

## CHAPTER 9.04 - NUISANCES <sup>[15]</sup>

<sup>(15)</sup> **Editor's note**— For provisions on the abatement of obscene nuisances, see Art. II of Ch. 10.42 of this Code.

[9.04.010 - Definitions.](#)

[9.04.020 - Service charges.](#)

[9.04.030 - Penalty for maintaining or permitting a public nuisance to exist.](#)

[9.04.040 - Liability.](#)

[9.04.050 - Notice of violation.](#)

[9.04.060 - Time limit for abatement.](#)

[9.04.070 - Appeal procedures.](#)

[9.04.080 - Necessary actions.](#)

[9.04.090 - City's removal—Abatement.](#)

[9.04.100 - Hearing procedures.](#)

[9.04.110 - Notice and declaration of chronic nuisance.](#)

[9.04.120 - Abatement action—Additional actions.](#)

### 9.04.010 - Definitions.

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

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

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

- (1) When three or more nuisance activities exist or have occurred during any thirty-day period on a property;
- (2) When a person associated with the property has engaged in three or more nuisance activities during any thirty-day period on the property or within one hundred feet of the property;
- (3) When the property has been the subject of a search warrant based on probable cause of continuous or repeated violations of NRS Chapter 459; or
- (4) When a building or place is used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor as defined in NRS 453.086 or controlled substance analog as defined in NRS 453.043.

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

"Imminent hazard" means any condition associated with real property that places a person's life, health or

property in high risk of peril when such condition is immediate, impending, or on the point of happening or menacing.

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

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

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

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

- (1) Any area, structure or object which by its nature, location, or character would tend to attract and endanger the safety of any minor person.
- (2) Any violation of Title 16, including violations of the codes pertaining to building, construction, housing, and fire safety adopted thereunder.
- (3) Any body of water which by its nature or location constitutes an unhealthy or unsafe condition, including any accumulation of stagnant water that has become or is likely to become a breeding area for insects.
- (4) Any refuse, waste, litter or other material, regardless of its market value, which, by reason of its location or character, is unsightly or interferes with the reasonable use and enjoyment of adjacent properties, has a detrimental effect upon adjacent property values, or would hamper or interfere with the containment of fire upon the premises. Examples include, without limitation, decaying or non-decaying solid and semi-solid wastes, whether or not combustible, such as old lumber, tin, wire, cans, barrels, cartons, boxes, rags, tires, inner tubes, brush, grass and hedge clippings, rocks, bricks, cinders, scrap iron, buckets, tubs, windows, screens, glass, bottles, wastepaper, bedsprings, mattresses, discarded furniture and appliances, bedding and material cleaned from animal or fowl pens, automobile parts, scrap paving material, and piles of earth mixed with other waste material which may harbor insect or rodent infestations or may become a fire hazard.
- (5) Any violation of Title 19 or Title 20 of this Code.
- (6) Operating a business without a current license as required by Title 6
- (7) Any other act or condition, other than those permitted by NRS 40.140 and 202.450, which, by reason of its nature, character or location, interferes with the reasonable use and enjoyment of adjacent properties, or which has a detrimental effect upon adjacent property values. Such nuisances include without limitation the following:
  - (a) Weeds, turf grass, or uncultivated plant growth exceeding eight inches in height, either on a vacant parcel or on a developed parcel at a location visible from public property;
  - (b) Dead trees, plants and other vegetation that present a fire hazard or are otherwise a threat to property or to the health and safety of the public or a segment thereof;

- (c) Graffiti, as defined in LVMC 10.48.060, that is allowed to remain for more than twenty-four hours;
- (d) Unpainted or painted buildings, walls, fences or other structures whose condition has become so deteriorated as to create a hazardous condition; threaten collapse, displacement, or other breakdown of structural integrity; permit decay, excessive cracking, peeling, chalking, dry rot, warping or termite infestation; or create a condition of blight visible from public right-of-way;
- (e) Any vehicle that has been abandoned, or any vehicle in an obviously mechanically inoperable condition, that:
  - (i) Is parked within a multifamily residential parking lot, in a location that is visible from public property, including a street or alley;
  - (ii) Has been parked in the same location for more than seven consecutive days;
- (f) Criminal activity on any lot or premises within the City.

