

**CITY OF LAS VEGAS, NEW MEXICO**  
**Ordinance No. 20-13**

**AN ORDINANCE TO AMEND** the Code of the City of Las Vegas by adding a new Chapter 290, entitled “Weed and Anti-Litter Ordinance”; by deleting and repealing Section 12-6-13.15; by amending Section 12-12-1.2 Penalty Assessment Program; by amending Section 179-9; by deleting and repealing Section 301-6(A). This Ordinance is enacted pursuant to Sections 2.02 of the City of Las Vegas Municipal Charter, and is an exercise of the City of Las Vegas home rule powers.

**BE IT ENACTED** by the Governing Body of the City of Las Vegas as follows:

Section 1. The Code of the City of Las Vegas is hereby amended by adding thereto a new chapter, to be Chapter 290, Weed and Anti-Litter Ordinance, to read as follows:

Section 1.	Short Title
Section 2.	Purpose
Section 3.	Definitions
Section 4.	Growth Or Accumulation Of Weeds And Litter
Section 5.	Duty Of Owner, Lessee, Or Occupant
Section 6.	Litter In Public Places
Section 7.	Placement Of Litter In Receptacle So As To Prevent Scattering
Section 8.	Merchants’ Duty To Keep Sidewalks And Parking Areas Free Of Litter
Section 9.	Sweeping Litter Into Gutters Prohibited
Section 10.	Litter Thrown by Persons In Vehicles
Section 11.	Truck Loads Causing Litter
Section 12.	Litter In Parks
Section 13.	Litter In Lakes And Fountains
Section 14.	Throwing Or Distributing Commercial Or Noncommercial Handbills In Public
Section 15.	Placing Commercial Or Noncommercial Handbills On Vehicles
Section 16.	Depositing Commercial And Noncommercial Handbills On Uninhabited Or Vacant Premises
Section 17.	Prohibiting Distribution Of Handbills Where Properly Posted
Section 18.	Distributing Commercial And Noncommercial Handbills At Inhabited Private Premises
Section 19.	Dropping Litter From Aircraft
Section 20.	Posting Notice Prohibited
Section 21.	Litter On Occupied Private Property
Section 22.	Owner To Maintain Premises Free Of Litter
Section 23.	Litter On Vacant Lots
Section 24.	Notice To Cut And Remove
Section 25.	Notice To Remove Snow And/Or Ice
Section 26.	When City To Remove
Section 27.	Method Of Removal

Section 28.	Appeal Procedure
Section 29.	Judicial Review
Section 30.	Removal Upon Default Of Owner
Section 31.	Smoking Product Litter
Section 99.	Penalty

**§ 290-1. Short Title.**

This ordinance shall be known and cited as the "Weed and Anti-Litter Ordinance" and referred to herein as the "Ordinance".

**§ 290-2. Purpose.**

(A) The Weed and Anti-Litter Ordinance is intended to promote the general health, safety and welfare of the residents and visitors of the City by prohibiting the maintenance or accumulation of those plants determined to be of major allergenic significance, or which constitute a fire hazard when wind collected, or which otherwise present a hazard or nuisance to inhabitants of the City. Further, this Ordinance intends to promote the growth of native and other grasses and plants whose root structures tend to aid in stabilizing the soil and reducing dust. It is also the intent of this Ordinance that by prohibiting those methods of plant removal and control which fail to differentiate between harmful and helpful plants and which tend to create the still greater problem of air pollution, the aforementioned purposes will be realized and accomplished.

(B) This Ordinance is also intended to promote the general health, safety and welfare of the residents and visitors of the City by prohibiting the throwing, depositing or accumulation of litter in public places.

**§ 290-3. Definitions.**

For the purpose of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AIRCRAFT shall mean any contrivance now known or hereafter invented, used or designated for navigation or for flight in the air. The word "aircraft" shall include helicopters and balloons.

APPROPRIATE PRIVATE RECEPTACLE shall mean litter receptacle with a fireproof interior capable of containing and withstanding fire.

AUTHORIZED PRIVATE RECEPTACLE shall mean a litter storage and collection receptacle as required and authorized in the refuse collection regulations set forth herein.

