

# ORDINANCE RECORD

No. 728—REDFIELD & COMPANY INC., OMAHA

## ORDINANCE NO. 1002

AN ORDINANCE TO ADD CHAPTER 154 TO THE LA VISTA MUNICIPAL CODE PRESCRIBING REGULATIONS FOR STORM WATER MANAGEMENT; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

SECTION 1. AMENDMENT OF CODE OF ORDINANCES. The Code of Ordinances of the City of La Vista, Nebraska, be and hereby is amended by adding a new Chapter to be numbered Chapter 154, which shall be as follows:

### CHAPTER 154: STORM WATER MANAGEMENT REGULATIONS

#### SECTION 154.01 PURPOSE AND AUTHORITY

The purpose of this Ordinance is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with increased and altered storm water runoff. Proper management of storm water runoff will minimize damage to public and private property, reduce the harmful effects of development on land, control stream channel erosion, reduce local flooding, and maintain after development, as nearly as possible, the pre-development runoff characteristics.

The application of this ordinance and provisions expressed herein shall be the minimum storm water management requirements and shall not be deemed a limitation on such management practices. The City of La Vista shall be responsible for the coordination and enforcement of the provisions of this Ordinance.

The provisions of this chapter shall be applicable to all that property within the City's zoning jurisdiction.

#### SECTION 154.02 INCORPORATION BY REFERENCE

For the purpose of this Ordinance, the Omaha Regional Stormwater Design Manual, in its most current form, is incorporated by reference.

#### SECTION 154.03 DEFINITIONS

The following words, phrases and terms as used in Chapter 154 shall have the meanings ascribed to them in this Section 154.03, except where the context clearly indicates a different meaning:

A. "Best management practices (BMP)" shall mean pollution control practices designed and carried out to reduce the pollutants contained in discharges.

B. "Building drain" means that part of the lowest horizontal piping of a wastewater drainage system that receives the discharge from soil and waste pipes inside the walls of the building and conveys it to the building sewer, beginning two feet outside the inner face of the building wall.

C. "CBO" shall mean the Chief Building Official for the City of La Vista or his/her authorized agent or representative.

D. "City" shall mean City of La Vista.

E. "Clean Water Act" shall mean the Federal Water Pollution Control Act, which was enacted in 1972 to prohibit the discharge of pollutants to receiving waters of the United States and later amended in 1987, to establish a framework for regulating municipal, industrial, a construction storm water discharges under the NPDES Program.

F. "Commercial activity" means any public or private activity not defined as an industrial activity in 40 Code of Federal Regulations (CFR) 122.26(b)(14) as of the date of this ordinance, involved in the storage, transportation, distribution, exchange or sale of goods and/or commodities or providing professional and/or non professional services.

G. "Construction Activity" means any clearing, grading, or excavation that results in soil disturbance. Construction activity also includes, but is not limited to, construction, repairs,

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dewatering, remodeling, building, and emergency construction activities required to immediately protect public health and safety.

H. "Director" means the Director of the Public Works Department for the City of La Vista or his/her authorized agent or representative.

I. "Discharge" means any release, spill, leak, pump, flow, escape, dumping, or disposal of any liquid, semi-solid, or solid substance to the municipal storm sewer system.

J. "Hazardous substance" means any substance designated under 40 CFR Part 116 pursuant to section 311 of the Clean Water Act.

K. "Illicit Connection" means any human made conveyance that is directly or indirectly connected to the municipal separate storm sewer system and allows for an illicit discharge.

L. "Illicit Discharge" means any discharge to the municipal separate storm sewer system that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations. Illicit discharges include all non-storm water discharges except discharges pursuant to a NPDES permit or conditionally exempted by ordinance and include those prohibited in Sections 154.04 and 154.11, below.

M. "Illicit Disposal" means any disposal, either intentional or unintentional, of material(s), substance(s), or waste(s) that has the potential to pollute runoff unless otherwise allowed by law.

N. "Industrial Activity" means any public or private activity which is associated with any other of the 11 categories of activities defined in 40 CFR 122.26(b)(14).

