

ASSEMBLY BILL NO. 25—COMMITTEE
ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE CITY OF LAS VEGAS)

PREFILED DECEMBER 20, 2012

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing special assessments for the abatement of certain conditions and nuisances. (BDR 21-252)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to cities; revising provisions governing the imposition of special assessments for the abatement of certain conditions and nuisances on property within a city; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, if an owner of property within a city fails to abate a dangerous or noxious condition, a chronic nuisance or, in larger counties, an abandoned nuisance on the property after being directed to do so, the owner may be required to pay civil penalties as well as any costs incurred by the city to abate the condition or nuisance. In addition to any other reasonable means of recovering those costs and penalties, the city is authorized to make the costs and penalties a special assessment against the property and collect the special assessment in the same manner as ordinary county taxes are collected. However, before a special assessment for civil penalties may be imposed, existing law requires that 12 months must have elapsed after the final date specified for the abatement of the condition or nuisance. (NRS 268.4122-268.4126)

This bill provides that a special assessment for the costs of abatement and civil penalties may be imposed by a designee of the governing body. If a special assessment is imposed by a designee of the governing body, the bill requires that the designee periodically report certain information about each such assessment to the governing body. The bill also shortens, from 12 months to 30 days, the length of time that must elapse before a special assessment for civil penalties may be imposed.



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

Section 1. NRS 268.4122 is hereby amended to read as follows:

268.4122 1. The governing body of a city may adopt by ordinance procedures pursuant to which the governing body or its designee may order an owner of property within the city to:

(a) Repair, safeguard or eliminate a dangerous structure or condition;

(b) Clear debris, rubbish, refuse, litter, garbage, abandoned or junk vehicles or junk appliances which are not subject to the provisions of chapter 459 of NRS; or

(c) Clear weeds and noxious plant growth,
→ to protect the public health, safety and welfare of the residents of the city.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent a notice, by certified mail, return receipt requested, of the existence on the property of a condition set forth in subsection 1 and the date by which the owner must abate the condition.

(2) 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, afforded a minimum of 30 days to abate the condition.

(3) Afforded an opportunity for a hearing before the designee of the governing body and an appeal of that decision. The ordinance must specify whether all such appeals are to be made to the governing body or to a court of competent jurisdiction.

(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the city will recover money expended for labor and materials used to abate the condition on the property if the owner fails to abate the condition.

(d) Provide for civil penalties for each day that the owner did not abate the condition after the date specified in the notice by which the owner was requested to abate the condition.

(e) If the county board of health, city board of health or district board of health in whose jurisdiction the incorporated city is located has adopted a definition of garbage, use the definition of garbage adopted by the county board of health, city board of health or district board of health, as applicable.



3. The governing body or its designee may direct the city to abate the condition on the property and may recover the amount expended by the city for labor and materials used to abate the condition if:

(a) The owner has not requested a hearing within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the condition on the property within the period specified in the notice;

(b) After a hearing in which the owner did not prevail, the owner has not filed an appeal within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the condition within the period specified in the order; or

(c) The governing body or a court of competent jurisdiction has denied the appeal of the owner and the owner has failed to abate the condition within the period specified in the order.

4. In addition to any other reasonable means for recovering money expended by the city to abate the condition and, except as otherwise provided in subsection 5, for collecting civil penalties imposed pursuant to the ordinance adopted pursuant to subsection 1, the governing body *or its designee* may make the expense and civil penalties a special assessment against the property upon which the condition is or was located. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.

5. 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 4 by the governing body *or its designee* unless:

(a) At least ~~12 months~~ *30 days* have elapsed after the date specified in the notice by which the owner must abate the condition or the date specified in the order of the governing body or court by which the owner must abate the condition, whichever is later;

(b) The owner has been billed, served or otherwise notified that the civil penalties are due; and

(c) The amount of the uncollected civil penalties is more than \$5,000.