CITY shall mean the City of Las Vegas, New Mexico.

COMMERCIAL HANDBILL shall mean any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature:

(1) Which advertises for sale any merchandise, product, commodity, or thing; or

(2) Which directs attention to any business or mercantile or commercial establishments or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or

(3) Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; or

(4) Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor; or

(5) Newspaper as defined herein is and to be construed to be included within the definition of COMMERCIAL HANDBILL.

GARBAGE shall mean putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

LITTER shall mean "garbage," "refuse" and "rubbish" as defined herein and all other waste material which, if thrown or deposited as herein prohibited tends to create a danger to public health, safety and welfare.

CITY MANAGER shall mean the City Manager or his authorized representative(s).

NEWSPAPER shall mean any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States in accordance with Federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and in addition thereto shall mean and include any periodical or current magazine regularly published with not less than four issues per year and sold or provided at no cost to the public.

NONCOMMERCIAL HANDBILL shall mean any printed or written matter, any sample, or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.

OWNER shall mean an owner, agent, lessee or occupant or person having charge or control of the property.

PARK shall mean a park, reservation, playground, beach, recreation center, zoo, golf course, or any other public area in the City, owned or used by the City and devoted to active or passive recreation.

PERSON shall mean one or more persons, natural persons, corporations, partnerships, associations, joint stock companies, societies and all other entities of any kind capable of being sued.

PRIVATE PREMISES shall mean any dwelling, house, building, or other structure designed or used either wholly or in part for private residential purposes, whether inhabited or temporary or continuously uninhabited or vacant and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant or such dwelling, house, building, or other structure.

PUBLIC PLACE shall mean any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, sources, spaces, grounds and buildings.

REFUSE shall mean all putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, inoperative vehicles and appliances, and solid market and industrial wastes.

RUBBISH shall mean nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, smoking products, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, and similar materials.

SMOKING PRODUCT shall mean any kind of combustible or vaporized matter which is inhaled in the form of a cigar, cigarette, pipe or other such product containing disposable matter.

VEHICLE shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

WEEDS shall mean all rank, noxious, poisonous, harmful, unhealthful vegetation, deleterious to health, and shall include but is not limited to the following named plants:

- (1) Pigweed (*Amaranthus retroflexus*).
- (2) Russian Thistle (*Salsola pestifer*).
- (3) Ragweeds (*Ambrosia spp.*).
- (4) Lambsquarter. (*Kenopodium spp.*).
- (5) Kochia.

- (6) London Rocket (*Sisymbrium irio*).
- (7) Flix Weed (*Descurainia sophia*).
- (8) Tansy Mustard (*Descurainia pinnata*).
- (9) Spurge.
- (10) Silverleaf Nightshade (*Solanum elaeagnifolium*).
- (11) Puncture Vine (goat heads).
- (12) Field Bind Weed (*Convolvulus arvensis*).
- (13) Purslane.
- (14) Hoary Cress.
- (15) Yellow Foxtail (*Setaria glauca*).
- (16) Green Foxtail (*Setaria Viridis*).

The City Manager is hereby authorized and delegated the authority and duty to determine if any other plants, due to their unhealthy or dangerous attributes or consequences, should be placed on the list of weeds as defined herein and shall put such plants on said list if, after a hearing based on the evidence before the City Manager it appears that such plants do come within the meaning of the term weeds as hereinbefore set out.

#### **§ 290-4. Growth Or Accumulation Of Weeds And Litter.**

It shall be unlawful for any owner of any occupied or unoccupied lot or tract of land within the City to permit or maintain on any such lot or tract of land, including the area located between the property line and the middle of the alley adjacent to the property, and the area located between the property line and the curb, the area of any curbs or sidewalks located on the property, and the area located ten feet outside the property line where there is no curb, any growth of weeds whose height, width or spread is greater than four inches, or any accumulation of weeds and/or litter.

#### **§ 290-5. Duty Of Owner, Lessee, Or Occupant.**

It shall be the duty of any owner of any occupied or unoccupied lot or tract of land to cut the weeds and remove the cuttings or any accumulation of weeds to be removed as often as necessary in order to comply with the provisions set out in §290-4.