O. "Industrial/Commercial Facility" means any public or private facility involved and/or used in the production, manufacture, storage, transportation, distribution, exchange or sale of goods and/or commodities, or any facility involved and/or used in providing professional services. This category of facility includes but is not limited to, any facility defined by a Standard Industrial Code (SIC).

P. "Municipal Storm Sewer System" means any pipe, ditch or gully, or system of pipes, ditches, or gullies, that is owned or operated by a the City and used for collecting and conveying stormwater.

Q. "Maximum Extent Practicable" means a standard for implementation of storm water management programs to reduce pollutants in storm water. It is the maximum extent possible taking into account equitable consideration of competing factors, including, but not limited to the seriousness of the problem, public health risk, environmental benefits, pollutant removal effectiveness, regulatory compliance, ability to implement, cost and technical feasibility.

R. "New development" means land disturbing activities; structural development, including construction or installation of a building or structure, the creation of impervious surfaces; and land subdivision.

S. "NPDES" means the National Pollutant Discharge Elimination System and is implemented and enforced by a permit issued by the U.S. Environmental Protection Agency, or the Nebraska Department of Environmental Quality (NDEQ) pursuant to the Clean Water Act that authorizes discharges to waters of the United States and requires the reduction of pollutants in the discharge.

T. "Non-Storm Water Runoff" means any discharge to the municipal storm sewer system that is not composed entirely of storm water.

U. "Nuisance" means any nuisance as defined in Section 92.15 of the City of La Vista, Nebraska Code of Ordinances and also as defined in this section.

V. "Pollutant" means the same as defined in section 502(6) of the Clean Water Act including, but are not limited to the following, but does not include uncontaminated storm water, potable water, groundwater, or reclaimed water by a lawfully permitted water treatment facility.

- a) Materials (including but not limited to fuels, solvents, chemical, detergents, plastic, pellets, hazardous substances, radioactive wastes, fertilizers, pesticides, paints, soot, slag, ash, sludge);
- b) Metals and non-metals both soluble and insoluble (including but not limited to cadmium, lead, zinc, copper, silver, nickel, chromium, chlorine, phosphorous, and arsenic);

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- c) Petroleum Hydrocarbons (including but not limited to fuels, oils, lubricants, surfactants, waste oils, solvents, coolants, and grease);
- d) Eroded soils, sediment, and particulate materials in amounts, which may adversely affect the beneficial use of the receiving waters, flora, or fauna of the state;
- e) Animal wastes (including but not limited to discharge from confinement facilities, kennels, pens, recreational facilities, and stables);
- f) Substances having acidic or corrosive characteristics, unusual coloration or turbidity;
- g) Any domestic or industrial wastewater;
- h) Any hazardous substance.

W. "Private Storm Water Conveyance System" shall mean a storm water conveyance system that is not owned or maintained by the City including any instrumentality that drains or conveys water from a building or from/through one or more properties to the environment or the City's storm water system.

X. "Public Nuisance" means any discharge in violation of the provisions of this chapter, a wastewater discharge permit, or an order of the City Council.

Y. "Receiving Waters" means all surface water bodies, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation ditches, gullies or channels, drainage systems, and all other bodies or accumulation of water, natural or artificial, public or private, situated wholly or partly within or bordering upon the extra-territorial jurisdiction of the City of La Vista.

Z. "Runoff" means any storm water or non-storm water discharges from a drainage area that enters the municipal storm sewer system. The term runoff is interchangeable with the term urban runoff.

AA. "Sanitary Sewage" means liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions.

BB. "Separate Storm Sewer" means pipe or conduit, which by designation of the Director, carries only storm water runoff, discharges pursuant to a NPDES permit or discharges conditionally exempted by ordinance.

