

last known address or addresses. Proof of such mailing shall be made by the affidavit of the City Clerk or Deputy City Clerk and such proof shall be filed with the City Clerk. Failure to mail any such notice or notices shall not invalidate any assessment or any other proceedings concerning the District. Proof of the publication and proof of the mailing shall be maintained in the permanent records of the office of the City Clerk until all special assessments have been paid in full or until any claim is barred by an appropriate statute of limitations. The City Council hereby determines that the manner of giving notice herein provided by publication and by mail is reasonably calculated to inform the parties of the proceedings concerning the District and the levy of assessments which may directly and adversely affect their legally protected interests.

Section 11 The notice provided for in NRS 271.390(2) and NRS 271.405(7) and in Section 10 of this Ordinance shall be in substantially the following form.

(Form of Notice)

NOTICE TO PROPERTY OWNERS OF THE LEVY OF ASSESSMENTS FOR
LANDSCAPE MAINTENANCE IN CITY OF LAS VEGAS, NEVADA SPECIAL
IMPROVEMENT DISTRICT NO. 1485 - ALTA DRIVE (LANDSCAPE
MAINTENANCE FY2005)

NOTICE IS HEREBY GIVEN to the owners of all property upon which an assessment has been levied, and other interested persons, that District No. 1485 (FY2005) Levy Ordinance (hereinafter the "Levy Ordinance") was duly passed, adopted, signed and approved on May 19, 2004. The Levy Ordinance levied and assessed the cost and expense of landscape maintenance against the lots, tracts and parcels of land specially benefited by the maintenance in what is commonly designated as "City of Las Vegas, Nevada, Special Improvement District No 1485 – Alta Drive (Landscape Maintenance)," (said lots, tracts and parcels of land being more specifically described in the final assessment roll designated in the ordinance).

Assessments are due and payable at the office of the City Treasurer in Las Vegas, Nevada, on or before June 22, 2004, being 30 days after the effective date of the Levy Ordinance, without interest and without demand, provided that all, or any part of such assessments may, at the election of the owner, be paid in installments, without interest as hereinafter provided. Failure to pay the whole assessment within the 30-day period will be conclusively considered and held an election on the part of all persons interested, whether under disability or otherwise, to pay the unpaid assessment in installments. In case of such election to pay in installments, the unpaid assessments will be payable in four (4) substantially equal quarterly installments of principal until paid in full, being payable at the office of the City Treasurer in Las Vegas, Nevada, on July 1, 2004, October 1, 2004, January 3, 2005, and April 1, 2005. Failure to pay any assessment installment when due will cause the whole of the unpaid principal of such assessment to become due and payable immediately at the City's option, and the whole amount of the unpaid principal will, after such delinquency, whether the City's option is or is not exercised, bear penalty interest at the rate of two percent (2%) (or at any higher rate authorized by statute, or any lower rate, which may be zero percent, for such period as determined by the City Treasurer) per month (not prorated for any portion of the month) on the unpaid balance of the assessment and accrued interest, until the day of sale or until paid, but at any time prior to the date of the sale, the owner may pay the amount of all delinquent

installments originally becoming due on or before the date of payment, and all penalty interest accrued, and will thereupon be restored to the right thereafter to pay in installments in the same manner as if default had not been suffered. The owner of any property not in default as to any assessment installment or payment may, at any time, pay the whole or any installment of the unpaid principal.

Pursuant to NRS 271.357 and NRS 271.360, any assessment against property for which an application for Hardship Determination has been approved by the City Council shall be postponed. The assessment shall remain postponed until the earlier of the following occurrences (a) the property is sold or transferred to a person other than one to whom a Hardship Determination has been granted; (b) the property owner's application for renewal of the Hardship Determination is disapproved, or (c) the property owner pays all previous and current assessments. The property owner shall file an application for renewal of the Hardship Determination each year when the Maintenance Project is levied. The owner shall also be subject to the lien as provided in Section 6 hereof.

Pursuant to NRS 271.395, within 15 days after the effective date of the Levy Ordinance, any person who has filed a complaint, protest or objection in writing, pursuant to NRS 271.380, shall have the right to commence an action or suit in any court of competent jurisdiction to correct or set aside such determination. Thereafter, all actions or suits attacking the regularity, validity and correctness of the proceedings, of the final assessment roll, of each assessment contained therein, of the amount of special benefits and market value increases, and of the amount thereof levied on each tract, including, without limiting the generality of the foregoing, the defense of confiscation shall be perpetually barred.

The amounts assessed as aforesaid constitute a lien upon said lots, tracts and parcels of land from May 23, 2004, (i.e., the effective date of the Levy Ordinance), which lien shall be co-equal with the latest lien thereon to secure the payment of general taxes and prior and superior to all other liens, claims, encumbrances and titles (other than the liens of assessments and general taxes). The sale of any such lot, tract or parcel of land for general taxes shall not relieve such lot, tract or parcel of land from such assessment or the lien therefor.

Dated this May 19, 2004.

BARBARA JO RONEMUS, City Clerk

(End of Form of Notice)

Section 12. The officers of the City be, and they hereby are, authorized and directed to take all action necessary and appropriate to effectuate the provisions of this Ordinance, including without limiting the generality of the foregoing, the preparation of all necessary documents, legal proceedings, the recording of the final assessment roll, and other items necessary or desirable for the completion of the levying of the assessments of the District.

Section 13. All ordinances or resolutions, or parts thereof, in conflict with the provisions of this Ordinance, are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution, or part thereof, heretofore repealed.

Section 14 That in accordance with Section 2.110 of the City Charter, this Ordinance when first proposed is to be read by title to the City Council, immediately after which an adequate number of copies of the proposed Ordinance are to be deposited with the office of the City Clerk for public examination and distribution upon request, thereafter, the City Clerk is authorized and directed to give notice of the deposit together with the title of the Ordinance by publication at least once in the Las Vegas Review-Journal, i.e., a newspaper published and having general circulation in the City, at least ten (10) days before the adoption of the Ordinance, i.e., at least ten (10) days before May 19, 2004, such publication to be in substantially the following form:

(FORM OF PUBLICATION OF NOTICE OF DEPOSIT OF AN ORDINANCE)

ORDINANCE NO. _____

AN ORDINANCE CONCERNING CITY OF LAS VEGAS, NEVADA, SPECIAL IMPROVEMENT DISTRICT NO. 1485 ALTA DRIVE (LANDSCAPE MAINTENANCE FY2005) PROVIDING FOR THE PAYMENT OF THE COSTS AND EXPENSES OF MAINTAINING STREET BEAUTIFICATION IMPROVEMENTS; ASSESSING THE COST OF MAINTENANCE AGAINST THE ASSESSABLE LOTS, TRACTS, AND PARCELS OF LAND BENEFITED BY SAID MAINTENANCE; RATIFYING, APPROVING AND CONFIRMING ALL ACTION PREVIOUSLY TAKEN, PRESCRIBING DETAILS IN CONNECTION THEREWITH

PUBLIC NOTICE IS HEREBY GIVEN that an adequate number of typewritten copies of the above-entitled proposed Ordinance were filed with and are available for public inspection and distribution at the office of the City Clerk of the City of Las Vegas, 400 Stewart Avenue, Las Vegas, Nevada, and that such ordinance was proposed on the 21st day of April, 2004, and will be considered for adoption at the regular meeting of the City Council of the City of Las Vegas on the 19th day of May, 2004.

/s/ Barbara Jo Ronemus
City Clerk

(End of Form)

Section 15. That this Ordinance shall be in effect on the day after its publication, as hereinafter provided. After this Ordinance is signed by the Mayor and attested and sealed by the City Clerk, this Ordinance shall be published by title only, together with the names of the City Council voting for or against its passage, and with a statement that typewritten copies of said Ordinance are available for inspection by all interested parties at the office of the City Clerk, such publication to be made in the Las Vegas Review-Journal, a newspaper published and having general circulation in the City, at least once, pursuant to Section 2.110 of the Charter and all laws thereunto enabling, such publication is to be in substantially the following form:

(Form for Publication After Final Adoption of Ordinance)

ORDINANCE NO. _____

AN ORDINANCE CONCERNING CITY OF LAS VEGAS, NEVADA, SPECIAL IMPROVEMENT DISTRICT NO. 1485 - ALTA DRIVE (LANDSCAPE MAINTENANCE FY2005); PROVIDING FOR THE PAYMENT OF THE COSTS AND EXPENSES OF MAINTAINING STREET BEAUTIFICATION IMPROVEMENTS; ASSESSING THE COST OF MAINTENANCE AGAINST THE ASSESSABLE LOTS, TRACTS, AND PARCELS OF LAND BENEFITED BY SAID MAINTENANCE; RATIFYING, APPROVING AND CONFIRMING ALL ACTION PREVIOUSLY TAKEN; PRESCRIBING DETAILS IN CONNECTION THEREWITH.

PUBLIC NOTICE IS HEREBY GIVEN that the above Ordinance was proposed on April 21, 2004, and was passed at a regular meeting held on May 19, 2004, by the following vote of the City Council of the City of Las Vegas, Nevada:

Those Voting Aye:

Oscar B. Goodman
Gary Reese
Larry Brown
Lynette Boggs McDonald
Lawrence Weekly
Michael Mack
Janet Moncrief

Those Voting Nay

Those Absent

This Ordinance shall be in full force and effect from and after May 23, 2004, i.e., the day after its publication by title only.

IN WITNESS WHEREOF, the City Council of the City of Las Vegas, Nevada, has caused this Ordinance to be published by title only

This 19th day of May, 2004

/s/ OSCAR B GOODMAN
Mayor
City of Las Vegas, Nevada

(SEAL)

Attest:
/s/ BARBARA JO RONE MUS
City Clerk

Section 16. That if any section, paragraph, clause or other provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or other provision shall not affect any of the remaining provisions of this Ordinance.

Introduced April 21, 2004, PASSED, ADOPTED AND APPROVED May 19, 2004.

OSCAR B. GOODMAN, Mayor

Attest.

BARBARA JO RONEMUS, City Clerk

Approved as to Form:

4-8-'04 *Madeline L. Diekmann*
Date Deputy City Attorney

STATE OF NEVADA)
)
COUNTY OF CLARK) SS
)
CITY OF LAS VEGAS)

I, Barbara Jo Ronemus, the duly chosen, qualified City Clerk of the City of Las Vegas (hereinafter the "City"), in the State of Nevada, do hereby certify.

1. The foregoing pages constitute a true, correct, complete and compared copy of an ordinance which was introduced at the meeting of the City Council on April 21, 2004, and finally adopted and approved on May 19, 2004.

2. The following members of the City Council were present at the April 21, 2004, Council meeting:

Mayor	Oscar B. Goodman
Councilmembers:	Gary Reese
	Larry Brown
	Lynette Boggs McDonald
	Lawrence Weekly
	Michael Mack
	Janet Moncrief

3. The foregoing Ordinance was first proposed and read by title to the City Council on April 21, 2004, and referred to a committee composed of _____ and _____ for recommendation; thereafter the said committee reported favorably on said Ordinance on May 19, 2004, which was a regular meeting of said City Council; that at said regular meeting, the proposed Ordinance was again read by title to the City Council and adopted. The following members of the City Council were present at the May 19, 2004, meeting and voted upon the adoption of the Ordinance as follows:

Those Voting Aye:	Oscar B. Goodman
	Gary Reese
	Larry Brown
	Lynette Boggs McDonald
	Lawrence Weekly
	Michael Mack
	Janet Moncrief

Those Voting Nay:	_____

Those Absent:	_____

4. The original of the Ordinance has been approved and authenticated by the signatures of the Mayor of the City and myself, as Clerk of the City, and sealed with the seal of the City, and has been recorded in the journal of the City Council kept for that purpose in my office, which record has been duly signed by such officers and properly sealed

5. All members of the City Council were given due and proper notice of the meetings held on April 21, and May 19, 2004. Pursuant to § 241.020, Nevada Revised Statutes, written notice of the meetings was given no later than 9.00 a.m. on the third working day before the meetings, including in the notice the time, place, location, and agenda of the meeting:

(a) By posting a copy of the notice by 9:00 a.m. at least three (3) working days before the meetings at the principal office of the City Council, or if there is no principal office, at the building in which the meeting is to be held, and at least three (3) other separate, prominent places within the jurisdiction of the City Council, to wit:

- (i) Court Clerk's Office Bulletin Board
City Hall Plaza
Las Vegas, Nevada
- (ii) City Hall Plaza
Special Outside Posting Bulletin Board
Las Vegas, Nevada
- (iii) Las Vegas Library
833 Las Vegas Boulevard North
Las Vegas, Nevada
- (iv) Clark County Government Center
500 South Grand Central Parkway
Las Vegas, Nevada
- (v) Grant Sawyer Building
555 E Washington Avenue
Las Vegas, Nevada

(b) By mailing a copy of the notice by 9.00 a.m. no later than three (3) working days before the meetings to each person, if any, who has requested notice of the meetings of the City Council in the same manner in which notice is required to be mailed to a member of the City Council.