6. *If a designee of the governing body imposes a special assessment pursuant to subsection 4, the designee shall submit a written report to the governing body at least once each calendar quarter that sets forth, for each property against which such an assessment has been imposed:*



1 (a) *The street address or assessor's parcel number of the*
2 *property;*

3 (b) *The name of each owner of record of the property as of the*
4 *date of the assessment; and*

5 (c) *The total amount of the assessment, stating the amount*
6 *assessed for the expense of abatement and any amount assessed*
7 *for civil penalties.*

8 7. As used in this section, "dangerous structure or condition"
9 means a structure or condition that may cause injury to or endanger
10 the health, life, property, safety or welfare of the general public or
11 the occupants, if any, of the real property on which the structure or
12 condition is located. The term includes, without limitation, a
13 structure or condition that:

14 (a) Does not meet the requirements of a code or regulation
15 adopted pursuant to NRS 268.413 with respect to minimum levels
16 of health, maintenance or safety; or

17 (b) Violates an ordinance, rule or regulation regulating health
18 and safety enacted, adopted or passed by the governing body of a
19 city, the violation of which is designated as a nuisance in the
20 ordinance, rule or regulation.

21 **Sec. 2.** NRS 268.4124 is hereby amended to read as follows:

22 268.4124 1. The governing body of a city may, by ordinance,
23 to protect the public health, safety and welfare of the residents of the
24 city, adopt procedures pursuant to which the city attorney may file
25 an action in a court of competent jurisdiction to:

26 (a) Seek the abatement of a chronic nuisance that is located or
27 occurring within the city;

28 (b) If applicable, seek the closure of the property where the
29 chronic nuisance is located or occurring; and

30 (c) If applicable, seek penalties against the owner of the property
31 within the city and any other appropriate relief.

32 2. An ordinance adopted pursuant to subsection 1 must:

33 (a) Contain procedures pursuant to which the owner of the
34 property is:

35 (1) Sent notice, by certified mail, return receipt requested, by
36 the city police or other person authorized to issue a citation, of the
37 existence on the property of two or more nuisance activities and the
38 date by which the owner must abate the condition to prevent
39 the matter from being submitted to the city attorney for legal action.

40 (2) If the nuisance is not an immediate danger to the public
41 health, safety and welfare and was caused by the criminal activity of
42 a person other than the owner, afforded a minimum of 30 days to
43 abate the nuisance.

44 (3) Afforded an opportunity for a hearing before a court of
45 competent jurisdiction.



(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the city will recover money expended for labor and materials used to abate the condition on the property if the owner fails to abate the condition.

3. If the court finds that a chronic nuisance exists and emergency action is necessary to avoid immediate threat to the public health, welfare or safety, the court shall order the city to secure and close the property for a period not to exceed 1 year or until the nuisance is abated, whichever occurs first, and may:

(a) Impose a civil penalty:

(1) If the property is nonresidential property, of not more than \$750 per day; or

(2) If the property is residential property, of not more than \$500 per day,

↳ for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition;

(b) Order the owner to pay the city for the cost incurred by the city in abating the condition;

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

(d) Order any other appropriate relief.

4. 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 5, for the collection of civil penalties imposed pursuant to subsection 3, the governing body *or its designee* may make the expense and civil penalties a special assessment against the property upon which the chronic nuisance is or was located or occurring. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.

5. 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 4 by the governing body *or its designee* unless:

(a) At least ~~12 months~~ 30 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



1 specified in the order of the appellate court by which the owner
2 must abate the chronic nuisance, whichever is later;

3 (b) The owner has been billed, served or otherwise notified that
4 the civil penalties are due; and

5 (c) The amount of the uncollected civil penalties is more than
6 \$5,000.

7 6. *If a designee of the governing body imposes a special*
8 *assessment pursuant to subsection 4, the designee shall submit a*
9 *written report to the governing body at least once each calendar*
10 *quarter that sets forth, for each property against which such an*
11 *assessment has been imposed:*

12 (a) *The street address or assessor's parcel number of the*
13 *property;*

14 (b) *The name of each owner of record of the property as of the*
15 *date of the assessment; and*

16 (c) *The total amount of the assessment, stating the amount*
17 *assessed for the expense of abatement and any amount assessed*
18 *for civil penalties.*

19 7. As used in this section:

20 (a) A "chronic nuisance" exists:

21 (1) When three or more nuisance activities exist or have
22 occurred during any 30-day period on the property.