CC. "Significant redevelopment" means land-disturbing activity that results in the creation, addition or replacement of at least five thousand (5,000) square feet of impervious surface area on an already developed site. Redevelopment includes, but is not limited to the following activities that meet the minimum standards set forth in this definition:

- (1) The expansion of a building footprint;
- (2) Addition or replacement of a structure;
- (3) Replacement of impervious surface that that is not part of a routine maintenance activity; and
- (4) Land disturbing activities related to structural or impervious surfaces.

Redevelopment does not include routine maintenance activities that are conducted to maintain original line and grade, hydraulic capacity, original purpose of facility or emergency redevelopment activity required to protect public health and safety.

DD. "Standard Industrial Classification (SIC)" means a classification pursuant to the current edition of the Standard Industrial Classification Manual issued by the Executive Office of the President of the United States, Office of Management and Budget.

EE. "Storm Water Pollution Prevention Plan (SWPPP)" means a plan required by the State of Nebraska under either the General Permit for Storm Water Discharges or an individual NPDES permit, which includes requirements for stormwater discharges associated with either industrial or construction activities. The purpose of the plan is to help identify the sources of pollution that affect the quality of storm water discharges from a site and to describe and ensure the implementation of practices to reduce pollutants in storm water discharges.

FF. "Storm Water Runoff" means that part of natural precipitation (rainfall or snowmelt, including that of any frozen precipitation), which travels via flow across any surface to the municipal storm sewer system.

GG. "Street Wash Water" means the water and the associated debris resulting from the washing of streets and/or sidewalks.

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HH. "Urban Runoff" means any storm water and non-storm water runoff from developed land in, or adjacent to, any municipality.

II. "U.S. EPA" means the United States Environmental Protection Agency.

## 154.04 Illicit Discharges Prohibited

1. No person shall cause the discharge of non-storm water runoff to enter the municipal separate storm sewer system unless the discharge is one of the following:

- a) Authorized by a NPDES permit issued by EPA, or NDEQ;
- b) Caused by or resulting from one of the following:
  - i) Fire Fighting Activities, where such discharges or flows contain no significant sources of pollutants
  - ii) Landscape Irrigation
  - iii) Diverted stream flows
  - iv) Rising ground waters
  - v) Uncontaminated ground water infiltration, as defined at 40 CFR 35.2005(20)
  - vi) Uncontaminated pumped ground water
  - vii) Discharges from potable water sources
  - viii) Foundation Drains
  - ix) Air conditioning condensation
  - x) Irrigation Water
  - xi) Springs
  - xii) Water from crawl space pumps
  - xiii) Footing drains
  - xiv) Lawn watering
  - xv) Individual residential car washing
  - xvi) Flows from riparian habitats and wetlands
  - xvii) Dechlorinated swimming pool discharges
  - xviii) Street wash water

c) Authorized by the City of La Vista.

2. All exempt discharges, as listed above, must be in conformance with all other provisions of this code.

## 154.05 Prohibition of Illicit Connections

No person shall install, maintain, or use any connection to the municipal separate storm sewer system that may result in an illicit discharge to the municipal storm sewer system. All connections to the municipal storm sewer system that provide for an illicit discharge from inside a building are prohibited.

This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. For illicit connections made in the past, a plan to remedy the illicit connection shall be submitted to the Director or CBO.

## 154.06 Removal of Illicit Connection

If any person fails to disconnect an illicit connection upon 30-day prior notification by the CBO or Director, the CBO or Director may cause the removal of such connection from the municipal storm sewer system. The City may pursue the recovery of costs by appropriate means including a suit at law against the person or persons responsible for such disconnection.

## 154.07 Private Storm Water Conveyance Systems

The owner of a property where a private storm water conveyance system is located shall be responsible for the maintenance and repair, and proper operation of the private storm water conveyance system, regardless of whether the private storm water conveyance system is completely located on the private property or partially within the public right of way. The City shall have no responsibility or obligation for the maintenance, repair, or proper operation of a private storm water conveyance system.

If the CBO or Director determines that a private storm water conveyance system is not operating properly and causes the improper discharge of storm water to the street, sidewalk or municipal

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storm sewer system, the CBO or Director may declare this condition to constitute a public nuisance and proceed to abate that nuisance in accordance with Section 154.04.