6 A copy of such notice so given of the meeting of the City Council on April 21, 2004, is attached to this certificate as Exhibit A and a copy of the notice so given of the meeting of the City Council on May 19, 2004, is attached to this certificate as Exhibit B

7. Upon request, the governing body provides, at no charge, at least one copy of the agenda for its public meetings, any proposed ordinance or regulation which will be discussed at the public meeting, and any other supporting materials provided to the members of the governing body for an item on the agenda, except for certain confidential materials and materials pertaining to the closed meetings, as provided by law.

IN WITNESS WHEREOF, I have hereunto set my hand on this May 19, 2004.

BARBARA JO RONEMUS, City Clerk

(SEAL)

EXHIBIT A

(Attach Copy of Notice of April 21, 2004 Meeting)

EXHIBIT B

(Attach Copy of Notice of May 19, 2004 Meeting)

AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: MAY 3, 2004

DEPARTMENT: FINANCE AND BUSINESS SERVICES

DIRECTOR: MARK R. VINCENT

☐

CONSENT

☒

DISCUSSION

SUBJECT:

NEW BILL

Bill No. 2004-35 – Authorizing the issuance of Local Improvement Bonds, Series 2004 for the City of Las Vegas, Nevada Special Improvement District No. 607 Cliff's Edge not to exceed \$51,185,000. - Ward 6 (Mack)

Fiscal Impact

☒

No Impact

Amount: \$51,185,000.

☐

Budget Funds Available

Dept./Division: Cliff's Edge Agency Fund

☐

Augmentation Required

Funding Source: SID assessments in district 607

PURPOSE/BACKGROUND:

The bonds are being issued by the City pursuant to the Nevada Consolidated Local Improvement Law (NRS 271) in order to finance the acquisition of certain public improvements for property located in the City's Special Improvement District No. 607 pursuant to the District Financing Agreement between the developer (Cliff's Edge) and the City. The bonds do not constitute a debt of the City.

RECOMMENDATION:

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

BACKUP DOCUMENTATION:

Bill No. 2004-35

COMMITTEE RECOMMENDATION:

COUNCILWOMAN MONCRIEF recommended Bill 2004-35 be forwarded as a First Amendment to the Full Council with a "Do Pass" recommendation. **COUNCILMAN WEEKLY** concurred.

MINUTES:

COUNCILMAN WEEKLY declared the Public Hearing open.

MIKE THOMPSON, Public Works, confirmed that his comments pertaining to Bill No. 2004-32 applied to this proposed bill as well. **MARK VINCENT**, Director of Finance and Business Services, added that the effective date of this proposed bill will change to 5/23/2004 rather than 5/19/2004.

RECOMMENDING COMMITTEE MEETING OF MAY 3, 2004

City Attorney

Item 6 – Bill No. 2004-35

MINUTES – Continued:

No one appeared in opposition.

COUNCILMAN WEEKLY declared the Public Hearing closed.

(4:18)

1-444

BILL NO. 2004-35

ORDINANCE NO. _____

AN ORDINANCE CONCERNING THE CITY OF LAS VEGAS, NEVADA, SPECIAL IMPROVEMENT DISTRICT NO. 607 (CLIFF'S EDGE) AND AUTHORIZING THE ISSUANCE OF LOCAL IMPROVEMENT BONDS, SERIES 2004

WHEREAS, the City of Las Vegas, Nevada (the "City") is organized and operating pursuant to the provisions of Chapter 517, Statutes of Nevada 1983, as amended, and the general laws of the State of Nevada (the "State"); and

WHEREAS, the City Council of the City (the "Council") has heretofore, pursuant to the requisite preliminary proceedings, created the City of Las Vegas, Nevada, Special Improvement District No. 607 (Cliff's Edge) (the "District") for the purpose of acquiring and improving streets, sanitary sewers, storm sewers, and water mains (the "Project") and has provided that the entire cost and expense of the Project shall be paid by special assessments, according to benefits, levied against the benefited lots, tracts and parcels of land in the District; and

WHEREAS, the Council has heretofore provided for the payment of the cost and expense of the Project by assessing the cost of the Project against the assessable lots, tracts and parcels of land benefited by the Project; and

WHEREAS, the Council desires to issue its City of Las Vegas, Nevada Special Improvement District No. 607 (Cliff's Edge) Local Improvement Bonds, Series 2004 in the aggregate principal amount of \$51,185,000 (the "Bonds") to provide funds to pay the cost and expense of the Project; and

WHEREAS, the Bonds are to be payable from the sources permitted by the Consolidated Local Improvements Law, Chapter 271, Nevada Revised Statutes, and all laws amendatory thereof and supplemental thereto (the "Act"), as more fully described herein; and

WHEREAS, the Bonds are to be sold by the City to Stone & Youngberg LLC (the "Purchaser") on the terms set forth in the Bond Purchase Agreement in substantially the

form filed with the City Clerk prior to the date of adoption of this Ordinance (the “Bond Purchase Agreement”); and

WHEREAS, the effective interest rate on the Bonds shall not exceed by more than three percent (3%) the “Index of Twenty Bonds” which was most recently published in The Bond Buyer; and

WHEREAS, the Council has elected, and hereby elects, to have Chapter 348 of Nevada Revised Statutes (“NRS”) apply to the Bonds.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LAS VEGAS IN THE STATE OF NEVADA, DOES ORDAIN:

Section 1. In addition to the terms elsewhere defined in this Special Improvement District No. 607 (Cliff’s Edge) Bond Ordinance (the “Ordinance”), the following terms shall have the respective meanings set forth below:

“Administration Fund” means the “City of Las Vegas, Nevada Special Improvement District No. 607 (Cliff’s Edge) Administration Fund” established in Section 11 hereof.

“Annual Debt Service” means, for each Bond Year, the sum of the interest falling due on all outstanding Bonds in such Bond Year, assuming that all outstanding Bonds are retired as scheduled and the principal amount of the outstanding Bonds maturing subject to mandatory redemption by their terms in such Bond Year. “Annual Debt Service” shall not include interest on Bonds that is to be paid from amounts constituting capitalized interest.

“Assessment” or “Assessments” means the aggregate special assessment or individual portions thereof, as the case may be, levied by the City constituting a lien and charge upon benefited lots, tracts and parcels of land within the District.

“Assessment Installments” means the installments of principal and interest of the Assessments to be paid by the owners of the benefited lots, tracts and parcels of land within the District.

“Assessment Ordinance” means the assessment ordinance finally adopted by the Council on May 5, 2004 and any ordinance amending such ordinance.

“Average Annual Debt Service” means the average Bond Year Annual Debt Service over all Bond Years.

“Bond Fund” means the “City of Las Vegas, Nevada Special Improvement District No. 607 (Cliff’s Edge) Bond Fund” established in Section 11 hereof.

“Bond Reserve Fund” means the “City of Las Vegas, Nevada Special Improvement District No. 607 (Cliff’s Edge) Bond Reserve Fund” established in Section 11 hereof.

“Bond Year” means (i) with respect to the initial Bond Year, the period extending from the date the Bonds are originally delivered to and including June 1, 2005 and (ii) thereafter, each successive twelve month period.

“Certificate of City Finance Director” means a certificate of the City Finance Director dated on or before the date of delivery of the Bonds setting forth the rates of interest on the Bonds, the dates on which and prices at which Bonds may be called for redemption, the price at which the Bonds will be sold, and the amount of principal maturing on each date.

“City Clerk” means the de jure or de facto City Clerk of the City, or his or her successor in functions, if any.

“City Director of Finance” means the de jure or de facto director of finance and business services of the City or his or her successors in function, if any.

“City Treasurer” means the de jure or de facto treasurer of the City, or his or her successors in function, if any.

“Code” means the Internal Revenue Code of 1986, as amended to the date of delivery of the Bonds.

“Construction Fund” means the “City of Las Vegas, Nevada Special Improvement District No. 607 (Cliff’s Edge) Construction Fund” established in Section 11 hereof.

“Continuing Disclosure Agreement” means the Continuing Disclosure Agreement between the City and the Developer, in substantially the form now on file with the City Clerk, and any amendments and supplements thereto.

“Continuing Disclosure Certificate” means the Continuing Disclosure Certificate executed by the Mayor and dated as of the date of delivery of the Bonds, in substantially the form now on file with the City Clerk, and any amendments and supplements thereto.

“County” means Clark County, Nevada.

“Developer” means Cliffs Edge, LLC.

“District Financing Agreement” means the District Financing Agreement, dated as of April 7, 2004, between the City and the Developer, and any amendments and supplements thereto.

“Maximum Annual Debt Service” means the largest Annual Debt Service during the period from the date of such determination through the final maturity date of any outstanding Bonds.

“Mayor” means the duly chosen qualified and acting Mayor of the City, and his or her successor in function.

“Parity Assessments” means other assessments levied on the assessable property within the District or any portion thereof, pursuant to the Act or any similar law, which are on a parity with the lien of the Assessments.

“Parity Value-to-Lien Ratio” means a fraction, (i) the numerator of which is the market value of all or any portion of the assessable property in the District, as set forth in a Qualified Appraisal Report, with respect to which the Parity Value-to-Lien Ratio is being determined, and (ii) the denominator of which is the sum of the principal amount of existing Assessments levied on the assessable property with respect to which the Parity Value-to-Lien Ratio is being determined, plus the principal amount of any Parity Assessments theretofore levied and then proposed to be levied on such property (which shall be expressed, after reducing such fraction, as the numerator of said fraction to the denominator of such fraction).

“Qualified Appraisal Report” means a real estate appraisal report which (a) has been prepared by a real estate appraiser selected by the City having an “MAI” designation from The Appraisal Institute, (b) at the time of its submittal to the City is not more than six months old, (c) states that it is prepared in accordance with the applicable standards of The Appraisal Institute for such reports, and (d) employs a methodology and provides limiting conditions that are consistent with the initial appraisal prepared at the time of the creation of the District and the levy of the Assessments.

“Qualified Engineer” means an engineer (whether independent of the City or employed by the City) or engineering firm or corporation selected by the City having skill, knowledge and experience in special assessment districts.

“Rebate Fund” means the “City of Las Vegas, Nevada Special Improvement District No. 607 (Cliff’s Edge) Rebate Fund” created in Section 11 hereof.

“Record Date” means the fifteenth day of the calendar month preceding the calendar month in which each regularly scheduled interest payment date for the Bonds occurs.

“Refunding Bonds” means bonds issued by the City to refund all or a portion of the Bonds.

“Remaining Assessments” means Assessments which remain part of the Trust Estate after the issuance of any Refunding Bonds.

“Report” means the Engineers Report For Special Improvement District No. 607 (Cliff’s Edge) dated April 21, 2004, and any addendum thereto filed with the City Clerk prior to the date of adoption of this ordinance.

