

ORDINANCE NO. 3020

AN ORDINANCE AMENDING TITLE 8 OF THE MUNICIPAL CODE OF THE CITY OF NORTH LAS VEGAS, RELATING TO THE ABATEMENT OF NUISANCES; AND OF CHRONIC NUISANCES BY ADDING NEW CHAPTER NUMBERS 75 AND 80, ESTABLISHING PROCEDURES TO ALLOW CODE ENFORCEMENT TO ABATE NUISANCES AND CHRONIC NUISANCES FROM PARCELS OF LAND AND ESTABLISHING ADMINISTRATIVE APPEAL AND HEARING PROCEDURES; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATED THERETO.

The City Council of the City of North Las Vegas does ordain:

SECTION 1: Chapter 75 of Title 8 of the North Las Vegas Municipal Code is hereby added as follows:

Chapter 8.75 - ABATEMENT OF NUISANCES

8.75.010- Definitions.

In the construction of this chapter, the following definitions shall be observed, unless the context clearly requires otherwise:

- A. "Authorized Enforcement Officers," means those code enforcement officers and any authorized employee within the Code Enforcement Division or immediate superior officers of said officials are designated by The North Las Vegas City Manager, City Council, and adopted codes, pursuant to NRS 171.17751, to serve citations for violations of this chapter.
- B. "Dangerous structure or condition" means a structure or condition that may cause injury to or endanger the health, life, property or safety of the public or the occupants, if any, of the real property on which the structure or condition is located. The term includes, without limitation, a structure or condition that:
 - 1. Injures or endangers the life, safety, health, or property of the general public or the occupants of the property upon which the structure or condition is located, or in any way annoys or endangers the comfort or repose of a considerable number of persons;
 - 2. Violates an ordinance, statute rule or regulation regulating health and safety enacted, adopted or passed by The North Las Vegas City Council, the violation of which is designated as a nuisance in the ordinance, rule or regulation.
 - 3. Is an edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner intended for supporting or sheltering any use or occupancy, that has been determined to be dangerous by an authorized enforcement officer or the building official pursuant to the adopted Building and Construction Code in Title 15.20, pursuant to the adopted Uniform Housing Code in Section 15.20.010.

4. Injures or endangers the safety or health of the public or the occupants of the property upon which a swarm, nest, colony or hive of bees is located or when such swarm, nest, colony, or hive of bees interferes with the normal use and enjoyment of the property or the property of others.
- C. "Litter" means garbage, refuse or rubbish as defined herein and all other waste material, which, if thrown or deposited as herein prohibited, is unsightly, dirty or offensive, creates or tends to create a fire hazard or danger to public health, safety welfare.
- D. "Designee of the city council" means the Hearing Officer approved by the North Las Vegas City Council.
- E. For the purposes of this chapter, "Garbage" means putrescible animal and vegetable wastes resulting from the handling, storage, sale, preparation, cooking, and serving of food.
- F. "Weeds and noxious plant growth" means any plant on the Nevada State Department of Agriculture Noxious Plant List, non-cultivated plant material and any cultivated grasses, vegetation, common grasses, turf, and lawn areas, exceeding a height of ten (10) inches. Any ornamental grasses specifically bred to exceed ten (10) inches in height are excluded.

8.75.020- Declaration of nuisances.

In order to protect the public health, safety and welfare of the residents of the City, the City Council or its designee may order the owner of real property within the City to:

1. Repair, safeguard or eliminate any dangerous structure or condition;
2. Clear debris, rubbish and refuse which is not subject to the provisions of NRS Chapter 459, Hazardous Materials; or
3. Clear weeds and noxious plant growth.

8.75.030- Notice of nuisances.

Upon the discovery of a dangerous structure or condition, debris, rubbish, refuse, weeds or noxious plant growth on property within the City, an authorized enforcement officer shall send to the owner of the property, at the mailing address provided by the owner in the real property records of the county, written notice of the existence of such conditions. The notice shall contain:

1. The street address, parcel number and/or legal description sufficient for identification of the property upon which the conditions are located;
2. A description of the condition or conditions to be abated;
3. A statement of the action required to abate the conditions and the date by which the abatement must occur; and
4. A statement informing the owner of an opportunity to request a hearing before the designee of the City Council and an appeal of that decision to the North Las Vegas

Justice Court.