## 154.08 Discharge of Sanitary Sewage Prohibited

No person shall cause discharge of sanitary sewage to the municipal separate storm sewer system. In addition, if the Director determines that a building drain or building sewer is not operating properly and causes the discharge of sewage to the street, sidewalk, or municipal separate storm sewer system, the Director may declare this condition to constitute a public nuisance and proceed to abate that nuisance in accordance with Section 154.04.

## 154.09 Damage to the Municipal Storm Sewer System

It is unlawful for any person to maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the municipal storm sewer system.

## 154.10 Waste Disposal Prohibitions

No person shall throw, deposit, place, leave, maintain, litter, keep, or permit to be thrown, deposited, left, maintained or kept any pollutant, refuse, rubbish, food waste, yard waste, garbage, or any other discarded or abandoned objects in or upon any public or private property, driveway, parking area, street, alley, sidewalk, or other location that may result in an illicit discharge to the municipal storm sewer system. Wastes placed in containers protected from urban runoff such as bags, cans, or recycling bins, and City-approved wastes from construction on public right-of-way are exempted from this prohibition.

## 154.11 Prohibited Discharges from Industrial/Commercial Activities

The following list of discharges from industrial/commercial activities shall be considered prohibited unless permitted under a separate NPDES permit or approved by the City Public Works Department. This list is based on Section 154.04 (Illicit Discharges Prohibited), but is not an exhaustive list of prohibited discharges to the municipal storm sewer system:

1. Water from the cleaning of vehicle fueling stations, vehicle service garages, or other types of vehicle service facilities.
2. Water, cleansers, or solvents from the cleaning of vehicles, machinery or equipment, and other such commercial and industrial operations
3. Water from the washing or rinsing of vehicles containing soap, detergents, solvents, or other cleaners.
4. Water from the cleaning or rinsing of vehicle engine, undercarriage, or auto parts cleaning.
5. Vehicle fluids.
6. Mat wash water from food service facilities.
7. Food and kitchen cleaning water from food service facilities.
8. Leakage from dumpsters or trash containers.
9. Water from the cleaning or rinsing of garbage dumpster areas and areas where garbage is stored or contained.
10. Water from pressure washing, steam cleaning, and hand scrubbing of sidewalks, gutters, plazas, alleyways, outdoor eating areas, steps, building exteriors, walls, driveways, and other outdoor surfaces.
11. Wastewater or cleaning fluids from carpet cleaning.
12. Swimming pool and spa water.
13. Wash out from concrete trucks.
14. Runoff from areas where hazardous substances, including diesel fuel, gasoline and motor oil are stored.
15. Super-chlorinated, i.e. greater than 4 mg/l chlorine, water normally associated with the disinfection of potable water systems.

## 154.12 Notification of Prohibited Discharges Required

In the event of discovery of a discharge to the municipal storm sewer system that is prohibited by this code, the discharger or permittee shall immediately notify the CBO or Director of the incident by telephone, facsimile or e-mail. The notification shall include the discharge location, type of materials discharged, estimated concentration and volume of the discharge, and corrective actions taken to contain or minimize the effects of the discharge.

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In addition, a written report, facsimile or e-mail, addressed to the CBO or Director detailing the date, time and cause of the discharge, the quantity and characteristics of the discharge, corrective actions taken to contain or minimize the effects of the discharge, and corrective actions taken to prevent future discharges shall be filed by the responsible person within five days of the occurrence of the non-complying discharge.

## 154.13 Grading Permit Required

It shall be unlawful for any person to engage in or cause any grading, clearing, or excavation activities that result in the disturbance of any land areas sufficiently large to require a general NPDES construction site storm water permit, without the property owner, tenant, or easement holder, or their agent, first obtaining a grading permit from the City's Permits and Inspection Division. This section shall not apply to grading performed solely for agricultural purposes.