“Reserve Requirement” means an amount equal to the lesser of: (i) ten percent (10%) of the original principal amount of the Bonds; (ii) one hundred twenty-five percent (125%) of Average Annual Debt Service on the Bonds; and (iii) Maximum Annual Debt Service on all Bonds Outstanding, less the sum of all downward adjustments to the Reserve Requirement due to the prepayment of Assessments as provided in Section 14E hereof or due to the issuance of Refunding Bonds as provided in Section 41 hereof. The amount of the Reserve Requirement upon initial delivery of the Bonds shall be confirmed in the Certificate of City Finance Director.

“Special Record Date” means a special date fixed by the Trustee to determine the names and addresses of registered owners of Bonds for the purpose of paying interest on a special interest payment date for the payment of defaulted interest, all as further provided in Section 3 hereof.

“Trustee” means BNY Western Trust Company, a California banking corporation organized and existing under and by virtue of the laws of the State of California, which is serving as trustee, paying agent and registrar under this Ordinance or any other commercial bank or trust company which is substituted in its place as provided in Section 26 of this Ordinance.

“Trust Estate” means (i) all Assessments except Assessments released pursuant to Section 41 hereof, (ii) all moneys and securities from time to time held by the Trustee in the Bond Reserve Fund and the Bond Fund (including all earnings thereon except to the extent deposited in the Rebate Fund), and (iii) any and all other real or personal property of every name and nature hereafter by delivery or in writing specially pledged as additional security for the Bonds.

“Undeveloped Property” means property located within the District on which there is no improvement which requires a City certificate of occupancy.

“Value-to-Lien Ratio” means a fraction, (i) the numerator of which is the most recent market value of the Undeveloped Property subject to the lien of the Remaining Assessments, as certified by the County Assessor of the County or, in the sole discretion of the City, is the market value of the Undeveloped Property subject to the lien of the Remaining Assessments, as set forth in a Qualified Appraisal Report, and (ii) the denominator of which is the sum of the principal amount of the Remaining Assessments (which shall be expressed, after reducing such fraction, as the numerator of said fraction to the denominator of such fraction). For the purpose of Section 39 only, Value-to-Lien Ratio means a fraction, (i) the numerator of which is the most recent market value of the property which is the subject of the proposed combination or reapportionment of Assessments, as certified by the County Assessor of the County or, in the sole discretion of the City, is the market value of the property which is the subject of the proposed combination or reapportionment of Assessments, as set forth in a Qualified Appraisal Report, and (ii) the denominator of which is the sum of the principal amount of the Assessments which will be levied on such property after the proposed combination or reapportionment (which shall be expressed, after reducing such fraction, as the numerator of said fraction to the denominator of such fraction).

Section 2. All actions, proceedings, matters and things heretofore taken, had and done by the City and the officers thereof (not inconsistent with the provisions of this Ordinance) concerning the District, including, but not limited to, the acquisition and improvement of the Project, the levy of Assessments for those purposes, the validation and confirmation of the assessment roll and the Assessments therein and the sale of the Bonds to the Purchaser, are ratified, approved and confirmed, including, without limitation, the execution and delivery of the Bond Purchase Agreement and the distribution of the Preliminary Official Statement for the Bonds.

Section 3. For the purpose of defraying the entire cost and expense to the City of the Project, there shall be issued the City’s special assessment bonds designated as the “City of Las Vegas, Nevada, Special Improvement District No. 607 (Cliff’s Edge) Local Improvement Bonds, Series 2004” in the aggregate principal amount of \$51,185,000, which Bonds shall be dated as of the date of delivery of the Bonds and shall be in the form of fully registered Bonds in

the denominations of \$5,000 and any integral multiple thereof. The Bonds shall bear interest, at the rates per annum designated in the Certificate of the City Finance Director from the most recent interest payment date for which interest has been paid or duly provided for, or if no interest has been paid, from the date of the Bonds, payable semiannually on June 1 and December 1 of each year, commencing on December 1, 2004. The Bonds shall mature on each June 1 in the years and amounts as designated in the Certificate of the City Finance Director. The principal of each Bond shall be payable at the principal corporate trust office of the Trustee upon presentation and surrender of the Bond.

Except as provided in Section 8 hereof, payment of interest on any Bond shall be made to the person who is the registered owner thereof at the close of business on the Record Date for such interest payment date by check mailed by the Trustee to such registered owner at his or her address as it appears on the registration records kept by the Trustee, but any such interest not so timely paid shall cease to be payable to the person who is the registered owner thereof at the close of business on the Record Date and shall be payable to the person who is the registered owner thereof at the close of business on a Special Record Date for the payment of any such defaulted interest. Such Special Record Date shall be fixed whenever moneys become available for payment of the defaulted interest, and notice of the Special Record Date shall be given to the registered owners of the Bonds not less than ten days prior thereto by first-class postage prepaid mail to each such registered owner as shown on the registration records, stating the date of the Special Record Date and the date fixed for the payment of such defaulted interest. The Trustee may make payments of interest on any Bond by such alternative means as may be mutually agreed to in writing between the registered owner of such Bond and the Trustee. If any Bond is not paid upon its presentation and surrender at or after its maturity or prior redemption, interest shall continue at its stated rate per annum until the principal thereof is paid in full. Interest on the Bonds shall be calculated based on a 360-day year, consisting of twelve 30-day months. All such payments shall be made in lawful money of the United States of America.

Section 4. The Bonds will be subject to redemption at the option of the City from any legally available funds on any interest payment date in whole, or in part from any maturities, in any order of maturity and by lot within a maturity in such manner as the City may determine, (giving proportionate weight to Bonds in denominations larger than \$5,000), at a price equal to 100% of the principal amount of each Bond, or portion thereof, so redeemed, and

accrued interest thereon to the redemption date, plus a premium of not more than 3% as set forth in the Certificate of the City Finance Director. If less than all of the Bonds are to be redeemed, the Bonds to be redeemed shall be selected by the Trustee proportionately from each outstanding maturity of the Bonds (including any mandatory sinking fund installment) unless the City Treasurer determines that the Assessment Installments will be sufficient to pay the principal and interest of the Bonds, which would remain outstanding using a different method of selecting Bonds to be redeemed, on each interest payment date subsequent to the redemption date, in which case, the City Treasurer will provide the Trustee with written instructions as to which Bonds shall be redeemed. The redemption premium, if any, shall be paid from a prepayment penalty for the Assessments provided for in the Assessment Ordinance, provided, however, that nothing herein shall prevent the payment of any such redemption premium from any other funds available for that purpose. Any Assessment which is voluntarily prepaid shall be used to redeem Bonds on the next interest payment date on the Bonds which is at least 60 days after receipt of such prepayment; provided that the amount of any such prepaid Assessment which is less than \$5,000 and can not be used by such interest payment date to redeem Bonds may be used to pay principal of or interest on the Bonds due on such interest payment date; and provided further that all or any portion of such prepaid Assessment may be used to pay principal of or interest on the Bonds if necessary to avoid or cure a default in payment of principal of or interest on the Bonds. The Trustee shall not be required to give notice of any such prior redemption unless it has received written instructions from the City in regard thereto at least 60 days prior to such redemption date.

The Bonds shall be subject to mandatory sinking fund redemption to the extent provided in the Certificate of the City Finance Director. Not more than sixty days nor less than forty-five days prior to each such sinking fund redemption date, the Trustee shall proceed to call the Bonds so designated for mandatory prior redemption from such sinking fund on the next sinking fund redemption date, and shall give notice of such call without further instruction or notice from the City.

At its option, to be exercised on or before the sixtieth day next preceding each sinking fund redemption date, the City may (i) deliver to the Trustee for cancellation, Bonds of the appropriate maturity in an aggregate principal amount desired by the City or (ii) specify a principal amount of Bonds of the appropriate maturity which prior to said date have been

redeemed (otherwise than through the operation of the sinking fund) and cancelled by the Trustee and not theretofore applied as a credit against any sinking fund redemption obligation. Each such Bond or portion thereof so delivered or previously redeemed will be credited by the Trustee at 100% of the principal amount thereof against the obligation of the City on such sinking fund redemption date and any excess over such amount shall be credited against future sinking fund redemption obligations for the Bonds of that maturity in chronological order or any other order specified by the City. In the event the City shall avail itself of the provisions of clause (i) of the first sentence of this paragraph, the certificate required by the first sentence of this paragraph shall be accompanied by the Bonds to be cancelled or evidence thereof satisfactory to the Trustee.

In the case of Bonds of a denomination larger than \$5,000, a portion of such Bond (\$5,000 or any integral multiple thereof) may be redeemed, in which case the Trustee shall, without charge to the owner of such Bond, authenticate and issue a replacement Bond or Bonds for the unredeemed portion thereof.

Unless waived by the registered owner of a Bond to be redeemed, notice of redemption shall be given by the Trustee in the name of the City by mailing such notice at least fifteen days and not more than sixty days prior to the redemption date, by first-class mail, postage prepaid, to the registered owners (initially Cede & Co.) of the Bonds to be redeemed at their addresses as shown on the registration records. Failure to give such notice to the registered owner of any Bond, or any defect therein, shall not affect the validity of the proceedings for the redemption of any other Bonds. All such notices of redemption shall be dated and shall state: (i) the CUSIP number or numbers of the Bonds to be redeemed; (ii) the redemption date, (iii) the redemption price, (iv) if less than all outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed, (v) that on the redemption date the redemption price will become due and payable upon each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date; and (vi) the place where such Bonds are to be surrendered for payment of the redemption price, which place of payment shall be the principal corporate trust office of the Trustee. After such notice has been given in the manner hereinbefore provided, the Bond or Bonds called for redemption shall become due and payable on the designated redemption date, and upon presentation and surrender thereof the City will pay

the Bond or Bonds called for redemption. Installments of interest due on the redemption date shall be payable as herein provided for payment of interest. A certificate by the Trustee that a notice of redemption has been given as herein set forth shall be conclusive and receipt by the Bondholder of a notice of redemption shall not be a condition precedent to the redemption of that Bond.

Notwithstanding the foregoing provisions, any notice of redemption may contain a statement that the redemption is conditioned upon the receipt by the Trustee of funds on or before the date fixed for redemption sufficient to pay the redemption price of the bonds so called for redemption, and that if such funds are not available, such redemption shall be canceled by written notice to the registered owners of the Bonds called for redemption in the same manner as the original redemption notice was mailed.

Section 5. Pursuant to NRS 271.515, the Mayor, the City Clerk and City Treasurer shall each file with the Secretary of State his or her manual signature certified under oath. Thereafter, each of the Bonds shall be signed and executed in the name of the City with the manual or facsimile of the signature of the Mayor, countersigned with the manual or facsimile of the signature of the City Treasurer, shall be attested with the manual or facsimile of the signature of the City Clerk and the seal of the City or a facsimile thereof shall be affixed thereto. The Bonds bearing the signatures of the officers in office at the time of the signing thereof shall be the valid and binding obligations of the City (subject to the requirement of authentication by the Trustee as hereinafter provided) notwithstanding that before the delivery thereof and payment therefor, any or all of the persons whose signatures appear thereon shall have ceased to fill their respective offices. Any officer herein authorized or permitted to sign any Bond at the time of its execution and of the execution of a signature certificate may adopt as and for his or her own facsimile signature the facsimile signature of his or her predecessor in office in the event that such facsimile signature appears upon the Bond. No Bond shall be valid or obligatory for any purpose unless the certificate of authentication, substantially in the form hereinafter provided, has been duly executed by the manual signature of the Trustee (or a duly authorized officer thereof), and such certificate of authentication of the Trustee upon any Bond shall be the only competent evidence that such Bond has been duly issued and delivered. If any Bond shall be lost, stolen, destroyed or mutilated, the Trustee shall, upon receipt of such evidence or information relating thereto, appropriate indemnification, and such reimbursement for expenses

as it may reasonably require, register and deliver to the registered owner thereof a replacement for such Bond bearing a number not contemporaneously outstanding. If such lost, stolen, destroyed or mutilated Bond shall have matured, the Trustee shall pay such Bond in lieu of replacement.