5. A statement informing the owner that he will be subject to civil penalties for each day that he does not abate the conditions after the date specified in the notice.

8.75.030- Service of notice.

Notice issued pursuant to this title shall be served on the responsible person(s) by a code enforcement officer or other authorized employee in the following manner:

1. Personal service of the notice on the responsible person or posting of the notice in a conspicuous location on the property or premises and mailing of the notice to the responsible person's address shown on the county assessor's records by certified mail with the envelope labeled with an 8-day return receipt requested, and concurrently by first class mail.
2. Service is deemed effective upon mailing and regardless if the certified mail envelope is returned unsigned. If the notice is sent first class mail, it may also be sent to any address where the responsible person is known to live or receive mail. Provided the notice sent by first class mail is not returned, then service shall be deemed effective.

8.75.040- Abatement cost, penalties and fees - liability.

- A. The property owner is liable for the abatement cost, civil fines, penalties and fees, which are imposed pursuant to the fee schedule in Section 8.70.020, even if they are not the code violator. A property owner who pays any abatement costs, civil fines, penalties and fees pursuant to this chapter has the right to recover from the violator the civil fines, penalties and fees so paid, and has a cause of action in any court, which has appropriate jurisdiction against the violator for the amount so paid.
- B. In order to hold the code violator equally responsible for the issuance of abatement costs, civil fines, penalties and fees, the name, address and phone number of the person occupying the property when found to be in violation of city code must be provided by the property owner, property manager or leasing agent to the Code Enforcement Division within ten (10) calendar days of receiving notice of an infraction of city code. Nothing in this provision shall absolve the owner of responsibility for the payment of civil fines, penalties and fees.

8.75.050- Abatement cost, penalties and fees - appeals.

- A. Initial appeal to the Code Enforcement Division.
 1. A person may initiate an appeal pursuant to Section 8.70.060(c) by appealing to the Code Enforcement Division. The appellant shall pay the fee listed in the fee schedule in Section 8.70.020 and submit the appeal on a form provided by the Code Enforcement Division. The form shall require the appellant to indicate, among other things, his/her name, current address, a reference to the abatement action, civil citations, penalties, fees, and the grounds for the appeal.

2. An appeal made under this section shall be decided administratively by the code enforcement manager or designee based on a review of the enforcement case file, abatement, the circumstances surrounding the abatement action, and any grounds or evidence provided by the appellant. The code enforcement manager or designee may decide in favor of the appellant by finding no liability, or finding liability and imposing cost recovery for the abatement and a fine in an amount less than that set forth in this title.

3. Notwithstanding any other provision of this chapter, the code enforcement manager or designee has the discretion, but is under no obligation, to decide in favor of a particular appellant by finding no liability, finding liability and imposing cost recovery for the abatement and a fine less than that set forth in this title, waiving late fees and penalties otherwise accruing, or converting civil citations, penalties or fees to a warning upon a determination that considering all the circumstances, unfairness would otherwise result.

4. Notice of the decision made by the code enforcement manager or designee in connection an appeal made under this section shall be provided to the appellant by:
 - a. Mailing such notice to the appellant at the address provided by the appellant; and

 - b. Sending such notice to the appellant by electronic mail, if the appellant has requested communication by means of electronic mail.

5. Within five (5) days after notice of a decision has been provided pursuant to subsection 4 of this section, the appellant must:
 - a. Pay or cause to be paid in full all abatement costs, civil citations, penalties or fees remaining to be paid;

 - b. Arrange a payment with the Code Enforcement Division for the abatement costs, fines and penalties owed and the Payment Scheduling Fee listed in the fee schedule in Section 8.70.020 or; _____

 - c. Request an escalated appeal hearing in accordance with Section 8.70.080(B).