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

(Ord. 6024 § 1, 2009; Ord. 5873 § 12 (part), 2006)

#### **9.04.020 - Service charges.**

(A) The City, through its agents and employees, is authorized to inspect property, buildings and premises to determine compliance with this Chapter. The City may assess and collect from the owner or responsible party the following inspection fees as service charges:

- (1) No fee for the initial inspection.
- (2) One hundred twenty dollars for the initial reinspection, if the owner or responsible party has failed to make all the repairs or corrections by the established reinspection date.
- (3) An additional reinspection fee in the sum of one hundred eighty dollars per hour, with a one-hour minimum, for each additional inspection required to certify compliance with the notice of violation until each repair or correction has been completed to the satisfaction of the authorized official.

(B) Based upon a summary of service charges submitted by the authorized official, the Department of Finance and Business Services shall send an appropriate billing to the owner or responsible party. The Department may charge an additional ten percent administrative fee to cover administrative costs. The billing must include the date by which payment must be made in order to avoid the assessment procedures described in this Chapter.

(C) If payment is not received in a timely manner, the City may proceed to collect the service charges and administrative fees through the assessment procedures described in Section 9.04.100, or by means of any other legal or equitable remedy.

(Ord. 5873 § 12 (part), 2006)

#### **9.04.030 - Penalty for maintaining or permitting a public nuisance to exist.**

Every person who causes, maintains, allows, permits, procures, aids, fosters, promotes or solicits a public nuisance or chronic nuisance, or who wilfully omits or refuses to abate such a nuisance, is guilty of a

misdemeanor. Every person who deliberately ignores the establishment or continuation of a public nuisance or chronic nuisance involving or upon property under the person's control is guilty of a misdemeanor if done either intentionally or in a criminally negligent manner. For purposes of this Section, deliberate ignorance is done in a criminally negligent manner if it jeopardizes another's health, safety or welfare; interferes with the objectively reasonable use and enjoyment of adjacent property or any public property; or has a detrimental effect upon adjacent property values. Each day that a violation continues constitutes a separate violation for purposes of criminal prosecution.

(Ord. 5873 § 12 (part), 2006)

**9.04.040 - Liability.**

(A) Pursuant to NRS 268.019, the City may proceed to impose civil liability, instead of a criminal sanction, against a person for causing or maintaining a public nuisance. The amount of liability that may be imposed may not exceed five hundred dollars, or one thousand dollars in the case of liability imposed against an owner of commercial property. Each day that a violation continues constitutes a separate violation for purposes of imposing civil liability.

(B) Proceedings instituted under this Section shall be as set forth in Sections 9.04.050 to 9.04.100, inclusive.

(Ord. 5873 § 12 (part), 2006)

**9.04.050 - Notice of violation.**

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

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

(B) A notice of violation may be served in any of the following ways:

- (1) By personal service thereof upon the owner or responsible party;
- (2) By mailing the notice by certified mail, return receipt requested to the owner or responsible party at the last known address; or
- (3) By posting the notice in a conspicuous place on the property; provided, however, that service by

posting shall only be used when the authorized official cannot determine the last known address of the owner or responsible party.

(C) The time period for abatement of a nuisance described in Paragraph (4) of Subsection (A) of this Section:

- (1) May be less than ten days if the public health or safety requires a shorter period; and
- (2) May not be less than thirty days if the condition is not an immediate danger to the public health, safety or welfare and was caused by the criminal activity of a person other than the owner.

(Ord. No. 6177, § 1, 2-15-12; Ord. 5873 § 12 (part), 2006)

**9.04.060 - Time limit for abatement.**

(A) Unless an appeal is perfected in compliance with Section 9.04.070, the owner or responsible party must abate a public nuisance within the time period set forth in the notice of violation.

(B) If an appeal is perfected in accordance with Section 9.04.070, the date specified for abatement in the notice of violation is tolled for the period during which the owner or responsible party pursues the appeal and receives a decision.

(C) In the event the decision on an appeal requires abatement of the public nuisance, the owner or responsible party must abate the public nuisance within ten days after the decision or within such other time period as the decision may direct.