Section 6. Records for the registration and transfer of the Bonds shall be kept by the Trustee. A Bond shall be fully transferable by the registered owner thereof in person or by his or her duly authorized attorney on the registration records kept at the office of the Trustee upon presentation of the Bond together with a duly executed written instrument of transfer satisfactory to the Trustee. Upon the surrender for transfer of any Bond at the principal corporate trust office of the Trustee, duly endorsed for transfer or accompanied by an assignment (in form satisfactory to the Trustee) duly executed by the registered owner or his or her attorney duly authorized in writing, the Trustee shall authenticate and deliver in the name of the transferee or transferees a new Bond or Bonds of a like aggregate principal amount, bearing a number or numbers not contemporaneously outstanding. Bonds may be exchanged at the principal corporate trust office of the Trustee for an equal aggregate principal amount of Bonds of other authorized denominations. The Trustee may require the owner or transferee to pay any tax or other governmental charge required to be paid with respect to such transfer or exchange, and may charge a sum sufficient to pay the cost of preparing and authenticating a new Bond. No such charges shall be levied in the case of an exchange resulting from a redemption of a portion of a Bond. The Trustee shall not be required to transfer or exchange (i) any Bond during the period beginning at the opening of business fifteen days before the date of the mailing by the Trustee of a notice of redemption of Bonds and ending at the close of business on the date such notice is mailed, or (ii) any Bond after the mailing of notice calling such Bond or any portion thereof for redemption except the unredeemed portion of any Bond redeemed in part as herein provided. Whenever any Bond shall be surrendered to the Trustee upon payment thereof, or to the Trustee for replacement as provided herein, such Bond shall be promptly canceled and destroyed by the Trustee, and a certificate of such destruction shall be prepared by the Trustee.

The person in whose name a Bond shall be registered on the registration records kept by the Trustee shall be deemed and regarded as the absolute owner thereof for all purposes and neither the City nor the Trustee shall be affected by any notice to the contrary. Payment of principal of, premium, if any, and interest on any Bond shall be made only to or upon the written

order of the registered owner thereof or his or her legal representative (except as provided above for the payment of interest to the registered owner as of the Record Date or a Special Record Date). All such payments shall be valid and effectual to discharge the liability upon such Bond to the extent of the sum or sums so paid.

The foregoing provisions of this Section are subject to the provisions of Section 8 hereof.

Section 7. Subject to the registration provisions hereof, the Bonds shall be fully negotiable and shall have all the qualities of negotiable paper, and the registered owner or owners thereof shall possess all rights enjoyed by the holders of negotiable instruments under the provisions of the Uniform Commercial Code — Investment Securities.

Section 8. Notwithstanding the provisions of Sections 4 through 6 hereof, the Bonds shall initially be evidenced by one Bond for each year in which Bonds mature in denominations equal to the aggregate principal amount of the Bonds maturing in that year. Such initially delivered Bonds shall be registered in the name of “Cede & Co.,” as nominee for The Depository Trust Company (“DTC”), the securities depository for the Bonds. So long as the Bonds are held by DTC, the Trustee and the City may treat DTC (or its nominee) as the sole and exclusive owner of the Bonds registered in its name for the purposes of payment of the principal of, premium, if any, and interest on the Bonds, selecting the Bonds or portions thereof to be redeemed, giving any notice permitted or required to be given to the registered owners under this Ordinance, registering the transfer of such Bonds, obtaining any consent or other action to be taken by the registered owners and for all other purposes whatsoever, and neither the Trustee nor the City shall be affected by any notice to the contrary. Neither the Trustee nor the City shall have any responsibility or obligation to any DTC participant or indirect participant, any beneficial owner of the Bonds, or any other person which is not shown on the registration records of the Trustee as being a registered owner with respect to the accuracy of any records maintained by DTC or any DTC participant or indirect participant; the payment by DTC or any DTC participant or indirect participant of any amount in respect of the Bonds; any notice which is permitted or required to be given to the registered owners under this Ordinance; the selection by DTC or any DTC participant or indirect participant of any person to receive payment in the event of a partial redemption of the Bonds or any consent given or other action taken by DTC as

owner. After such initial issuance of the Bonds, the Bonds may not thereafter be transferred or exchanged except:

A. to any successor of DTC or its nominee, which successor must be both a “clearing corporation” as defined in subsection 3 of NRS 104.8102, and a qualified and registered “clearing agency” under Section 17A of the Securities Exchange Act of 1934, as amended; or

B. upon the resignation of DTC or a successor or new depository under paragraph A or this paragraph B, or a determination by the City that DTC or such successor or new depository is no longer able to carry out its functions, and the designation by the City of another depository institution acceptable to the depository then holding the Bonds, which new depository institution must be both a “clearing corporation” as defined in subsection 3 of NRS 104.8102, and a qualified and registered “clearing agency” under Section 17A of the Securities Exchange Act of 1934, as amended, to carry out the functions of DTC or such successor or new depository; or

C. upon the resignation of DTC or a successor or new depository under paragraph A or paragraph B, or a determination by the City that DTC or such successor or new depository is no longer able to carry out its functions, and the failure by the City, after reasonable investigation, within 90 days thereafter to locate another qualified depository institution under paragraph B to carry out such depository functions or upon a determination by the City that it is in the best interest of the beneficial owners of the Bonds that they be able to obtain Bond certificates and the delivery by the City of written notice thereof to the Trustee.

In the case of a transfer to a successor of DTC or its nominee as referred to in paragraph A above or designation of a new depository pursuant to paragraph B above, upon receipt of the Bonds by the Trustee, together with written instructions for transfer satisfactory to the Trustee, a new Bond shall be issued to such successor or new depository, as the case may be, or its nominee, as is specified in such written transfer instructions. In the case of a resignation or determination under paragraph C above and, if applicable, the failure after reasonable investigation within 90 days thereafter to locate another qualified depository institution for the Bonds as provided in paragraph C above, and upon receipt of the Bonds by the Trustee, together with written instructions for transfer satisfactory to the Trustee, new Bonds shall be issued in the denominations of \$5,000 and any integral multiple thereof, as provided in Section 3 hereof,

registered in the names of such persons and in such denominations as are requested in such written transfer instructions; provided, however, the Trustee shall not be required to deliver such new Bonds within a period of less than 60 days from the date of receipt of such written transfer instructions.

The City and the Trustee shall endeavor to cooperate with DTC or any successor or new depository named pursuant to paragraph A or B above in effectuating payment of the principal of, premium, if any, and interest on the Bonds by arranging for payment in such a manner that funds representing such payments are available to the depository on the date they are due.

Upon any partial redemption of any of the Bonds, Cede & Co. (or its successor) in its discretion may request the City to issue and authenticate a new Bond or shall make an appropriate notation on the Bond indicating the date and amount of prepayment, except in the case of final maturity, in which case the Bond must be presented to the Trustee prior to payment.

Section 9. Pursuant to NRS 271.505, the Bonds shall contain a recital that they are issued pursuant to Chapter 271, Nevada Revised Statutes, which recital shall conclusively impart full compliance with all of the provisions of the Act, and all Bonds issued containing such recital shall be incontestable for any cause whatsoever after their delivery for value.

Section 10. Subject to the provisions of this Ordinance, the Bonds shall be in substantially the following form, with such omissions, insertions, endorsements and variations as may be required by the circumstances, be required or permitted by this Ordinance, or be consistent with this Ordinance or necessary or appropriate to conform to the rules and requirements of any governmental authority or any usage or requirement of law with respect thereto:

(Form of Bond)

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

UNITED STATES OF AMERICA

STATE OF NEVADA

CITY OF LAS VEGAS

NO. R-____

\$_____

CITY OF LAS VEGAS, NEVADA
SPECIAL IMPROVEMENT DISTRICT NO. 607 (CLIFF'S EDGE)
LOCAL IMPROVEMENT BOND
SERIES 2004

Interest Rate
____% per annum

Maturity Date

Dated as of
_____, 2004

CUSIP Number

REGISTERED OWNER

PRINCIPAL AMOUNT

DOLLARS

The City of Las Vegas, Nevada (the "City"), for value received, hereby promises to pay, out of funds available for that purpose as hereinafter set forth, to the registered owner specified above or registered assigns the principal amount specified above on the maturity date specified above (unless this Bond shall have been called for prior redemption, in which case on such redemption date) and to pay solely from such available funds interest hereon at the interest rate per annum specified above, said interest being payable on June 1 and December 1 in each year, commencing December 1, 2004. This Bond shall bear interest from the most recent interest payment date to which interest has been paid, or if no interest has been paid, from the date of this Bond. Both principal and interest are payable in lawful money of the United States of America without deduction for exchange or collection charges. The principal of this Bond shall be payable to the person in whose name this Bond is registered (the "registered owner") on the registration records maintained by the Trustee for the Bonds, presently BNY Western Trust

Company in Los Angeles, California (the "Trustee"), upon presentation and surrender of this Bond as it becomes due. The interest hereon shall be paid by check mailed by the Trustee on each interest payment date (or, if such interest payment date is not a business day, on the next succeeding business day), to the registered owner at his or her address as it last appears on the registration records kept for that purpose by the Trustee on the fifteenth day of the calendar month preceding the calendar month in which such interest payment date occurs or on a special record date established by the Trustee for the payment of defaulted interest. Alternative means of payment of interest may be used if mutually agreed to between the registered owner of this Bond and the Trustee. If, upon presentation and surrender to the Trustee at maturity or prior redemption, payment of this Bond is not made as herein provided, interest hereon shall continue at the same rate per annum until the principal hereof is paid in full. Interest on this Bond shall be calculated based on a 360-day year consisting of twelve 30-day months.

This Bond is one of a series of bonds designated as the "City of Las Vegas, Nevada Special Improvement District No. 607 (Cliff's Edge) Local Improvement Bonds, Series 2004" (the "Bonds") issued by the City in the aggregate principal amount of \$51,185,000 for the purpose of providing funds to pay the cost and expenses of acquiring and improving streets, sanitary sewers, storm sewers, and water mains (the "Project") within the City of Las Vegas, Nevada Special Improvement District No. 607 (Cliff's Edge) (the "District"). The Bonds have been authorized and issued pursuant to an ordinance (the "Ordinance") duly adopted by the City Council and the Consolidated Local Improvements Law, Chapter 271, Nevada Revised Statutes (the "Act").

The Bonds are subject to redemption at the option of the City from any legally available funds on any interest payment date in whole, or in part from any maturities, in any order of maturity and by lot within a maturity in such a manner as the City may determine, (giving proportionate weight to Bonds in denominations larger than \$5,000), at a price equal to 100% of the principal amount of each Bond, or portion thereof, so redeemed, and accrued interest thereon to the redemption date, plus a premium computed in accordance with the following schedule:

<u>Redemption Period</u>	<u>Redemption Premium</u>
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %

The Bonds maturing June 1, _____ are subject to mandatory sinking fund redemption as provided in the Ordinance at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the redemption date. The Bonds to be so redeemed shall be selected by lot in such manner as the Trustee shall determine (giving proportionate weight to Bonds in denominations larger than \$5,000).

Redemption shall be made upon not less than thirty days' prior notice by mailing to the registered owner of each Bond to be redeemed at the address shown on the registration records in the manner and upon the conditions provided in the Ordinance.