B. Escalated appeal to independent Hearing Officer.

1. An appeal made pursuant to Section 8.70.080(a) which is denied may be appealed to and heard by an independent Hearing Officer. A person may initiate an independent appeal under this section by:
 - a. Contacting the office of the Code Enforcement Division within the five- day period referred to in Section 8.70.080(a)(5) and requesting an independent appeal hearing;

 - b. Paying the associated fee listed in the fee schedule in Section 8.70.020; and

c. Receiving a date for hearing the appeal.

2. An appeal under this subsection may be filed by or on behalf of the registered owner of the property that is subject to the civil citations, penalties, abatement costs or fees owed.
3. The appellant shall provide all information the Code Enforcement Division may require. A hearing shall be conducted by a designated Hearing Officer provided by the City as set forth in Section 8.70.080(b)(4). The appellant shall be bound by the decision of the Hearing Officer concerning liability for the infraction(s) and responsibility for the penalties thereon. It is expected that the appellant will appear in person or by representative at the hearing. However, at the Hearing Officer's discretion, a hearing may be held, and the appeal decided, without an appearance by the appellant. If any appellant scheduling a hearing before the Hearing Officer fails to appear at such hearing without having first sought and obtained a continuance of such hearing, the Hearing Officer may enter a decision against the appellant for the full amount of fines and penalties scheduled to be reviewed. In connection with the request for a hearing, the appellant must acknowledge the binding nature of the hearing and the Hearing Officer's authority in the event the appellant fails to appear at the hearing. The acknowledgment shall be in substantially the following form:

I _____, hereby request a binding hearing before the Hearing Officer. My address is _____ . I request that this hearing involve code enforcement case number(s) _____, including the associated penalties and fees. I understand that the Hearing Officer is an attorney and not an elected or appointed judge.

I understand that I am bound by the decision of the Hearing Officer. I understand that I am expected to appear in person or by representative at the requested hearing, but that the hearing may be held, and the appeal decided, without such appearance. I understand that if I fail to appear for the scheduled hearing before the Hearing Officer without first obtaining a continuance of such hearing, the Hearing Officer may enter a decision against me for the full amount of the fees and penalties scheduled to be reviewed. I understand and agree that if necessary due to my lack of timely payment, the City of North Las Vegas can and will use this binding decision to have a formal civil judgment entered against me in the North Las Vegas Municipal or Justice Courts, as appropriate.

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

Knowing all the above, I still wish to request a binding hearing before the Hearing Officer on the above-described civil citation(s). I hereby acknowledge the above and further acknowledge that at my request a hearing has been set for on the ____ day of the month of _____, in the year _____, at the hour of _____ a. m. /p.m. _____.

Appellant

4. Any appeal hearing conducted pursuant to this subsection shall be presided over by a Hearing Officer who shall be an attorney licensed to practice law in the State of Nevada.
5. The Hearing Officer may decide in favor of the appellant by finding no liability, may find liability but impose a fine in an amount less than that set forth in this title, or may waive late fees and penalties for any one or more of the reasons set forth in Section 8.70.080(a)(2)-(3).
6. The appellant shall pay the total abatement costs, civil fines and penalties forthwith or at such times and on such conditions as the Hearing Officer shall prescribe if it is found that the person has either failed to appear or otherwise defend against the issuance of the civil citation, or that the infraction has been committed and no applicable defense exists. If the appellant fails to pay in accordance with the times and conditions of the Hearing Officer's decision and any amount due remains unpaid thirty (30) days after the date due, all amounts outstanding shall be deemed delinquent, including unpaid portions of the original fine amount and any associated penalties. The City shall have the right to collect such amounts by any means set forth in this chapter or otherwise available under law.
7. Upon reaching a decision, the Hearing Officer shall, as soon as practicable thereafter, file a written decision substantially conforming to the following form:

_____, Appellant vs. City of North Las Vegas, Nevada, Code Enforcement Division, Respondent. Before, _____, Hearing Officer for the City of North Las Vegas, decision is entered in favor of (Appellant or Code Enforcement Division) for _____ (enter \$0.00 if judgment is for the Appellant), on the _____ day of the month of _____, in the year _____. I certify that the foregoing is a correct reflection of the decision entered in the action properly brought for my consideration pursuant to North Las Vegas Municipal Code Section 8.70.080(b).