#### **§ 290-6. Litter In Public Places.**

No person shall throw or deposit litter in or upon any street, sidewalk, or other public place within the City except in public receptacles or in authorized private receptacles for collection, or in a sanitary land fill operated by the City or a county entity.

**§ 290-7. Placement Of Litter In Receptacle So As To Prevent Scattering.**

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public or private place.

**§ 290-8. Merchants' Duty To Keep Sidewalks And Parking Areas Free Of Litter.**

It shall be the responsibility of the person in charge of a place of business to maintain the sidewalk area adjacent to his place of business and his private parking area, if any, used by his patrons for parking, in a reasonably litter-free, snow-free, and ice-free condition. If, in the opinion of the City Manager, the amount of litter, snow or ice in said areas amounts to a nuisance due to odors or eyesore characteristics and/or amount to a public safety issue the City Manager shall notify the person in charge to remove the litter, snow or ice from the sidewalks and/or parking areas. The person in charge of such business shall be responsible for removing the litter, snow and/or ice as often as is necessary to prevent their becoming a nuisance or public safety issue. In no event shall the litter located on sidewalks and driveways adjacent to a place of business be allowed to be moved into the gutters or streets of the City or any neighboring property.

**§ 290-9. Sweeping Litter Into Gutters Prohibited.**

No person shall sweep into or deposit in any gutter, street or other public or private place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk and driveways abutting their premises clean and free of litter.

**§ 290-10. Litter Thrown By Persons In Vehicles.**

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any private property, any street or other public place within the City.

**§ 290-11. Truck Loads Causing Litter.**

No person shall drive or move any truck or other vehicle within the City unless such vehicle is so constructed or loaded as to prevent any load or contents of litter from being blown or deposited upon any street, alley or other private or public place.

**§ 290-12. Litter In Parks.**

No person shall throw or deposit litter in any park within the City except in public receptacles and in such a manner that the litter will be prevented from being carried or

deposited by the elements upon any part of the park or upon any streets or other private or public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.

**§ 290-13. Litter In Lakes And Fountains.**

No person shall throw or deposit litter in any fountain, pond, lake, stream, or any other body of water in a park or elsewhere in the City.

**§ 290-14. Throwing Or Distributing Commercial Or Noncommercial Handbills In Public Places.**

(A) No person shall throw, post or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or other public places within the City. Nor shall any person hand out, post or distribute or sell any commercial or noncommercial handbill in any public place provided, however it shall not be a violation of this Ordinance for any person to hand out or distribute without charge to the receiver thereof any noncommercial handbill to any person willing to accept it in such public places.

(B) It may be rebuttably presumed that the owner, manager, distributor, provider or responsible party of any business, product or service which is the subject of an illegally posted, thrown or deposited commercial handbill has caused the commercial handbill to be posted, thrown or deposited.

**§ 290-15. Placing Commercial Or Noncommercial Handbills On Vehicles.**

No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle.

**§ 290-16. Depositing Commercial and Noncommercial Handbills on Uninhabited or Vacant Premises.**

No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

**§ 290-17. Prohibiting Distribution of Handbills Where Properly Posted.**

No person shall throw, deposit or distribute any commercial or noncommercial handbill upon or to any private premises, if requested by any one thereon not to do so, or if there is placed on said premises in a conspicuous position near the entrance thereof a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertisement" or any similar notice, indicating in any manner that the occupants of said premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon such premises.

**§ 290-18. Distributing Commercial and Noncommercial Handbills at Inhabited Private Premises.**

(A) No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or other person then present in or upon such private premises. Provided, however, that in case of inhabited private premises which are not posted as provided in this Ordinance, such person, unless requested by anyone upon such premises not to do so, shall have the authority to place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets or other public places and except that mailboxes may not be so used when so prohibited by Federal postal law or regulations.

(B) Exemption for Mail and Newspapers. The provisions of this section shall not apply to the distribution of mail by the United States or to newspapers as defined herein.

**§ 290-19. Dropping Litter From Aircraft.**

No person in any aircraft shall throw out, drop or deposit within the City any litter, handbill or any other object.

