

1 SECOND AMENDMENT

2 BILL NO. 2011-39

3 ORDINANCE NO. 6169

4 AN ORDINANCE TO ADOPT A REGISTRATION AND MAINTENANCE PROGRAM FOR
5 VACANT PROPERTIES THAT ARE THE SUBJECT OF FORECLOSURE AND RELATED
6 PROCEEDINGS; TO REPEAL LVMC CHAPTER 16.31, PERTAINING TO VACANT
7 BUILDINGS; AND TO PROVIDE FOR OTHER RELATED MATTERS.

8 Sponsored by: Councilman Steven D. Ross

9 Summary: Adopts a registration and
10 maintenance program for vacant properties that
11 are the subject of foreclosure and related
12 proceedings, and repeals LVMC Chapter 16.31,
13 pertaining to vacant buildings.

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

16 SECTION 1: Title 16 of the Municipal Code of the City of Las Vegas, Nevada, 1983
17 Edition, is hereby amended by adding thereto a new chapter, designated as Chapter 33 and consisting
18 of Sections 10 to 90, inclusive, reading as follows:

19 **16.33.010:** It is the purpose and intent of this Chapter to establish a program to reduce the amount
20 of deteriorating real property located within the City, in particular, real property suffering from blight
21 caused by the lack of adequate maintenance. The program includes a property registration requirement
22 designed to assist in accomplishing the intent and purpose of this Chapter.

23 **16.33.020:** Unless the context otherwise requires, the following words and phrases used in this
24 Chapter shall have the meanings ascribed to them:

25 "Default," with respect to a mortgage, means that the obligor under the mortgage has breached
26 or is in default of a repayment or other obligation in connection with that mortgage.

27 "Foreclosure" means the process by which real property placed as security for the repayment
28 of a loan is to be sold to satisfy the debt concerning which the borrower has defaulted.

"Mortgage" means a first mortgage or other first-priority security interest in real property that
is placed as security for the repayment of a loan, and includes a first deed of trust.

"Mortgagee" means any person or firm who holds a first-priority mortgage or other first-
priority security interest in real property to secure a loan, whether as the mortgagee of a mortgage or

1 the beneficiary of a deed of trust.

2 “Notice of default event,” with respect to a mortgage, means that a default regarding that
3 mortgage has occurred and either:

4 (A) A notice of breach or notice of default and election to sell has been provided
5 to the obligor thereof and has been recorded in the County Recorder’s Office; or

6 (B) An action for judicial foreclosure has been commenced regarding that mortgage
7 by the filing of a complaint or petition for foreclosure in a court of competent jurisdiction.

8 “Specified property” means any parcel of vacant real property within the City that is subject
9 to a mortgage and concerning which a notice of default event has occurred. For purposes of the
10 inspection requirement set forth in LVMC 16.33.030 and for that purpose only, the term also includes
11 a parcel of real property that appears to be vacant. Once a parcel is determined not to be vacant or is
12 no longer vacant, it shall not be considered “specified property” until it qualifies as such again under
13 this definition.

14 “Vacant,” with respect to real property, and “vacant real property” mean real property and
15 improvements that are not presently occupied by persons lawfully entitled thereto. The term does not
16 include real property that is unoccupied by reason of the temporary absence of lawful occupants who
17 intend to return and resume occupancy.

18 **16.33.030:** (A) Except as otherwise provided in LVMC 16.33.070, any mortgagee who holds
19 a mortgage on specified property shall inspect that property or cause it to be inspected in accordance
20 with this Section. If the inspection reveals that the property is not being occupied by the mortgagor
21 or by persons who are occupying the property with the mortgagor’s consent, the mortgagee shall
22 register the property with the Department of Building and Safety on forms to be provided by the
23 Department, or with another designated department, person or entity on forms approved by the
24 Department. In connection with that registration, the mortgagee shall also designate in writing a
25 property manager to inspect, maintain and secure the property. A separate inspection, registration and
26 designation is required for each specified property.

27 (B) Registration pursuant to Subsection (A) shall contain, at a minimum, the
28 following information:

1 (1) The name and mailing address of the mortgagee, and the physical
2 address of the mortgagee if the mailing address is a post office box.