Hearing Officer

8. The City Attorney may petition the North Las Vegas Municipal Court or North Las Vegas Justice Court, as appropriate, for the entry of a civil judgment against the appellant in an amount equal to that stated in the written decision of the Hearing Officer if the City Attorney determines this action to be necessary to enforce such decision. Service of such petition on the defendant must be made by certified mail, return receipt requested, restricted delivery, addressed to the registered owner of the property at his last known address and as indicated by the county assessor's

records. An affidavit or declaration of mailing, a signed, returned receipt, or other evidence of service shall be filed upon such service of the petition. Once a petition for civil judgment pursuant to this subsection (8) has been filed with the North Las Vegas Municipal Court or North Las Vegas Justice Court, the assigned judge has jurisdiction to grant or deny the relief prayed for therein.

- C. If a person fails to respond to any abatement costs, civil citations, penalties or fees or a notice of delinquency in accordance with this chapter, the Code Enforcement Division is entitled to collect the amount of any fines and penalties by means of any remedy available under applicable law, including the placement of a special assessment against the property upon which the condition is located. The special assessment shall be collected pursuant to the provisions set forth in subsection 5 of NRS 268.4122.

8.75.060- Civil citations, penalties and fees - processing of appeals.

In connection with the filing and processing of an appeal made either under Section 8.70.080(a) or Section 8.70.080(b):

- A. A person who is an individual may be represented by a member of the person's immediate family, with the written consent of the individual to be represented, or by an attorney who is licensed to practice law in Nevada. A business or other entity may be represented by an officer of the entity or by an attorney who is licensed to practice law in Nevada.
- B. Properly filed Abatement Costs, Civil Citations, Penalties and Fees shall constitute a claim of liability and a claim for relief and no other such claim shall be required. Prima facie proof of the violation alleged shall be established by means of a certified copy of the citation, penalties or fees or by reference to the data stored in a computer or other devices listed in Section 10.13.040. No formal appearance by the City Attorney's Office is required. The hearing and disposition of all appeals shall be informal, with the purpose of dispensing timely and appropriate justice.
- C. The burden of proving any defense shall be upon the person raising such defense.
- D. The date specified in the notice by which the owner must abate the conditions is tolled for the period during which the owner requests a hearing and receives a decision from the designee of the City Council and for the period during which the owner appeals that decision to the North Las Vegas Municipal or Justice Court, as appropriate.

8.75.070- Recoupment of City's costs to abate.

- A. The City shall recover from the owner the amount expended to abate the conditions if:
- B. The owner has not requested a hearing within ten business days after service of the notice to abate and has failed to abate the conditions on his property within the time prescribed in the notice to abate;
- C. After a hearing in which the owner did not prevail, the owner has not filed a notice of appeal and appealed and has failed to abate the conditions within the period specified in the decision of the designee of the City Council; or

- D. The Municipal or Justice Court has denied the appeal of the owner and the owner has failed to abate the conditions within the period specified in the order of the Municipal or Justice Court.
- E. In addition to the option of recovering money expended by the City to abate the condition by initiating a civil suit against the owner or any other reasonable means, the expense shall be a special assessment against the property upon which the condition is located. The special assessment shall be collected pursuant to the provisions set forth in subsection of NRS 268.4122.

8.75.080- Assessment and abatement.