## 154.14 Application for Grading Permit

1. Any property owner, tenant, or easement holder, or their agent, desiring a grading permit shall make an application to the Permits and Inspections Division on the forms provided by the division.
2. Any property owner, tenant, or easement holder, or their agent, desiring a grading permit shall also submit to the City's Permits and Inspection Division a completed NDEQ notice of intent/permit application for coverage under the general NPDES construction site storm water permit. Such permit application shall be made on forms provided by the NDEQ and distributed by the Permits and Inspection Division. The City shall review all such completed applications and then forward the documents to the NDEQ for approval or denial.

## 154.15 Grading Permit Fee

Before any grading permit application will be accepted by the Permits and Inspection Division, the applicant shall pay to the city a fee in such amount set from time to time by the Mayor and City Council, and a current record of such amount shall be maintained by the City Clerk.

## 154.16 Issuance of Grading Permit

If, after, examination of the application for a grading permit, the CBO has determined that the proposed plan will meet the requirements of this article and if the NDEQ approved the NPDES application for the project, or fails to review and approve or deny the application within fourteen days, then the Permits and Inspection Division shall issue the grading permit.

## 154.17 Erosion and Sediment Control at Construction and Development Sites

Provisions for erosion and sediment control at construction and development sites are set forth in the Omaha Regional Stormwater Design Manual. The provisions thereof shall be controlling of all subjects contained therein within the corporate limits and within the jurisdictional area outside the city limits. In the event of any conflict between the provisions of the Omaha Regional Stormwater Design Manual, or any other ordinance, and the provisions of an NPDES permit issued by the State of Nebraska, the provision that imposes the higher or most stringent or most specific practice shall prevail.

## 154.18 Requirement for all New Development and Redevelopment Projects

Land development and significant redevelopment projects with the potential to add pollutants to storm water or to affect the flow rate or velocity of storm water runoff after construction is completed must include provisions for the management of the increased post construction runoff in a Post-Construction Storm Water Management Plan.

## 154.19 Post-Construction Storm Water Management Plan

The Post-Construction Storm Water Management Plan shall be submitted to the CBO, on a form or format specified by the CBO, at the same time the application for a City of La Vista grading permit is submitted.

The Post-Construction Storm Water Management Plan, at a minimum, shall include the BMP or BMPs selected, the BMP design, schedules and procedures for inspection and maintenance of the BMPs.

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## 154.20 Exemptions from the Post-Construction Storm Water Management Plan

Systems designed to accommodate only one single family dwelling unit, duplex, triplex, or quadraplex, provided the single unit is not part of a larger common plan of development or sale, are exempt from the requirements in this Ordinance to submit a Post-Construction Storm Water Management Plan.

## 154.21 Maintenance of Post-Construction BMPs

1. The owners and occupants of lands on which structural post-construction BMPs have been installed to meet the requirements of this Ordinance shall ensure the maintenance of these BMPs and shall themselves maintain those BMPs if other persons or entities who are also obligated to maintain those BMPs (by contract or covenant, or pursuant to this Ordinance) fail to do so. Structural BMPs shall be inspected at least annually, and a written record of inspection results and any maintenance work shall be maintained and available for review by the City.
2. The responsibility to maintain a BMP may be transferred through a contract or other agreement. The person or entity accepting a maintenance obligation in such a contract or agreement will also be legally obliged to maintain that BMP pursuant to this Ordinance. However, no contract or other agreement imposing an obligation to maintain a BMP can relieve a person or entity of any obligation to maintain a BMP imposed by this Ordinance.
3. The maintenance agreement shall require the applicant or owner to execute an inspection and maintenance agreement, to be filled of record, binding on all subsequent owners of land served by a private storm water management facility. Such agreement shall provide for access to the facility, at reasonable times, for inspections by the City or its authorized representative to ensure that the facility is maintained in proper working condition to meet design standards.
4. The applicant and/or owner shall record the maintenance agreement with the Register of Deeds.
5. The maintenance agreement shall also provide that if after notice by the City to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) or occupant within a reasonable period of time (30 days maximum), the City may perform all necessary work to place the facility in proper working condition. The owner(s) or occupant of the facility shall be assessed the cost of the work and any lawful penalties.