****Upon any partial prior redemption of this Bond, Cede & Co., in its discretion, may request the Trustee to authenticate a new Bond or shall make an appropriate notation on this Bond indicating the date and amount of prepayment, except in the case of final maturity, in which case this Bond must be presented to the Trustee prior to payment.****

Pursuant to the Ordinance, the payment of the principal of, premium, if any, and interest on the Bonds shall be made from and as security for such payment there is pledged, a special fund designated as the "City of Las Vegas, Nevada Special Improvement District No. 607 (Cliff's Edge) Bond Fund" (the "Bond Fund") containing the receipts upon the collection thereof from the special assessments (the "Assessments") levied against and secured by a lien upon the property in the District specially benefited by the Project, which fund shall be used for the full and prompt payment of the Bonds and the interest thereon, and shall be used for no other purpose whatsoever except as permitted by the Ordinance. Whenever there is a deficiency in the Bond Fund, the deficiency must be paid out of the special fund designated as the "City of Las Vegas, Nevada Special Improvement District No. 607 (Cliff's Edge) Bond Reserve Fund" in the priority specified in the Ordinance (the Assessments, the Bond Fund, the Bond Reserve Fund, such other special funds collectively, the "Trust Estate"). The Bonds are not payable from the sources identified in NRS 271.428, 271.495 and 271.500.

Pursuant to the Ordinance, the Trust Estate has been irrevocably pledged to and shall be used for the punctual payment of the principal of, premium, if any, and interest on the

Bonds, and for payment of the continuing costs of the Bonds and the Trust Estate shall not be used for any other purpose while any of the Bonds remain outstanding. The pledge of the Assessments shall constitute a first and exclusive lien on the Assessments for the foregoing purposes in accordance with the terms of the Ordinance; provided that pursuant to the Act such lien is coequal with the latest lien on the real property in the District to secure the payment of general (ad valorem) taxes.

The City Treasurer shall collect, receive and enforce the payment of all Assessments made and levied for the Project, all interest thereon, and all penalties accrued, as provided by law and in the same manner and at the same time or times as prescribed by the Ordinance, the District Financing Agreement and the other proceedings of the City relating thereto.

The Bonds are issuable as fully registered Bonds in denominations of \$5,000 and any integral multiple thereof. Upon surrender of any Bond at the principal corporate trust office of the Trustee with a written instrument satisfactory to the Trustee duly executed by the registered owner or his or her duly authorized attorney, and receipt by the Trustee of the fees and charges provided in the Ordinance, such Bond may be exchanged for an equal aggregate principal amount of Bonds of other authorized denominations, subject to the terms and conditions set forth in the Ordinance.

This Bond is fully transferable by the registered owner hereof in person or by his or her duly authorized attorney on the registration records kept by the Trustee upon surrender of this Bond together with a duly executed written instrument of transfer satisfactory to the Trustee, and upon the payment of the fees and charges provided in the Ordinance. Upon such transfer a new fully registered Bond or Bonds of authorized denomination or denominations of the same aggregate principal amount will be issued to the transferee in exchange for this Bond, subject to the terms and conditions set forth in the Ordinance.

The Trustee will not be required to transfer or exchange (i) any Bond during the period beginning at the opening of business fifteen days before the date of the mailing by the Trustee of a notice of redemption of Bonds and ending at the close of business on the date such notice is mailed, or (ii) any Bond after the mailing of notice calling such Bond or any portion thereof for redemption except the unredeemed portion of any Bond redeemed in part.

****The Bonds shall not be transferable or exchangeable, except as set forth in the Ordinance.****

The City and the Trustee may deem and treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of making payment (except to the extent otherwise provided hereinabove and in the Ordinance with respect to Record Dates and Special Record Dates for the payment of interest) and for all other purposes, and neither the City nor the Trustee shall be affected by any notice to the contrary.

To the extent and in the respects permitted by the Ordinance, the provisions of the Ordinance may be modified or amended by action of the City taken in the manner and subject to the conditions and exceptions prescribed in the Ordinance.

It is hereby certified, recited and declared that all acts, conditions and things essential to the validity of this Bond exist, have happened and have been done in due time, form and manner as required by law; that the total issue of the Bonds does not exceed the amount authorized by law nor the total unpaid special assessments levied to cover the cost of the Project; that this Bond is issued under the authority of the Act and that this Bond is incontestable for any cause whatsoever.

It is hereby further certified, recited and declared that the proceedings with reference to the Project, the levying of the assessments to pay the cost and expense of the Project and the issuance of the Bonds have been regularly had and taken in compliance with law, and that all prerequisites to the fixing of the assessment lien against the property benefited by the Project and of the liability of the owner or owners of such property therefor have been performed.

This Bond shall not be valid or obligatory for any purpose until the Trustee shall have manually signed the certificate of authentication hereon.

IN WITNESS WHEREOF, the City of Las Vegas, Nevada has caused this Bond to be signed and executed in the name of and on behalf of the City with the manual or facsimile signature of the Mayor, to be countersigned with the manual or facsimile signature of the City Treasurer, and to be countersigned, subscribed, executed and attested with the manual or facsimile signature of the City Clerk, has caused the seal of the City or a facsimile thereof to be affixed hereon, and has caused this Bond to be dated as of the date specified above.

(For Manual or Facsimile Signature)
Mayor

(For Manual or Facsimile Signature)
City Treasurer

(MANUAL OR FACSIMILE SEAL)

Attested:

(For Manual or Facsimile Signature)
City Clerk

-
- * Insert only if Bonds are delivered pursuant to paragraph C of Section 8 of this Ordinance.
- ** Insert only if Bonds are initially delivered to The Depository Trust Company pursuant to the first paragraph of Section 8 of this Ordinance.

(Form of Trustee's Certificate of Authentication)

Date of Registration: _____

This is one of the Bonds described in the above mentioned Ordinance and this Bond has been duly registered in the registration records kept by the undersigned as Trustee for the Bonds.

BNY WESTERN TRUST COMPANY,
as Trustee

By (Manual Signature)_____

(End of Form of Trustee's Certificate of Authentication)

**** (Form of Prepayment Panel)**

The following installments of principal (or portions thereof) of this Bond have been prepaid in accordance with the terms of the Ordinance authorizing the issuance of this Bond.

<u>Date of Prepayment</u>	<u>Principal Prepaid</u>	<u>Signature of Authorized Representative of DTC</u>

(End of Form of Prepayment Panel)**

(Form of Assignment Provision)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ to transfer the within Bond on the records kept for the registration thereof with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name as it appears on the face of the within Bond in every particular, without alteration or enlargement or any change whatever. The signature must be guaranteed by an eligible guarantor institution as defined in 17 CFR § 240.17 Ad-15(a)(2).

Signature Guaranteed:

Address of Transferee:

Social Security or other tax
identification number of
transferee:

(End of Form of Assignment)

Section 11. When the Bonds have been duly executed and authenticated, they shall be delivered to the Purchaser on receipt of the agreed purchase price. The proceeds realized by the City from the sale of the Bonds (net of the Purchaser's discount) shall be applied as follows:

A. An amount equal to the Reserve Requirement shall be deposited in a special fund to be held by the Trustee and hereby created, to be designated as the "City of Las Vegas, Nevada, Special Improvement District No. 607 (Cliff's Edge) Bond Reserve Fund."

B. An amount equal to not more than fourteen months' interest on the Bonds shall be deposited in a special fund to be held by the Trustee and hereby created, to be designated as the "City of Las Vegas, Nevada, Special Improvement District No. 607 (Cliff's Edge) Bond Fund."

C. The remainder of such proceeds shall be deposited in a special account to be held by the City Treasurer hereby created and to be designated as the "City of Las Vegas, Nevada, Special Improvement District No. 607 (Cliff's Edge) Construction Fund."

There are also hereby created the following special funds and accounts designated as:

A. "City of Las Vegas, Nevada, Special Improvement District No. 607 (Cliff's Edge) Administration Fund, " to be held by the City Treasurer.

B. "City of Las Vegas, Nevada, Special Improvement District No. 607 (Cliff's Edge) Rebate Fund, " to be held by the Trustee.

The Purchaser shall in no manner be responsible for the application by the City, or any of its officers, agents or employees, of any of the funds derived from the sale of the Bonds or of any other funds herein designated.

Amounts in all of such funds and accounts may be invested by the City in securities which are permitted investments for City funds under Chapter 355 of NRS. Investment income remains in such funds or account unless otherwise provided herein. All investments of amounts deposited in any fund or account created by or pursuant to this Ordinance shall be valued at fair market value. The Trustee shall value investments on deposit in the Bond Reserve Fund not less often than semiannually for purposes of determining whether the amount on deposit in the Bond Reserve Fund is less than the Reserve Requirement.

Section 12. The Construction Fund shall be a special fund held by the City Treasurer. All money in the Construction Fund shall be applied by the City for the payment of cost (as defined in the Act) of the acquisition and improvement of the Project, which includes the payment of the costs of issuance of the Bonds, all in accordance with the District Financing Agreement. The amount of any income realized from the investment of the money in the Construction Fund shall be retained in the Construction Fund or, at the option of the City, transferred to the Trustee for deposit in the Rebate Fund. When the acquisition and improvement of the Project have been completed, the City shall either (i) transfer any remaining balance of money in the Construction Fund to the Trustee for deposit in the Bond Fund or (ii) retain such balance in the Construction Fund to be applied for the payment of the cost of any additional projects permitted by the Act and agreed to by the City and the Developer pursuant to the District Financing Agreement. Any such moneys transferred to the Trustee for deposit in the Bond Fund shall be credited against the Assessment Installments to become due and payable, with an appropriate payment to the owner of any assessed parcel whose Assessment has been paid in full.

Section 13. The City Treasurer is authorized, empowered and directed, and it shall be his or her duty, to receive, collect and enforce the payment of all Assessments made and levied for the Project, and all installments thereof, all interest thereon, and all penalties accrued, as provided by law and in the same manner and at the same time or times as prescribed by the Assessment Ordinance, and to pay and disburse said payments, the installments thereof, the interest thereon, and the penalties thereto, to the person or persons entitled thereto pursuant to the provisions of this Ordinance, the District Financing Agreement and the Act. All moneys received from the Assessments, both principal and interest, shall be transferred to the Trustee for deposit in the Bond Fund (except to the extent required to replenish the Bond Reserve Fund). All moneys deposited in the Bond Fund shall be used as soon as the funds are available for the purpose of paying the principal of and the interest and prior redemption premiums on the Bonds as they become due and payable, and (except as herein and in the District Financing Agreement provided) for no other purpose whatsoever, and the Bond Fund is hereby pledged as security for such purposes. Notwithstanding the foregoing, after June 1 of each fiscal year any amounts in the Bond Fund that are not used to pay the principal and interest on the Bonds shall be transferred from the Bond Fund to the City Treasurer for deposit in the Administration Fund.

The Bonds and the interest thereon shall be payable from the Bond Fund, containing the receipts upon the collection of the Assessments and from the remainder of the Trust Estate. The Bonds are not payable from the sources identified in NRS 271.428, 271.495 and 271.500.

Section 14. A. Whenever there is a deficiency in the Bond Fund, the deficiency shall be paid from amounts in the Bond Reserve Fund. The Bond Reserve Fund shall be a special trust fund held by the Trustee as a continuing reserve to secure the payment of the Bonds by meeting possible deficiencies in the payment of the principal of and the interest on the Bonds resulting from the failure to deposit into the Bond Fund sufficient funds to pay the principal and interest on the Bonds as the same accrue. The City hereby pledges the Bond Reserve Fund for such purpose.

B. An amount equal to the Reserve Requirement shall be deposited to the Bond Reserve Fund from the proceeds of the Bonds. The Bond Reserve Fund will be used as additional security for the Bonds to pay any principal and interest on the Bonds when due, if the payments of the Assessment Installments are insufficient for that purpose.

C. All amounts in the Bond Reserve Fund in excess of the Reserve Requirement, derived from interest earned on amounts in the Bond Reserve Fund or otherwise shall be applied to the following in the following order of priority:

(i) First, when needed to pay the principal of and interest on the Bonds then due to the extent not provided from Bond proceeds including capitalized accrued interest or from the Assessment Installments and interest. Interest used under this clause to pay the principal of and interest on the Bonds shall be applied before a withdrawal is made from the balance in the Bond Reserve Fund.