- A. An owner shall be assessed a civil penalty for each day that the owner fails to abate the conditions after the date specified on the notice by which the owner was required to abate the conditions. The civil penalty shall be five hundred (\$500.00) dollars per day for residential properties and one thousand (\$1,000.000) dollars per day for commercial properties following the compliance date specified on the notice. If the City elects to assess a civil penalty, but not perform an abatement, it shall so notify the owner at the time of billing.
- B. Except as otherwise provided in subsection C, in addition to the option of recovering money expended by the City to abate the condition by initiating a civil suit against the owner or any other reasonable means, civil penalties shall be a special assessment against the property upon which the condition is located. The special assessment shall be collected pursuant to the provisions set forth in NRS 268.4122(4).
- C. Any civil penalties that have not been collected from the owner of the property are not a special assessment against the property pursuant to subsection B unless:
 - 1. At least twelve months have elapsed after the date specified in the notice by which the owner must abate the nuisance or the date specified in the order of the North Las Vegas Municipal or Justice Court by which the owner must abate the nuisance, whichever is later;
 - 2. The owner has been billed, served or otherwise notified that the civil penalties are due; and
 - 3. The amount of the uncollected civil penalties is more than five thousand dollars.

SECTION 2: Chapter 80 of Title 8 of the North Las Vegas Municipal Code is hereby added as follows:

Chapter 8.80 -CHRONIC NUISANCES

8.80.010 - Definitions.

As used throughout this chapter, the words and terms defined in this section have the meanings ascribed to them unless a different meaning clearly appears in the context where used, or unless specifically defined in an applicable section.

- A. "Authorized agent," means a person or enforcement officer authorized to issue a citation.

B. "Nuisance activity" means:

1. Criminal activity;
2. The presence of debris, litter, garbage, rubble, abandoned or junk vehicles or junk appliances;
3. Excessive noise;
4. The operation of any business as a front for prostitution or unlicensed gaming;
5. The operation of an unlicensed business;
6. Violations of building codes, housing codes or any other codes regulating the health or safety of occupants of real property;
7. Any act or omission which injures or endangers the life, safety, health, or property of the general public or the occupants of the property upon which the structure or condition is located, or in any way annoys or endangers the comfort or repose of a considerable number of persons; or
8. Any act or omission which violates an ordinance, rule or regulation regulating health and safety enacted, adopted or passed by the City, the violation of which is designated as a nuisance in the ordinance, rule or regulation.

C. "Owner" means any person, whether residing, located or domiciled within or outside the City of North Las Vegas or within or outside the state of Nevada, having title to the property. For the purposes of service of notice, "owner" shall also mean the owner's local designated agent or representative.

D. "Person associated with the property" means:

1. The owner of the property;
2. The manager of the property;
3. The tenant of the property; or
4. A person who, on the occasion of a nuisance activity, has:
 - a) Entered, patronized or visited;
 - b) Attempted to enter, patronize or visit; or
 - c) Waited to enter, patronize or visit the property or a person present on the property.

E. "Property" means real property located within the City of North Las Vegas.

8.80.020-Declaration of chronic nuisance.

For the purposes of this chapter, those activities and circumstances listed below are declared to be a chronic nuisance:

- A. Three or more instances of nuisance activities exist or have occurred during any ninety-day period on the property;
- B. A person associated with the property has engaged in three or more instances of nuisance activities during any ninety-day period on the property or within one hundred feet of the property;
- C. The property has been the subject of a search warrant based on probable cause of continuous or repeated violations of NRS Chapter 459 and hazardous materials described in that chapter have been found on the property as a result of a search pursuant to that warrant;
- D. 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; or
- E. A building or place was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:
 - 1. The building or place has not been deemed safe for habitation by a governmental entity; or
 - 2. All materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed from or remediated on the building or place by an entity certified or licensed to do so within one hundred eighty days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor as defined in NRS 453.086 or controlled substance analog as defined in NRS 453.043.

8.80.030-Abatement of chronic nuisance.

Upon the discovery of two or more nuisance activities existing on a property, the enforcement officer or an authorized agent, pursuant to Section 8.75.030 herein, shall send to the owner of the property a written notice of the existence on the property of the nuisance activities. The notice shall be entitled "Notice and Declaration of Chronic Nuisance" and contain:

- A. The street address, parcel number and/or legal description sufficient for identification of the property upon which the chronic nuisance is located.
- B. A description of the conditions or activities, which constitute the chronic nuisance.
- C. The date by which the abatement must occur to prevent the matter from being submitted to the city attorney for legal action.
- D. Notice of the opportunity for a hearing before North Las Vegas Municipal or Justice Court, as appropriate, and the procedures therefor.