## 154.22 Admission to Property

Whenever it shall be necessary for the purposes of these rules and regulations, the CBO or Director, upon the presentation of credentials, may enter upon any property or premises at reasonable times for the purpose of: 1) copying any records required to be kept under the provisions of this article, (2) inspecting any BMPs, and (3) sampling any discharge to the municipal storm sewer system. The CBO or Director may enter upon the property at any hour under emergency circumstances. The authority to so inspect, sample and copy records shall be limited to only those things, and only the extent, that it has a direct bearing on the kind and source of discharges into the municipal storm sewer system.

## 154.23 Regulatory Actions

If substances in violation of 154.04 of this code are discharged or proposed to be discharged into the municipal storm sewer system of the city or any tributary thereto, the city may take action necessary to:

1. Prohibit the discharge of such effluent.
2. Require a discharger to demonstrate that modifications to such discharger's facilities will reduce or eliminate the discharge of such substances in conformity with this article.
3. Require pretreatment, including storage, detention or retention facilities necessary to reduce or eliminate the objectionable characteristics or substances so that the discharge will not violate these prohibitions and limitations.
4. Require the person making, causing, or allowing the discharge to pay an additional cost or expense incurred by the city for taking remedial actions as may be deemed to be desirable or necessary to achieve the purpose of this chapter.
5. Require any combination or all of the above.

## 154.24 Notice of Violation; Correction of Violations

Whenever the Chief Building Official or Public Works Director finds that any person has violated or is violating this article or any prohibition, limitation or requirement contained herein, such person shall be notified in writing.

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## 154.25 Penalty; Recovery of Damages

Any person who is found to have violated an order provided for in this article, or who willfully or negligently failed to comply with any provisions of this article and the rules and regulations issued hereunder, shall be deemed guilty of a misdemeanor and shall be fined an amount that does not exceed \$500 under this ordinance. Each day any such violation or failure to perform such act shall continue, shall constitute a separate offense, unless otherwise specifically provided. Except as prohibited by the State of Federal Constitutions, a prosecution under this ordinance, shall not be the exclusive penalty for such acts or omissions.

## 154.26 Additional Rules and Regulation

The Director may make rules and regulations, which expand upon or add to the provisions of this article but are not inconsistent with them. Prior to taking effect, such rules and regulations, or any amendments thereto, shall be approved by resolution of the city council. A copy of such rules and regulations, with any current amendments, shall be on file with the City Clerk.

## 154.27 Appeals

Any person aggrieved by the issuance, denial, suspension, cancellation, modification, or revocation of any permit provided for in this article or by any other order of the CBO or Director, may within ten days of the receipt of written notice of the entry of such order, submit a written appeal to the City Council at their next regularly scheduled meeting.

## 154.28 Conflicts with Other Code Sections

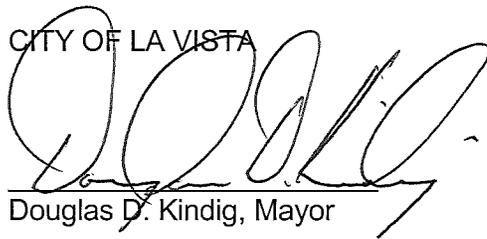
The provisions of this chapter shall control over any inconsistent or conflicting provision of this code.

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, unenforceable or invalid, such unconstitutionality, unenforceability or invalidity shall not affect the constitutionality, enforceability or validity of the remaining portions of this Ordinance. The Mayor and City Council of the City of La Vista hereby declare that they would have passed this Ordinance and each section, subsection, sentence, clause and phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional, unenforceable or invalid.

SECTION 3. EFFECTIVE DATE. This Ordinance shall take effect upon its passage, approval and publication in pamphlet form as required by law.

PASSED AND APPROVED THIS 1ST DAY OF AUGUST 2006.

CITY OF LA VISTA



Douglas D. Kindig, Mayor

ATTEST:



Rita M. Ramirez, CMC  
City Clerk

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