(ii) Second, when needed for transfer to the City Treasurer for deposit in the Administration Fund to pay all administrative and other expenses of the City associated with the Project, the Bonds or the Assessments.

(iii) Third, prior to the third anniversary of the delivery of the Bonds, or such later date as in the opinion of nationally recognized bond counsel acceptable to the City will not adversely affect the exclusion of the interest on the Bonds from gross income for federal income tax purposes, to be used to pay costs of the Project.

(iv) Fourth, at the time of any prepayment of any Assessment, to provide any refund then owed under paragraph E of this section.

(v) Fifth, at least annually commencing after the October 1, 2005 Assessment payment, used to call Bonds prior to their stated due dates or held in an account for payment of the Bonds at or prior to their due dates, whichever the City Treasurer determines is in the financial best interests of the City. No funds shall be applied as provided in this clause (v) unless they have been held in the Bond Reserve Fund for at least one year.

D. If because of any delinquent Assessment an amount is withdrawn from the Bond Reserve Fund to pay the principal of or interest on the Bonds, and that Assessment is later paid in whole or in part (or amounts are received at a foreclosure sale or otherwise as a result of enforcing the payment of the delinquent Assessment), to the extent available from that payment of the delinquent Assessment (including penalty and interest but after payment of costs of collection), an amount equal to the greater of (i) the amount withdrawn plus interest at the Assessment interest rate, or (ii) the amount necessary to restore the Bond Reserve Fund to the Reserve Requirement, shall be paid to the Bond Reserve Fund from the payment of the delinquent Assessment.

E. At the time the Assessment against any parcel of property is voluntarily paid in full or in part, the person who owned the property at the time of such payment shall be entitled to a refund, in cash or by credit against the Assessment, equal to a pro rata share of the balance then in the Bond Reserve Fund, and the Reserve Requirement shall be recalculated to reflect the payment in full of that Assessment. Such refund, in cash or otherwise, shall be made only to the extent the balance in the Bond Reserve Fund after making the refund would not be less than the Reserve Requirement, as recalculated, but if this structure prevents all or a part of such a refund, that refund (or, an additional partial refund, as the case may be) shall be made if and when money is available in the Bond Reserve Fund to make the payment and as otherwise provided in paragraph C of this section. This section does not prevent the City from amending this Ordinance, the Assessment Ordinance or any other documents executed in connection with the Bonds to provide for other uses of the Bond Reserve Fund in connection with a refunding of the Bonds and the owners of the property assessed in the District have no entitlement to any amounts in the Bond Reserve Fund in the event of such an amendment.

Section 15. BNY Western Trust Company, Los Angeles, California, is hereby appointed as Trustee for the Bonds. The Trustee shall signify its acceptance of the duties and

obligations imposed by this Ordinance by executing and delivering to the City a written acceptance thereof.

Section 16. All moneys and securities held by the Trustee at any time pursuant to the terms of this Ordinance shall be and hereby are assigned, transferred and set over unto the Trustee in trust for the purposes and under the terms and conditions of this Ordinance.

Section 17. The Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Ordinance and to exercise such of the rights and powers vested in it by this Ordinance, and to use the same degree of care and skill in their exercise, as a reasonably prudent person would exercise or use under the circumstances in the conduct of the affairs of others, except as herein otherwise expressly provided. The Trustee, upon receipt of evidence furnished to it by or on behalf of the City pursuant to any provision of this Ordinance, shall examine the same to determine whether or not such evidence conforms to the requirements of this Ordinance.

Section 18. Except as herein otherwise expressly provided, no provision of this Ordinance shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that:

A. The Trustee shall not be liable except for the performance of such duties as are specifically set out in this Ordinance, and no implied covenants or obligations shall be read into this Ordinance against the Trustee, but the duties and obligations of the Trustee shall be determined solely by the express provisions of this Ordinance;

B. In the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates, opinions or other instruments conforming to the requirements of this Ordinance;

C. The Trustee shall not be personally liable for any error of judgment made in good faith by a responsible officer or officers of the Trustee, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts or in the performance of an express duty;

D. The Trustee shall not be personally liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the registered owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding

relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Ordinance, provided that before taking any action hereunder requested by the registered owners of any outstanding Bonds, the Trustee may require that it be furnished indemnity satisfactory to it for extraordinary fees and for the reimbursement of all expenses, including fees and expenses of its counsel, to which it may be put and to protect it against all liability, except liability which results from the negligence or willful misconduct of the Trustee, by reason of any action so taken by the Trustee;

E. The Trustee shall not be required to advance or expend or use its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if there is reasonable ground for believing that the repayment of such funds or liability is not assured to it by the security afforded it by the terms of this Ordinance or by other reasonable security or indemnity;

F. The Trustee shall not be under any responsibility or duty with respect to the disposition by the City of the Bonds or the application by the City of the proceeds thereof or of any moneys paid to the City under any of the provisions hereof; and

G. The Trustee shall not be under any obligation to take any action toward the execution or enforcement of the trusts created by this Ordinance which, in the opinion of the Trustee, will likely involve it in expense or liability, unless one or more of the registered owners of Bonds shall, as often as required by the Trustee, furnish to the Trustee security and indemnity satisfactory to the Trustee against such expense or liability.

Section 19. To the extent permitted by Sections 17 and 18 hereof:

A. The Trustee may conclusively rely and shall be protected in acting upon any resolution, ordinance, certificate, opinion, notice, request, consent, order, appraisal, report, bond, other security or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties; and

B. The Trustee may consult with counsel and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance with the opinion of such counsel.

Section 20. The Trustee shall not be under any responsibility for the approval of any expert designated by the City or any other person for any of the purposes expressed in this

Ordinance. Any resolution or ordinance of the Council shall be evidenced to the Trustee by a copy thereof certified by the City Clerk to have been duly adopted, and the Trustee may accept such copy as conclusive evidence of the adoption of such resolution or ordinance. No surety bond or other security shall be required of the Trustee unless ordered by a court having jurisdiction and for cause shown.

Section 21. The Trustee and any of its directors, officers, employees and agents may buy, hold, sell or deal in, or be a pledgee of, the Bonds, may join in any action which the registered owner of any Bond may be entitled to take, and may engage or be interested in any financial or other transaction with the City, all as freely and with like effect as if they were not Trustee hereunder.

Section 22. Except as herein otherwise provided, all moneys received by the Trustee until used or applied as herein provided, shall be held in trust for the purposes for which they were paid, but need not be segregated from other moneys except to the extent required by law, unless herein otherwise expressly provided.

The City shall from time to time, subject to any agreement then in effect with the Trustee, pay the Trustee compensation for its services and reimburse the Trustee for all its advances and expenditures hereunder, including but not limited to advances to and fees and expenses of accountants, agents, appraisers, consultants, counsel or other experts employed by it in the observance and performance of its rights and obligations hereunder.

To the extent permitted by law, the City does hereby assume liability for, and agrees to indemnify and hold harmless the Trustee from and against any and all claims, fees, expenses, damages, liabilities and losses (including legal fees and expenses) arising out of (i) the condition, management, maintenance or use of or from any work done in connection with the Project, (ii) any act of negligence of the City or of any of its agents, contractors, employees, invitees, licensees, officers or supervisors in connection with the Project, or (iii) the payment of any costs or expenses of the acquisition and construction of the Project; provided, that no indemnification will be made for willful misconduct or negligence hereunder by the Trustee.

To the extent permitted by law, the City also agrees to indemnify the Trustee for, and to hold it harmless against, any loss, liability or expense incurred without negligence or willful misconduct on the part of the Trustee arising out of or in connection with the acceptance or administration of the trusts hereunder, as well as the costs and expenses of defending itself

against any claim, action, suit or liability in accordance with the exercise or performance of any of its powers or duties hereunder. Notwithstanding the foregoing, unless the action or omission giving rise to such indemnification is caused by the gross negligence or willful misconduct of the City, its officers or employees, the City's obligations in the immediately preceding two paragraphs to indemnify the Trustee shall be limited to amounts collected by the City for such purpose in the Assessment Installments or from amounts paid to the City pursuant to the District Financing Agreement.

Section 23. Whenever in the administration of the trusts of this Ordinance the Trustee shall deem it necessary or desirable that a matter be proved or established before taking or suffering any action hereunder, such matter (unless other evidence in respect thereof is herein specifically prescribed) may, subject to the provisions of Sections 17 and 18 hereof, be deemed to be conclusively proved and established by a certificate signed, manually or by facsimile, by the City Treasurer or the City Finance Director and delivered to the Trustee, and such certificate shall be full warrant to the Trustee for any action taken or suffered by it under the provisions of this Ordinance upon the faith thereof. Likewise, all appraiser's certificates, engineer's certificates, officer's certificates and other certificates or instruments herein provided to be given to the Trustee, shall be full warrant and protection to the Trustee, subject to the provisions of Sections 17 and 18 hereof, for any action or non-action taken or suffered by it under the provisions of this Ordinance upon the faith thereof. Whenever it is provided in this Ordinance that the Trustee shall take any action upon the happening of a specific event or upon the fulfillment of any condition or upon the request of the City or of any registered owner of any Bond, the Trustee shall have full power to give any and all notices and to do any and all acts and things incidental to such action.

Section 24. The Trustee, or any successor thereof, may at any time resign and be discharged of its duties and obligations hereunder by giving not less than 60 days' written notice to the City and by mailing a copy of such notice to the registered owners of the Bonds. The resignation shall take effect upon the day specified in the notice unless previously a successor shall have been appointed by the City or by the registered owners of Bonds, in which event the resignation shall take effect immediately on the appointment of such successor.

Section 25. The Trustee, or any successor thereof, may be removed at any time (1) by resolution of the City, upon not less than 60 days' written notice to the Trustee, or (2) by

the registered owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding, excluding any Bonds held by or for the account of the City, by an instrument or concurrent instruments in writing signed and acknowledged by such registered owners of Bonds or by their attorneys-in-fact duly authorized and delivered to the City. Copies of each such instrument shall be delivered by the City to the Trustee and to any successor thereof.

Section 26. In case the Trustee, or any successor thereof, shall resign or shall be removed or shall become incapable of acting or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator or conservator thereof or of its property shall be appointed, or if any public officer shall take charge or control thereof or of its property or affairs, a successor may be appointed by the City or, if the City fails to act, by the registered owners of not less than a majority in aggregate principal amount of the then Outstanding Bonds, excluding any Bonds held by or for the account of the City, by an instrument or concurrent instruments in writing signed and acknowledged by such registered owners of Bonds or by their attorneys-in-fact duly authorized and delivered to the City. Pending such appointment by registered owners of Bonds, the City shall forthwith appoint a successor to act until such appointment is made by the registered owners of Bonds. Copies of each such instrument and of any resolution of the City providing for any such appointment shall be delivered by the City to the successor and to the predecessor Trustee. The City shall mail notice of any such appointment to the registered owners of the Bonds. Any appointment made by the City shall, immediately and without further act, be superseded and revoked by appointment subsequently made by the registered owners of Bonds. If no appointment of a successor shall be made within 30 days after the giving of written notice in accordance with Section 25 hereof or after the occurrence of any other event requiring or authorizing such appointment, the Trustee or any registered owner of Bonds may apply to any court of competent jurisdiction for the appointment of such a successor, and the court thereupon after such notice, if any, as the court may deem proper and may prescribe, may appoint such successor. Any successor appointed under the provisions of this section shall be a bank or a trust company or a national banking association having a shareholders equity (e.g., capital stock, surplus and undivided profits), however denominated, aggregating at least \$75,000,000, if there is such a bank or trust company or national banking association willing and able to accept the appointment on reasonable and customary terms and authorized by law to perform all the duties required by this Ordinance.