23 (2) When a person associated with the property has engaged
24 in three or more nuisance activities during any 30-day period on the
25 property or within 100 feet of the property.

26 (3) When the property has been the subject of a search
27 warrant based on probable cause of continuous or repeated
28 violations of chapter 459 of NRS.

29 (4) When a building or place is used for the purpose of
30 unlawfully selling, serving, storing, keeping, manufacturing, using
31 or giving away a controlled substance, immediate precursor or
32 controlled substance analog.

33 (5) When a building or place was used for the purpose of
34 unlawfully manufacturing a controlled substance, immediate
35 precursor or controlled substance analog and:

36 (I) The building or place has not been deemed safe for
37 habitation by a governmental entity; or

38 (II) All materials or substances involving the controlled
39 substance, immediate precursor or controlled substance analog have
40 not been removed from or remediated on the building or place by an
41 entity certified or licensed to do so within 180 days after the
42 building or place is no longer used for the purpose of unlawfully
43 manufacturing a controlled substance, immediate precursor or
44 controlled substance analog.



(b) "Commercial real estate" has the meaning ascribed to it in NRS 645.8711.

(c) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

(d) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

(e) "Nuisance activity" means:

(1) Criminal activity;

(2) The presence of debris, litter, garbage, rubble, abandoned or junk vehicles or junk appliances;

(3) Excessive noise and violations of curfew; or

(4) Any other activity, behavior or conduct defined by the governing body to constitute a public nuisance.

(f) "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.

(g) "Residential property" means:

(1) Improved real estate that consists of not more than four residential units;

(2) Unimproved real estate for which not more than four residential units may be developed or constructed pursuant to any zoning regulations or any development plan applicable to the real estate; or

(3) A single-family residential unit, including, without limitation, a condominium, townhouse or home within a subdivision, if the unit is sold, leased or otherwise conveyed unit by unit, regardless of whether the unit is part of a larger building or parcel that consists of more than four units.

↳ The term does not include commercial real estate.

Sec. 3. NRS 268.4126 is hereby amended to read as follows:

268.4126 1. The governing body of each city which is located in a county whose population is 100,000 or more may, by ordinance, to protect the public health, safety and welfare of the residents of the city, adopt procedures pursuant to which the city attorney may file an action in a court of competent jurisdiction to seek:

(a) The abatement of an abandoned nuisance that is located or occurring within the city;

(b) The repair, safeguarding or demolition of any structure or property where an abandoned nuisance is located or occurring within the city;



(c) Authorization for the city to take the actions described in paragraphs (a) and (b);

(d) Civil penalties against an owner of any structure or property where an abandoned nuisance is located or occurring within the city; and

(e) Any other appropriate relief.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent notice, by certified mail, return receipt requested, by a person authorized by the city to issue a citation, of the existence on the property of two or more abandoned nuisance activities and the date by which the owner must abate the abandoned nuisance to prevent the matter from being submitted to the city attorney for legal action.

(2) If the abandoned nuisance 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, afforded a minimum of 30 days to abate the abandoned nuisance.

(3) Afforded an opportunity for a hearing before a court of competent jurisdiction.

(b) Provide that the date specified in the notice by which the owner must abate the abandoned nuisance is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the city will, if the owner fails to abate the abandoned nuisance, recover money expended for labor and materials used to:

(1) Abate the abandoned nuisance on the property; or

(2) If applicable, repair, safeguard or demolish a structure or property where the abandoned nuisance is located or occurring.

3. If the court finds that an abandoned nuisance exists, the court shall order the owner of the property to abate the abandoned nuisance or repair, safeguard or demolish any structure or property where the abandoned nuisance is located or occurring, and may:

(a) Impose a civil penalty:

(1) If the property is nonresidential property, of not more than \$750 per day; or

(2) If the property is residential property, of not more than \$500 per day,

➔ for each day that the abandoned nuisance was not abated after the date specified in the notice by which the owner was required to abate the abandoned nuisance;

(b) If applicable, order the owner of the property to pay reasonable expenses for the relocation of any tenants who occupy



1 the property legally and who are affected by the abandoned
2 nuisance;

3 (c) If the owner of the property fails to comply with the order:

4 (1) Direct the city to abate the abandoned nuisance or repair,
5 safeguard or demolish any structure or property where the
6 abandoned nuisance is located or occurring; and

7 (2) Order the owner of the property to pay the city for the
8 cost incurred by the city in taking the actions described in
9 subparagraph (1); and

10 (d) Order any other appropriate relief.