3 (2) A direct contact name and phone number for purposes of contacting the
4 mortgagee.

5 (3) The name, address and phone number of the property manager.

6 (4) The current disposition and occupancy status of the property.

7 (C) Any property manager designated pursuant to this Section must be located
8 within Nevada and must be:

9 (1) A duly-licensed property management company or property preservation
10 company;

11 (2) A department or section of a mortgagee that is devoted to property
12 management or preservation; or

13 (3) A service provider specifically employed by a mortgagee to provide
14 property management or preservation within the City.

15 (D) The obligations listed in Subsection (A) shall be fulfilled within the following
16 time frames:

17 (1) The property inspection must occur no later than fifteen calendar days
18 following the occurrence of the notice of default event regarding the property.

19 (2) The property registration and designation of a property manager must
20 occur no later than ten calendar days after the inspection.

21 (E) With respect to each specified property, the mortgagee and its designated
22 property manager shall be responsible for inspecting and maintaining the property on a monthly basis
23 until the parcel no longer qualifies under the definition of "specified property."

24 **16.33.040:** The City is authorized to charge a mortgagee a fee of two hundred dollars for each
25 initial property registration required under this Chapter, and a fee of fifty dollars for each modification
26 to a registration.

27 **16.33.050:** By means of contract, the City may assign and delegate to another person or entity the
28 authority and responsibility to:

1 (A) Effect, collect and maintain registrations under LVMC 16.33.030; and

2 (B) Collect registration fees under LVMC 16.33.040.

3 **16.33.060:** (A) Specified property shall be maintained in accordance with applicable codes and
4 ordinances, including without limitation ordinances pertaining to dangerous buildings, litter, and
5 nuisance abatement. Insofar as there is existing or previously existing landscaping, all visible
6 landscaping in front and side yards shall be maintained to the neighborhood standard at the time
7 registration was required. If no landscaping previously existed at the property in front and visible side
8 yards, installation is not required under this Section.

9 (B) For purposes of this Section:

10 (1) "Landscaping" includes without limitation grass, turf stain, ground
11 covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod
12 designed specifically for residential installation. The term does not include weeds, gravel, broken
13 concrete, asphalt, decomposed granite, plastic sheeting, mulch (unless applied in conjunction with
14 reseeding of turf areas), indoor-outdoor carpet or any similar material.

15 (2) "Maintenance of landscaping" includes without limitation regular
16 watering, irrigation, staining, re-staining, cutting, pruning and mowing of required landscaping and
17 removal of all trimmings.

18 (C) Pools and spas located on specified property shall be kept in working order so
19 the water remains clear and free of pollutants and debris or drained and kept dry. In either case, pools
20 and spas must comply with the minimum security requirements applicable to pools and spas within
21 the City.

22 (D) Specified property shall be maintained in a secure manner so as not to be
23 accessible to unauthorized persons. Doors of all kinds, windows, gates and other openings that make
24 the property accessible must be closed and locked so that a key, keycard, tool or special knowledge
25 is necessary to gain access. Broken windows must be reglazed or boarded in accordance with
26 applicable City standards.

27 (E) Specified property shall be posted with the name and contact phone number of
28 the mortgagee or property manager. The posting shall be no less than eight and one-half inches by

1 eleven inches and shall contain, along with the name and contact number, the words "THIS
2 PROPERTY MANAGED BY" and "TO REPORT PROBLEMS OR CONCERNS CALL" or similar.
3 The posting shall be placed in a window adjacent to the entry door or attached to the exterior of the
4 entry door. Exterior posting must be constructed of and printed with, or contained in,
5 weather-resistant materials.

6 (F) Except as otherwise provided in LVMC 16.33.070, compliance with this
7 Section with respect to any specified property shall be the joint responsibility of the mortgagee and
8 the property manager, as well as the property owner.