Section 27. Any successor appointed under the provisions of Section 26 hereof shall execute, acknowledge and deliver to its predecessor and also to the City an instrument accepting such appointment; and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all moneys, estates, properties, rights, powers, duties and obligations of its predecessor hereunder, with like effect as if originally appointed herein as Trustee; but the Trustee then ceasing to act shall, nevertheless, on request by the City or by such successor, execute, acknowledge and deliver such instruments of conveyance and further assurance and do such other things as may reasonably be required for more fully and certainly vesting and confirming in such successor all the right, title and interest of such Trustee in and to any property held by it hereunder and shall pay over, assign and deliver to such successor any money or other property subject to the trusts and conditions herein set forth. Should any deed, conveyance or instrument in writing from the City be required by such successor for more fully and certainly vesting in and confirming to it any such moneys, estates, properties, rights, powers, duties or obligations, any and all such deeds, conveyances and instruments in writing shall on request and so far as may be authorized by law be executed, acknowledged and delivered to the City by the Trustee originally appointed herein.

Section 28. Any entity in which the Trustee may be converted or merged or with which it may be consolidated or any entity resulting from any conversion, merger or consolidation to which it shall be a party or any entity to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided such entity shall be a bank or trust company or a national banking association qualified to be a successor to the Trustee under the provisions hereof, shall be the successor to the Trustee without any further act, deed or conveyance.

Section 29. The Trustee shall not be considered in breach of or in default in its obligations under this Ordinance or progress in respect thereto in the event of enforced delay in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, Acts of God, terrorism, war, riots, strikes, fire, floods, earthquakes, epidemics or other like occurrences beyond the control of the Trustee; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

Section 30. The Trustee agrees to accept and act upon facsimile transmission of written instructions and/or directions pursuant to this Ordinance provided, however, that: (a) subsequent to such facsimile transmission of written instructions and/or directions the Trustee shall forthwith receive the originally executed instructions and/or directions, (b) such originally executed instructions and/or directions shall be signed by a person as may be designated and authorized to sign for the party signing such instructions and/or directions, and (c) the Trustee shall have received a current incumbency certificate containing the specimen signature of such designated person.

Section 31. The Trust Estate is hereby irrevocably pledged to and shall be used for the punctual payment of the principal of, premium, if any, and interest on the Bonds, and for payment of other costs as set forth herein, and the Trust Estate shall not be used for any other purpose while any of the Bonds remain outstanding. The pledge of the Assessment Installments shall constitute a first and exclusive lien on the Assessment Installments for the foregoing purposes in accordance with the terms hereof; provided that pursuant to the Act such lien is coequal with the latest lien on the real property in the District to secure the payment of general (ad valorem) taxes.

Section 32. There shall be deposited into the "City of Las Vegas, Nevada, Special Improvement District No. 607 (Cliff's Edge) Rebate Fund" any amounts paid by the City for deposit therein. The Rebate Fund shall be held by the Trustee, but shall not constitute part of the Trust Estate. Notwithstanding any other provision of this Ordinance or of the District Financing Agreement, any investment income or other gain on moneys in the Construction Fund, the Bond Fund or the Bond Reserve Fund may, at the City's direction, be transferred to the Rebate Fund to enable the City to satisfy the requirements of Section 148(f) of the Code. Moneys in the Rebate Fund shall be paid to the United States by the Trustee, at the City's direction, in the amounts and at the times required by the Code. Any excess moneys contained in the Rebate Fund shall be transferred, at the City's direction, to the Trustee for deposit to the Bond Fund. Upon payment of all amounts due to the United States pursuant to Section 148 of the Code, any moneys remaining in the Rebate Fund shall be transferred to the City. The Trustee shall have no responsibility with respect to compliance with the provisions of this Section except to comply with the direction of the City.

Section 33. So long as any of the Bonds remain outstanding, the City will keep or cause to be kept true and accurate books of records and accounts showing full and true entries covering the collection and disposition of the Assessment Installments, as well as any delinquencies in the collection thereof, covering deposits in and disbursements from the Construction Fund, the Bond Fund, the Bond Reserve Fund and the Rebate Fund, and covering the payment of the principal of, premium, if any, and interest on the Bonds. The City will permit an inspection and examination of all records and accounts at all reasonable times by a representative of the Purchaser.

Section 34. Promptly (but in no event later than sixty days after the due date of the Assessment Installment) upon a default in the due and punctual payment of any Assessment Installment due hereunder and under the Assessment Ordinance, the City Treasurer shall mark the Assessment Installment delinquent on the assessment roll for the District and shall notify the delinquent person of such delinquency in writing. Unless such Assessment Installment plus accrued interest and penalties thereon have been paid in full, within sixty days thereafter the Council shall direct the City Treasurer to give notice of the sale of the property subject to the lien of the delinquent Assessment Installment, or all of the Assessment with respect to such property if the Council has exercised its option to cause the whole amount of the unpaid Assessment with respect to such property to become due and payable (subject to the provisions of Section 35 hereof), and shall sell such property as provided in and pursuant to the Act. In the event that the owner of such property does not prior to the day of sale pay the amount of all delinquent Assessment Installments, with accrued interest thereon and penalties and costs of collection (as further provided in the Assessment Ordinance) and such property is not sold to a third party purchaser at such sale, the property may be stricken off to the City and held in trust for the benefit of the District pursuant to the Act. Alternatively, the City may proceed with the collection or enforcement of any delinquent Assessment Installment, or the whole amount of the unpaid Assessment with respect to such property if the City has exercised its option to cause the whole amount of the unpaid Assessment with respect to such property to become due and payable (subject to the provisions of Section 35 hereof), by a foreclosure action brought in the district court located in and for the City. All proceedings supplemental to the judgment in any such foreclosure action, including appeal, period of redemption, sale and the issuance of a deed, shall be conducted in accordance with the law relating to property sold upon foreclosure of

mortgages or liens upon real property, except that there shall be no personal liability upon the defendants for any deficiency in the proceeds of such sale.

Upon the sale of or foreclosure upon the real property which is the subject of such delinquent Assessment Installment, or upon the owner of such property paying prior to the date of sale the amount of all delinquent Assessment Installments, or after the date of sale all delinquent Assessment Installments or all of the Assessment if the Council has exercised its option referred to above, accrued interest thereon, penalties and costs of collection, the City shall transfer such moneys received to the Trustee for deposit in the Bond Fund or as otherwise required by the District Financing Agreement.

Section 35. Upon a default in the due and punctual payment of an Assessment Installment and if sale or foreclosure proceedings are not promptly filed and diligently prosecuted by the City, then any registered owner may:

- A. file and prosecute a foreclosure action in the name of the City; and
- B. proceed against the City to protect and enforce the rights of the registered owners under the Act or hereunder by suit, action or special proceedings in equity or at law, either for the appointment of a receiver or for the specific performance of any provisions contained in the Act or herein or in an award of execution of any power granted for the enforcement of any proper legal or equitable remedy as such registered owner may deem most effectual to protect and enforce the rights aforesaid.

All such proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all registered owners of the Bonds then outstanding. The failure of the registered owners so to foreclose upon the property which is the subject of such delinquent Assessment Installment, or so to proceed against the City, or both, shall not relieve the City or any of its officers, agents or employees of its duty so to take the actions set forth in Section 34.

Section 36. The City covenants for the benefit of the registered owners of the Bonds to comply with the provisions of the Continuing Disclosure Certificate with only such changes therein, if any, as are not inconsistent herewith which the Mayor is authorized and directed to execute. The City shall enter into the Continuing Disclosure Agreement with the Developer with only such changes therein, if any, as are not inconsistent herewith. The Mayor is hereby authorized and directed to execute the Continuing Disclosure Agreement and the City

Clerk is hereby authorized and directed to affix the seal of the City to and to attest the Continuing Disclosure Agreement.

Section 37. A. The form, terms and provisions of the Bond Purchase Agreement are approved and the City shall enter into the Bond Purchase Agreement in substantially the form of such document on file with the City Clerk, with only such changes therein, if any, as are approved by the City Finance Director, such approval to be evidenced by the execution of the Bond Purchase Agreement by the City Finance Director; and the City Finance Director is hereby authorized and directed to execute and deliver the Bond Purchase Agreement, provided that the Bond terms and details are consistent with this Ordinance.

B. The officers of the City are authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance, including without limiting the generality of the foregoing:

(i) The printing of the Bonds, including, without limitation, the printing of such additional blank Bonds as shall be required by the Trustee; and

(ii) The printing and distribution of the final official statement for the Bonds in substantially the form of the Preliminary Official Statement heretofore approved by the Council, but with such amendments, additions and deletions as are in accordance with the facts and not inconsistent herewith; and

(iii) The execution of such certificates as may be reasonably required by the Purchaser, relating, inter alia, to the signing and registration of the Bonds, the tenure and identity of the officials of the Council and the City, the delivery of the Bonds, the receipt of the purchase price for the Bonds, the exemption of interest on the Bonds from federal and state income taxation, and if it is in accordance with fact, the absence of litigation, pending or threatened, affecting the validity thereof. It shall be the duty of the proper officers of the City to hereafter take all action necessary for the City to comply with the provisions of the Act, as hereafter amended and supplemented from time to time.

Section 38. The City covenants for the benefit of the registered owners of the Bonds that it will not take any action or omit to take any action with respect to the Bonds, the proceeds thereof, any other funds of the City or any facilities financed with the proceeds of the Bonds if such action or omission (i) would cause the interest on the Bonds to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Code, or (ii) would

cause interest on the Bonds to lose its exclusion from alternative minimum taxable income as defined in Section 55(b)(2) of the Code except to the extent such interest is required to be included in the adjusted current earnings adjustment applicable to corporations under Section 56 of the Code in calculating corporate alternative minimum taxable income. The foregoing covenant shall remain in full force and effect notwithstanding the payment in full or defeasance of the Bonds until the date on which all obligations of the City in fulfilling the above covenant under the Code have been met.

Section 39. The City covenants for the benefit of the registered owners of the Bonds that it will use its best efforts to apportion the Assessments in accordance with the Report heretofore filed with the City.

The City covenants that it will not reapportion the assessments pursuant to Section 6(b) of the Assessment Ordinance unless it makes the findings required by clause (i) and clause (ii) of such Section. The Council will not make the finding described in clause (i) of Section 6(b) of the Assessment Ordinance unless it first obtains a written report of a Qualified Engineer certifying that, based on a Qualified Appraisal Report, the Value-to-Lien Ratio (including in the calculation thereof any increase in the Assessment on any parcel as a result of such combination or reapportionment) for each parcel of the property, if any, on which Assessments are increased as a result of such reapportionment is at least 3 to 1. The City Council will not make the finding described in clause (ii) of Section 6(b) of the Assessment Ordinance unless it first obtains a written report of a Qualified Engineer stating that the proposed combination or reapportionment of Assessments will not increase the principal balance of any Assessment to an amount such that the aggregate amount which is assessed against a tract exceeds the minimum benefit to the tract that is estimated to result from the project which is financed by the Assessment. In making either of the findings, the Council will be entitled to rely on the written report of a Qualified Engineer; and such written report shall be conclusive evidence of the conclusions set forth therein. The Council will not make either of the findings described above unless, as of the effective date of the proposed combination or reapportionment, there are no delinquencies in the payment of Assessment Installments on any parcels on which Assessments will be increased as a result of such combination or reapportionment.

The Council's determination that the apportionment is in accordance with the Report shall be conclusive and binding upon the owners of the property and the owners of the

Bonds. The Council's approval of an apportionment report shall be deemed conclusively to constitute a finding that the apportionment is in accordance with the Report.

Section 40. A. This Ordinance may be amended or supplemented by an ordinance or ordinances adopted by the Council, without the receipt by the City of any additional consideration, with the written consent of the owners of not less than sixty-six per cent (66%) of the Bonds outstanding at the time of the adoption of such amendatory or supplemental ordinance, provided, however, that no such ordinance shall have the effect of permitting:

- (i) An extension of the maturity of any Bond authorized by this Ordinance; or
- (ii) A reduction in the principal amount of any Bond or the rate of interest thereon; or
- (iii) The creation of a lien upon or a pledge of property, revenues or funds, ranking prior to the liens or pledges created by this Ordinance; or
- (iv) A reduction of the principal amount of Bonds required for consent to such amendatory or supplemental ordinance.