11 4. In addition to any other reasonable means authorized by the
12 court for the recovery of money expended by the city to abate the
13 abandoned nuisance and, except as otherwise provided in subsection
14 5, for the collection of civil penalties imposed pursuant to
15 subsection 3, the governing body of the city *or its designee* may
16 make the expense and civil penalties a special assessment against
17 the property upon which the abandoned nuisance is or was located
18 or occurring. The special assessment may be collected at the same
19 time and in the same manner as ordinary county taxes are collected,
20 and is subject to the same penalties and the same procedure and sale
21 in case of delinquency as provided for ordinary county taxes. All
22 laws applicable to the levy, collection and enforcement of county
23 taxes are applicable to such a special assessment.

24 5. Any civil penalties that have not been collected from the
25 owner of the property may not be made a special assessment against
26 the property pursuant to subsection 4 by the governing body *or its*
27 *designee* unless:

28 (a) At least ~~12 months~~ *30 days* have elapsed after the date
29 specified in the order of the court by which the owner must abate the
30 abandoned nuisance or, if the owner appeals that order, the date
31 specified in the order of the appellate court by which the owner
32 must abate the abandoned nuisance, whichever is later;

33 (b) The owner has been billed, served or otherwise notified that
34 the civil penalties are due; and

35 (c) The amount of the uncollected civil penalties is more than
36 \$5,000.

37 6. *If a designee of the governing body imposes a special*
38 *assessment pursuant to subsection 4, the designee shall submit a*
39 *written report to the governing body at least once each calendar*
40 *quarter that sets forth, for each property against which such an*
41 *assessment has been imposed:*

42 (a) *The street address or assessor's parcel number of the*
43 *property;*

44 (b) *The name of each owner of record of the property as of the*
45 *date of the assessment; and*



(c) The total amount of the assessment, stating the amount assessed for the expense of abatement and any amount assessed for civil penalties.

7. As used in this section:

(a) An “abandoned nuisance” exists on any property where a building or other structure is located on the property, the property is located in a city that is in a county whose population is 100,000 or more, the property has been vacant or substantially vacant for 12 months or more and:

(1) Two or more abandoned nuisance activities exist or have occurred on the property during any 12-month period; or

(2) A person associated with the property has caused or engaged in two or more abandoned nuisance activities during any 12-month period on the property or within 100 feet of the property.

(b) “Abandoned nuisance activity” means:

(1) Instances of unlawful breaking and entering or occupancy by unauthorized persons;

(2) The presence of graffiti, debris, litter, garbage, rubble, abandoned materials, inoperable vehicles or junk appliances;

(3) The presence of unsanitary conditions or hazardous materials;

(4) The lack of adequate lighting, fencing or security;

(5) Indicia of the presence or activities of gangs;

(6) Environmental hazards;

(7) Violations of city codes, ordinances or other adopted policy; or

(8) Any other activity, behavior, conduct or condition defined by the governing body of the city to constitute a threat to the public health, safety or welfare of the residents of or visitors to the city.

(c) “Commercial real estate” has the meaning ascribed to it in NRS 645.8711.

(d) “Person associated with the property” means a person who, on the occasion of an abandoned 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.

(e) “Residential property” means:

(1) Improved real estate that consists of not more than four residential units;

(2) Unimproved real estate for which not more than four residential units may be developed or constructed pursuant to any zoning regulations or any development plan applicable to the real estate; or



1 (3) A single-family residential unit, including, without
2 limitation, a condominium, townhouse or home within a
3 subdivision, if the unit is sold, leased or otherwise conveyed unit by
4 unit, regardless of whether the unit is part of a larger building or
5 parcel that consists of more than four units.

6 ↪ The term does not include commercial real estate.

7 **Sec. 4.** This act becomes effective upon passage and approval.