9 **16.33.070:** A mortgagee's obligation under this Chapter regarding inspection and maintenance of
10 a specified property may be waived by the Director of Building and Safety or the Director's designee
11 if the mortgagee can demonstrate to the satisfaction of the Director or designee that:

12 (A) The mortgage documents either expressly prohibit the mortgagee and its agents
13 from entering the property for those purposes or do not authorize such entry in order to protect the
14 mortgagee's interests in the property; and

15 (B) There is a reasonable possibility, based on articulable evidence, that:

16 (1) The obligor under the mortgage or an authorized occupant of the
17 premises will report as a trespass an entry on the premises by or on behalf of a mortgagee; or

18 (2) The obligor under the mortgage will assert against the
19 mortgagee, whether in a foreclosure proceeding or otherwise, a claim that such entry is a breach of the
20 mortgage documents or constitutes an illegal or unauthorized entry on the property.

21 **16.33.080:** (A) It is unlawful for a person or other responsible party under this Chapter to
22 violate any provision of this Chapter.

23 (B) The provisions of this Chapter may be enforced by the Las Vegas Metropolitan
24 Police Department, officers and employees of the Department of Building and Safety, and any other
25 officer or employee designated by the City Manager.

26 (C) The provisions of this Chapter may be enforced by means of:

27 (1) Criminal prosecution;

28 (2) To the extent adaptable, the same civil process that is available under

1 LVMC Chapter 9.04 for the abatement of nuisances;

2 (3) An civil action in a court of competent jurisdiction to compel
3 compliance; or

4 (4) Any other civil mechanism established by the City Council for use in
5 connection with this Chapter.

6 (D) In addition to any enforcement remedy otherwise available, the Director of
7 Building and Safety or a designee shall have the authority to require a responsible party to implement
8 additional maintenance and/or security measures as may be reasonably required to arrest the decline
9 of the property.

10 **16.33.090:** (A) Nothing in this Chapter:

11 (1) Requires a mortgagee or its agent or employee to violate any criminal
12 law or ordinance or any court order, or to violate an automatic stay in a bankruptcy proceeding.

13 (2) Creates a duty or obligation that is owed to, or runs in favor of, any
14 person other than the City and those officers, employees or agents who are acting in the City's behalf.

15 (3) Creates or implies a cause of action in favor of, or available to, any
16 person other than the City.

17 (B) No act by a mortgagee or its officers, employees, agents or contractors in
18 compliance with this Chapter, and no omission of an act required by this Chapter on the part of a
19 mortgagee or its officers, employees, agents or contractors, shall be deemed or interpreted to:

20 (1) Make the mortgagee, for any purpose, a "mortgagee in possession" of
21 property subject to a mortgage.

22 (2) Create a duty or obligation that is owed to, or runs in favor of, any
23 person other than the City and those officers, employees or agents who are acting in the City's behalf.

24 (3) Create or imply a cause of action in favor of, or available to, any person
25 other than the City.

26 (4) Create, imply or suggest liability in tort on the part of a mortgagee or
27 its officers, employees, agents or contractors, unless the act or omission would be actionable and result
28 in such liability independent of, and notwithstanding the provisions of, this Chapter.

1 SECTION 2: Title 16, Chapter 31, of the Municipal Code of the City of Las Vegas,
2 1983 Edition, is hereby repealed in its entirety.

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


11 SECTION 4: Whenever in this ordinance any act is prohibited or is made or declared
12 to be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is
13 required or the failure to do any act is made or declared to be unlawful or an offense or a
14 misdemeanor, the doing of such prohibited act or the failure to do any such required act shall
15 constitute a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than
16 \$1,000.00 or by imprisonment for a term of not more than six months, or by any combination of such
17 fine and imprisonment. Any day of any violation of this ordinance shall constitute a separate offense.

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1 The above and foregoing ordinance was first proposed and read by title to the City Council
2 on the 19th day of October, 2011, and referred to a committee for recommendation;
3 thereafter the said committee reported favorably on said ordinance on the 7th day of
4 December, 2011, which was a regular meeting of said Council; that at said regular
5 meeting, the proposed ordinance was read by title to the City Council as amended and
6 adopted by the following vote:

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

12 APPROVED:
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14 CAROLYN G. GOODMAN, Mayor

15 ATTEST:
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17 ~~BEVERLY K. BRIDGES, MMC City Clerk~~
18 by: Vicky Skilbred, CMC
19 Acting City Clerk
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