(Ord. 5873 § 12 (part), 2006)

**9.04.070 - Appeal procedures.**

(A) Within ten days after service of the notice of violation, the owner or responsible party may appeal to the City Council. Such appeal shall be in writing and shall be filed with the City Clerk. Within fifteen days after the appeal has been filed, the appellant shall be given written notice of the procedure and time frame for the hearing of the appeal. The appeal shall be heard by the City Council or by the Council's designee, with a right of final appeal to the Council. The decision of the City Council or the Council's designee, in cases where a designee hears an appeal and no further appeal is taken, shall be final and conclusive. Any owner or responsible party failing to appeal as provided in this Section shall be deemed to have waived any and all objections to the existence of a public nuisance and the abatement of such nuisance.

(B) Civil liability under Section 9.04.040 may be imposed by the City Council, or the Council's designee, in connection with:

- (1) An appeal hearing held pursuant to this Section; or
- (2) Another hearing to establish liability concerning which the owner or responsible party has been provided notice and an opportunity to be heard. Service of such notice is sufficient if in accordance with Subsection (B) of Section 9.04.050

(Ord. 5873 § 12 (part), 2006)

**9.04.080 - Necessary actions.**

(A) In addition to and independent of any other proceeding or remedy authorized by this Chapter or by State law, if an owner or responsible party in violation of this Chapter fails or neglects to remove the public nuisance



within the applicable time limit specified in Section 9.04.060 and has not filed a timely appeal pursuant to Section 9.04.070, the City may take any and all action necessary to abate the public nuisance. In addition, after the City has taken abatement action more than once concerning a particular parcel, the City may undertake preventative measures as part of its abatement action, which may include, without limitation, creating a dirt berm or installing a fence around the appropriate portions of the parcel, and installing appropriate signage, to prevent and discourage future nuisance activity.

(B) Except as otherwise provided in this Section, at least ten days' notice of the City's intent to take or cause abatement action under this Section must be provided to an owner or responsible party. Subject to compliance with the provisions of Paragraph (2) of Subsection (C) of Section 9.04.050, this notice requirement shall be deemed to have been met if a notice of violation indicates that such abatement action may be taken upon failure to remove a public nuisance within the time limit specified.

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

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

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

(Ord. No. 6177, § 2, 2-15-12; Ord. 5873 § 12 (part), 2006)

#### **9.04.090 - City's removal—Abatement.**

Notwithstanding any provision of Section 9.04.080, the existence of a public nuisance on any vacant lot which poses a threat to health or safety, results in deterioration and blighting of the surrounding area and has an adverse effect on the use and enjoyment of nearby properties may be summarily removed or abated by the City without prior notice and at the City's expense.

(Ord. 5873 § 12 (part), 2006)

#### **9.04.100 - Hearing procedures.**

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

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

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

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

(1) Is perfected when the City Clerk has:

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

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

(2) Shall be:

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

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

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

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

(C) Pursuant to NRS 268.4122, the City Council may order that civil penalties assessed under this Chapter be made part of an assessment lien authorized by this Section, but any action to do shall be subject to the limitations contained in NRS 268.4122.

(Ord. No. 6177, § 3, 2-15-12; Ord. 5873 § 12 (part), 2006)

#### **9.04.110 - Notice and declaration of chronic nuisance.**

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

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

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

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

person other than the owner; and

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

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

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

(Ord. No. 6177, § 4, 2-15-12; Ord. 5873 § 12 (part), 2006)

**9.04.120 - Abatement action—Additional actions.**

(A) When a property owner has been served with a Notice and Declaration of Chronic Nuisance and has failed to abate the chronic nuisance by the date specified in the Notice and Declaration, the authorized official may request the City Attorney to file an abatement action in a court of competent jurisdiction. If the court finds that a chronic nuisance exists and emergency action is necessary to avoid immediate threat to the public welfare or safety, the court shall order the City to secure and close the property for a period not to exceed one year or until the nuisance is abated, whichever occurs first. In addition, the court may:

(1) Impose a civil penalty in accordance with NRS 268.4124(3) for each day that the condition was not abated after the date specified in the Notice and Declaration of Chronic Nuisance by which the owner was required to abate the condition;

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

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

(4) Order any other appropriate relief.

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

(Ord. No. 6177, § 5, 2-15-12; Ord. 5873 § 12 (part), 2006)