**§ 290-20. Posting Notice Prohibited.**

No person shall post, place or affix or cause to be posted, placed or affixed any commercial handbill, sign, notice, poster or other paper or device calculated to attract the attention of the public at any lamp post, public utility pole, street median, public right-of-way, or shade tree, or upon any public structure or building, except as may be authorized or required by law. This provision shall not apply to signs relating to matters of public health, safety and welfare posted, placed, or affixed by the City.

**§ 290-21. Litter On Occupied Private Property.**

No person shall throw or deposit litter on any occupied private property within the City, whether owned by such person or not except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk, or other public place or upon any private property.

**§ 290-22. Owner To Maintain Premises Free Of Litter.**

The owner of any private property shall at all times maintain the premises free of litter. Provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.



**§ 290-23. Litter On Vacant Lots.**

No person shall throw or deposit litter on any open or vacant private property within the City whether owned by such person or not.

**§ 290-24. Notice To Cut And Remove.**

If the provisions of this Ordinance regarding removal of weeds or litter are not complied with, the City Manager or his authorized representative(s) shall notify the owner of any occupied or unoccupied lot or tract of land to comply with the provisions of this Ordinance. The notification to the owner of any such lot or tract of land shall be in writing. In the event such owner of such lot or tract of land cannot be determined or the owner shall be a nonresident of the City, such notice may be served by posting a copy of the written notice upon the premises.

**§ 290-25. Notice To Remove Snow And/Or Ice.**

If the provisions of this Ordinance regarding removal of snow and/or ice are not complied with, the City Manager or his authorized representative(s) shall provide written notice to the owner and/or the person in charge of any occupied or unoccupied lot or tract of land to comply with the provisions of this Ordinance. In the event such owner or person in charge of such lot or tract of land cannot be determined or shall be a nonresident of the City, such notice may be served by posting a copy of the written notice upon the premises.

**§ 290-26. When City To Remove.**

In those cases where the owner or person in charge of any occupied or unoccupied lot or tract of land is a nonresident of the City or cannot be determined and compliance with the provisions set forth in the notice has not occurred within ten days, the City Manager shall cause such weeds or litter to be cut and the cuttings or any accumulation of weeds or litter removed. In cases involving removal of snow and/or ice, compliance shall be within two days. If the owner or person in charge of any such lot or tracts of land is notified in writing as provided and fails to timely comply with the provisions of this Ordinance, the City Manager may cause such weeds or litter to be cut and the cuttings or any accumulation of weeds or litter removed, or such snow and/or ice to be removed or otherwise mitigated. In any event, should it appear to be a matter of public necessity for health or safety reasons, the City Manager may give notice that the weeds, litter, snow or ice must be cut or removed immediately in which event should there be noncompliance the City Manager is authorized to cause such weeds or litter to be cut and the cuttings or any accumulation of weeds or litter removed immediately or to cause such snow and/or ice to be removed or mitigated immediately. The actual cost of any work performed by the City, plus any other penalties or costs allowed by law in connection therewith, under any of the circumstances herein set out, shall become a lien upon the property from which such weeds, litter, snow or ice were removed.

**§ 290-27. Method Of Removal.**

The approved methods of controlling weeds shall be mowing, cutting, digging, or other methods designed to remove the weeds but not disturb other vegetation or unnecessarily disturb the soil. The scraping and tillage of lots and tracts of land is prohibited unless permission of the City Manager is first obtained; except, that scraping and tillage as part of normal construction activities or as ground preparation for agriculture or landscaping activities shall be allowed. The City Manager shall allow scraping and tillage of lots or tracts of land when this will not detract from or violate the clear intent and purpose of this Ordinance.

**§ 290-28. Appeal Procedure.**

The owner may appeal the determination of the need for weed, litter, snow or ice removal to the City Council by filing an appeal within five calendar days of the date of service of the notice to remove. Such request shall be made in writing and filed in the Office of the City Clerk. The appeal shall identify the property and state the grounds for appeal together with all material facts in support thereof. A filing fee of \$50 shall accompany each appeal application. When a hearing is requested the City Clerk shall send written notice by certified mail, return receipt requested, to the owner of the time and place of the hearing. At the hearing the owner shall have the right to present evidence as to the alleged facts upon which the City Manager based the determination of the need for removal and any other facts which may aid the City Council in determining whether this Ordinance has been violated. The City Council shall, following the hearing, issue a written decision based on a majority vote of the City Councilors. If the decision is that this Ordinance has been violated, the decision shall set forth the time within which removal shall be completed. This decision shall be served in the same manner as the Notice to Remove.