8.80.040- Service of required notices.

The written notice and declaration of chronic nuisance shall be sent, by certified mail, return receipt requested, by the enforcement officer or the authorized agent to the owner of the

property and posted on the property as notice to the occupant, when applicable.

8.80.050- Court hearing.

- A. When served with a notice and declaration of chronic nuisance, the owner may request a hearing by filing in municipal or justice court a complaint for declaratory or injunctive relief. Service of the complaint shall be effectuated in accordance with the Nevada Rules of Civil Procedure. The complaint must be filed and served prior to the abatement date specified in the notice. The date specified in the notice is tolled for the period during which the owner requests a hearing and receives a decision.
- B. When served with a notice and the owner fails to abate the chronic nuisance by the date specified in the notice and fails to request a hearing in municipal or justice court prior to the date specified in the notice, the enforcement officer or authorized agent may request the city attorney to file a complaint in municipal or justice court.
- C. If the court finds that a chronic nuisance exists and action is necessary to avoid serious threat to the public welfare or the safety or health of the occupants of the property, the court may order the City to secure and close the property until the nuisance is abated.
- D. In addition, if the court finds that a chronic nuisance exists, the court may:
 - 1. Impose a civil penalty of not more than five hundred (\$500.00) dollars per day for residential properties and seven hundred and fifty (\$750.00) dollars for commercial properties each day that the chronic nuisance was not abated after the date specified in the notice by which the owner was required to abate the condition;
 - 2. Order the owner to pay the City for the cost incurred by the City in abating the condition; and
 - 3. Order any other appropriate relief.

8.80.060- Recovery of abatement costs.

- A. In addition to any other reasonable means authorized by the court for the recovery of money expended by the City to abate the chronic nuisance, and, except as otherwise provided in subsection B, for the collection of civil penalties imposed pursuant to Section 8.75.050, the expense and civil penalties shall be a special assessment against the property upon which the chronic nuisance existed. The special assessment shall be collected pursuant to the provisions set forth in subsection 4 of NRS 268.4124.
- B. Any civil penalties that have not been collected from the owner of the property may not be made a special assessment against the property pursuant to subsection (a) unless:
 - 1. At least 180 days have elapsed after the date specified in the order of the court by which the owner must abate the chronic nuisance or, if the owner appeals that order, the date specified in the order of the appellate court by which the owner must abate the chronic nuisance, whichever is later;
 - 2. The owner has been billed, served or otherwise notified that the civil penalties are due; and

3. The amount of the uncollected civil penalties is more than five thousand dollars.

SECTION 3: NON-INFRINGEMENT OF RIGHTS. The City Council of the City of North Las Vegas has been informed by the City Attorney as to the constitutionality of this ordinance and based upon such information we are adopting this ordinance in good faith with a reasonable belief that the actions taken by the City of North Las Vegas are not in violation of any rights, privileges, or immunities secured by the laws providing for equal rights of citizens or persons.

SECTION 4: SEVERABILITY. If any section, paragraph, clause or 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 provision shall in no way affect the validity and enforceability of the remaining provisions of this Ordinance.

SECTION 5: EFFECTIVE DATE. This Ordinance shall become effective after its passage by the City Council of the City of North Las Vegas and, after such passage by the City Council, publication once by title in a newspaper qualified pursuant to the provisions of Chapter 238 of NRS, as amended from time to time.

SECTION 6: PUBLICATION. The City Clerk shall cause this Ordinance, immediately following its adoption, to be published once by title, together with the names of the Councilmen voting for or against passage, in a newspaper qualified pursuant to the provisions of Chapter 238 of NRS, as amended from time to time.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF NORTH LAS VEGAS this 6th day of May, 2020 by the following vote:

AYES: Mayor Lee, Mayor Pro Tempore Black, Council Members Goynes-Brown, Barron and Cherchio
NAYS: None
ABSTAIN: None
ABSENT: None

APPROVED:



JOHN J. LEE, MAYOR

ATTEST:



CATHERINE A. RAYNOR, MMC
CITY CLERK