B. The City may, without the consent of or notice to the owners, adopt one or more ordinances supplemental hereto, which supplemental ordinances shall thereafter form a part hereof, for any one or more of the following purposes:

- (i) To cure any ambiguity, or to cure, correct or supplement any formal defect or omission or inconsistent provision contained in this ordinance, to make any provision necessary or desirable due to a change in law, to make any provisions with respect to matters arising under this ordinance, or to make any provisions for any other purposes if, in each case, such provisions are necessary or desirable and do not adversely affect the interests of the owners of the Bonds; or
- (ii) To pledge additional revenues, properties or collateral as security for the Bonds; or
- (iii) To grant or confer upon the Trustee for the benefit of the owners of the Bonds any additional rights, remedies, power or authorities that may lawfully be granted to or conferred upon the owners; or
- (iv) for the purpose of providing for the issuance of Refunding Bonds.

Section 41. So long as any of the Bonds are Outstanding, the City may issue Refunding Bonds and may pledge a portion of the Assessments to the payment of such Refunding Bonds if (i) the Value-to-Lien Ratio of all of the Undeveloped Property subject to the lien of the Remaining Assessments will in the aggregate be not less than 3.58:1 and (ii) the principal amount of the Remaining Assessments is not less than the principal amount of the Bonds remaining Outstanding after issuance of the Refunding Bonds. The requirement of NRS 271.488(8)(a) shall be deemed to have been met with respect to the issuance of Refunding Bonds which comply with this section. Upon the issuance of the Refunding Bonds, the Assessments pledged to the payment of the Refunding Bonds shall be released from and shall no longer constitute a part of the Trust Estate. In connection with the issuance of the Refunding Bonds, the City may transfer from the Bond Reserve Fund to any fund or account of the City designated by the Council all or any portion of the amount in the Bond Reserve Fund which will be in excess of the minimum requirement after issuance of the Refunding Bonds.

Section 42. So long as the Bonds or any portion thereof remain Outstanding, the City shall not levy Parity Assessments unless:

A. The Director of Public Works of the City shall have delivered a certificate to the Council at the time of approval of such Parity Assessments to the effect that (i) no portion of the project or projects for which such Parity Assessments are being levied are to be constructed within the exterior boundaries of the District, or if the project or projects for which such Parity Assessments are being levied are to be constructed within the exterior boundaries of the District, that not more than ten percent (10%) of the total amount of assessments being levied for such project or projects will be levied on property within the District, and (ii) the project or projects to be constructed would not have been required as a condition or requirement of development of land within the District based upon the City's development standards in existence as of April 1, 2004; or

B. The Parity Value-to-Lien Ratio of all of the assessable property within the District against which property Parity Assessments are to be levied will in the aggregate, immediately after such levy, be not less than 3:1.

Any certificate delivered by the Director of Public Works of the City pursuant to subsection A above shall be final and conclusive as to the matters contained therein absent fraud.

Section 43. The Administration Fund shall be a special fund held by the City Treasurer, but shall not constitute part of the Trust Estate. All money in the Administration Fund shall be to pay the reasonable administration and other expenses of the City in connection with the Bonds, the Assessments and the Project or principal premium or interest on the Bonds. The amount of any income realized from the investment of the money in the Administration Fund shall be retained in the Administration Fund or, at the option of the City and to the extent permitted by law, transferred to Trustee for deposit in the Rebate Fund.

Section 44. All ordinances, resolutions, bylaws and orders, or parts thereof, in conflict with the provisions of this Ordinance are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance, resolution, bylaw or order, or part thereof, heretofore repealed.

Section 45. When first proposed, this Ordinance must be read to the Council by title, after which an adequate number of copies of this Ordinance must be deposited with the City Clerk for public examination and distribution. Notice of the deposit must be published once in a newspaper published and having general circulation in the City at least 10 days before the adoption of the Ordinance, such publication to be in substantially the following form:

(FORM OF PUBLICATION OF NOTICE OF DEPOSIT OF AN ORDINANCE)

BILL NO. _____

ORDINANCE NO. _____

**AN ORDINANCE CONCERNING THE CITY OF LAS
VEGAS, NEVADA SPECIAL IMPROVEMENT DISTRICT
NO. 607 (CLIFF'S EDGE) AND AUTHORIZING THE
ISSUANCE OF LOCAL IMPROVEMENT BONDS, SERIES
2004**

PUBLIC NOTICE IS HEREBY GIVEN, and that an adequate number of typewritten copies of the above-numbered and entitled proposed Ordinance are available for public inspection and distribution at the office of the City Clerk of the City of Las Vegas, at her office in City Hall, 400 Stewart Avenue, Las Vegas, Nevada, and that such Ordinance was proposed on April 21, 2004, and will be considered for adoption at a regular meeting of the City Council of the City of Las Vegas held on May 5, 2004.

/s/ Barbara Jo Ronemus
City Clerk

(End of Form of Publication of Notice of Deposit of An Ordinance)

Section 46. After this Ordinance is signed by the Mayor and attested and sealed by the Clerk, this Ordinance shall be published once by its title only, together with the names of the Council members voting for or against its passage, such publication to be made in the Las Vegas Review-Journal, a newspaper published and having a general circulation in the City, such publication to be in substantially the following form:

(FORM OF PUBLICATION OF ADOPTION OF ORDINANCE)

ORDINANCE NO. _____
(of Las Vegas, Nevada)

**AN ORDINANCE CONCERNING THE CITY OF LAS
VEGAS, NEVADA SPECIAL IMPROVEMENT DISTRICT
NO. 607 (CLIFF'S EDGE) AND AUTHORIZING THE
ISSUANCE OF LOCAL IMPROVEMENT BONDS, SERIES
2004**

PUBLIC NOTICE IS HEREBY GIVEN, and that such Ordinance was proposed
on April 21, 2004, and was passed at the meeting held on May 5, 2004, by the following vote of
the City Council:

Those Voting Aye:	Oscar B. Goodman
	Gary Reese
	Larry Brown
	Lawrence Weekly
	Michael Mack
	Janet Moncrief

Those Voting Nay:	_____
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Those Absent:	_____
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This Ordinance shall be in full force and effect from and after May 9, 2004, i.e.,
the day after the publication of such Ordinance by its title only.

IN WITNESS WHEREOF, the City Council of the City of Las Vegas, Nevada,
has caused this Ordinance to be published by title only.

DATED this May __, 2004.

/s/ Oscar B. Goodman
Mayor

Attest:

/s/ Barbara Jo Ronemus
City Clerk

(End of Form of Publication)

Section 47. If any section, paragraph, clause or other provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or other provision shall not affect any of the remaining provisions of this Ordinance.

Proposed on April 21, 2004.

Proposed by Council member _____.

Vote:

Those Voting Aye:

Those Voting Nay:

Those Absent:

Oscar B. Goodman, Mayor

Attest:

Barbara Jo Ronemus, City Clerk

Approved as to Form:

4-8-'04 Madeline F. Dickmann DiCicco
Date Deputy City Attorney

This Ordinance shall be in full force and effect from and after May 9, 2004, i.e., the day after the publication of such Ordinance by its title only.

STATE OF NEVADA
CITY OF LAS VEGAS

)
)ss.
)

I, Barbara Jo Ronemus, the duly chosen, qualified and acting Clerk of City of Las Vegas, Nevada (the "City"), do hereby certify:

1. The foregoing pages constitute a true, correct, complete and compared copy of an ordinance which was introduced at the meeting of the Council on April 21, 2004 and finally adopted and approved on May 5, 2004.

2. The following members of the Council were present at the April 21, 2004 Council meeting:

Mayor:	Oscar B. Goodman
Councilmembers	Gary Reese
	Larry Brown
	Lawrence Weekly
	Michael Mack
	Janet Moncrief

3. The foregoing Ordinance was first proposed and read by title to the City Council on April 21, 2004, and referred to a committee composed of _____ for recommendation; thereafter said committee reported favorably on said Ordinance on May 5, 2004, which was a regular meeting of said Council; that as said regular meeting, the proposed Ordinance was again read by title to the City Council and adopted. The members of the City Council were present at the May 5, 2004 meeting and voted upon the adoption of the Ordinance as follows:

Those Voting Aye:	Oscar B. Goodman
	Gary Reese
	Larry Brown
	Lawrence Weekly
	Michael Mack
	Janet Moncrief

Those Voting Nay:	_____
Those Absent:	_____

4. The original of the Ordinance has been approved and authenticated by the signatures of the Mayor of the City and myself as Clerk of the City, and sealed with the seal of

the City, and has been recorded in the journal of the Council kept for that purpose in my office, which record has been duly signed by such officers and properly sealed.

5. All members of the Council were given due and proper notice of the meetings held on April 21, 2004 and May 5, 2004.

6. All members of the Council were given due and proper notice of the meetings. Pursuant to NRS Section 241.020, written notice of the meeting including the time, place, location and agenda of the meeting was given by 9:00 a.m. at least three working days before the meeting.

(a) By posting a copy of the notice at the principal office of the Council, or if there is no principal office, at the building in which the meeting is to be held, and at least three other separate, prominent places within the jurisdiction of the Council, to wit:

- (i) Court Clerk's Office Bulletin Board
City Hall Plaza
Las Vegas, Nevada
- (ii) City Hall Plaza
Special Outside Posting Bulletin Board
Las Vegas, Nevada
- (iii) Las Vegas-Clark County Library
833 Las Vegas Boulevard North
Las Vegas, Nevada
- (iv) Clark County Government Center
500 S. Grand Central Parkway
Las Vegas, Nevada
- (v) Grant Sawyer Building
555 E. Washington Avenue
Las Vegas, Nevada

and

(b) By mailing a copy of the notice to each person, if any, who has requested notice of the meetings of the Council in the same manner in which notice is required to be mailed to a member of the Council.

7. A copy of the notice of each meeting was posted on the City's website no later than 9:00 a.m. on the third working day prior to each meeting.

8. Copies of the notice of each such meeting as posted and mailed are attached hereto as Exhibits A and B.

9. A copy of the affidavit of publication of notice of deposit of the Ordinance is attached to this certificate as Exhibit C. A copy of the affidavit of publication of adoption of the Ordinance is attached to this certificate as Exhibit D.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City this May __, 2004.

City Clerk

(SEAL)

EXHIBIT A

(Notice of April 21, 2004 City Council Meeting)

EXHIBIT B

(Notice of May 5, 2004 City Council Meeting)

EXHIBIT C

(Attach Affidavit of Publication of Notice of Deposit of the Ordinance)

EXHIBIT D

(Attach Affidavit of Publication of Adoption of Ordinance)

City of Las Vegas

**RECOMMENDING COMMITTEE AGENDA
RECOMMENDING COMMITTEE MEETING OF: MAY 3, 2004**

CITIZENS PARTICIPATION: ITEMS RAISED UNDER THIS PORTION OF THE AGENDA CANNOT BE DELIBERATED OR ACTED UPON UNTIL THE NOTICE PROVISIONS OF THE OPEN MEETING LAW HAVE BEEN MET. IF YOU WISH TO SPEAK ON A MATTER NOT LISTED ON THE AGENDA, PLEASE CLEARLY STATE YOUR NAME AND ADDRESS. IN CONSIDERATION OF OTHERS, AVOID REPETITION, AND LIMIT YOUR COMMENTS TO NO MORE THAN THREE (3) MINUTES. TO ENSURE ALL PERSONS EQUAL OPPORTUNITY TO SPEAK, EACH SUBJECT MATTER WILL BE LIMITED TO TEN (10) MINUTES.

MINUTES:

None.

(4:18)
1-474

THE MEETING ADJOURNED AT 4:18 P.M.

Respectfully submitted:


GABRIELA S. PORTILLO-BRENNER, DEPUTY CITY CLERK
June 7, 2004