**§ 290-29. Judicial Review.**

The exclusive remedy for parties dissatisfied with the decision of the City Council shall be the filing of a petition for a writ of certiorari with the State District Court. The petition for review shall be limited to the record made at the hearing held pursuant to this Ordinance.

**§ 290-30. Removal Upon Default Of Owner.**

After said hearing if removal has not been commenced or prosecuted to completion with due diligence as required by the written hearing decision, the City Manager shall commence removal.

**§ 290-31. Smoking Product Litter.**

No person shall dispose of any portion of a smoking product except in public receptacles or in appropriate private receptacles. Any smoking product previously lit shall be fully extinguished prior to disposal.

**§ 290-99. Penalty.**

(A) Any person who violates any of the provisions of this Ordinance, excluding §290-31, shall be deemed guilty of a petty misdemeanor and, upon conviction thereof, shall be subject to the penalty provisions set forth in the Penalty Assessment Program of this code of ordinances to include a minimum fine of \$500. Any person deemed guilty of a subsequent violation shall be subject to a minimum fine of \$750 and then \$1,000 for each violation thereafter. Community service may be imposed in lieu of or in addition to any such fine. Every violation shall be a separate misdemeanor.

(B) Any person who violates the provisions of §290-31 regarding smoking product litter shall be subject to the penalty provisions set forth in Penalty Assessment Program of this code of ordinances to include a minimum fine of \$250. Any person deemed guilty of a subsequent violation of §290-31 shall be subject to a minimum fine of \$500 for each violation thereafter. Community service may be imposed in addition to any such fine, but not in lieu of such fine. Every violation shall be a separate misdemeanor.

(C) In the event that any person charged with a violation of any provision of §290 is granted a deferral of any kind whatsoever, said charged person shall pay an administrative fee of \$100.00 for each violation charged under this §290.

Section 2. Section 12-12-1.2 Penalty Assessment Program of the Code of the City of Las Vegas is hereby amended to repeal and delete the row with the common name of offense of “Littering”, section violated “12-6-13.15”, fee of “\$300.00” and, and to replace said repeal and deletion with the common name offense of “Weed and Anti-Litter”, section violated “290-99(A)”, and a fee of “\$500 for first offense, \$750.00 for second offense, and \$1,000 for third and each subsequent offense”. A new row is added to Section 12-12-1.2 Penalty Assessment Program of the Code of the City of Las Vegas under “Weed and Anti-Litter” with the common name offense of “Smoking Product Litter”, section violated “290-31”, and a fee of “\$250.00 for first offense, \$500 for second offense and each subsequent offense”. Section 179-9 of the Code of the City of Las Vegas, specifically the word “Littering” is hereby amended to read “Weed and Anti-Litter”, code section violated is hereby amended to read “290-99(A)”, first offense of \$25 is hereby amended to read “\$500.00”, second offense is hereby amended to read “\$750.00” and subsequent offenses is hereby amended to read “1,000.00”.

Section 3. Section 12-6-13.15 of the Code of the City of Las Vegas is hereby repealed and deleted. Section 301-6(A) of the Code of the City of Las Vegas is hereby repealed and deleted and replaced with “Reserved”.

Section 4. Severability. The provisions of this ordinance are declared to be severable, and if any portion of this ordinance, for any reason, is held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this ordinance.

Section 5. Effective Date. This ordinance shall become effective upon the execution by the Mayor and the affirmative vote of the majority of the Governing Body.

PASSED, ADOPTED and ENACTED this \_\_\_\_\_ day of November, 2020.

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Mayor Louie A. Trujillo

ATTEST:

Reviewed and approved as to legal sufficiency only:

\_\_\_\_\_  
Casandra Fresquez, City Clerk

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Scott Aaron, City Attorney