

**CITY OF LA VISTA  
MAYOR AND CITY COUNCIL REPORT  
JULY 2, 2019 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
AMEND VARIOUS SECTIONS OF THE LA VISTA MUNICIPAL CODE	◆ RESOLUTION ORDINANCES RECEIVE/FILE	PAM BUETHE CITY CLERK

**SYNOPSIS**

Ordinances have been prepared to amend Sections 30.46, 30.47, 32.02, 34.26, 35.03, 70.042, 70.070, 71.053, 92.15, 92.16, 92.17, 92.18, 92.21, 95.13, 95.15, 114.02, 114.23, 114.24, 114.30, 114.51, 117.15, 130.02, 133.01 of the La Vista Municipal Code.

**FISCAL IMPACT**

N/A.

**RECOMMENDATION**

Approval.

**BACKGROUND**

The changes are a result of American Legal Publishing Corporation incorporating the legislative changes from recent legislative sessions into our Code.

These changes have been reviewed by the City Attorney and City Clerk.

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA, TO AMEND THE LA VISTA MUNICIPAL CODE SECTIONS 30.46 AND 30.47; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; 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. Section 30.46 of the La Vista Municipal Code is amended to read as follows:

**§ 30.46 READING AND PASSAGE.**

Ordinances of a general or permanent nature shall be read by title on three different days unless three-fourths of the members of the City Council vote to suspend this requirement, except that such requirement shall not be suspended for any ordinance for the annexation of territory or the redrawing of boundaries for City Council election districts or wards. In the case such requirement is suspended, the ordinance shall be read by title or number and then moved for final passage. Three-fourths of the members of the City Council may require a reading of any ordinance in full before enactment under either procedure set out in this section. (Neb. RS 16-404) ('79 Code, § 1-704) (Am. Ord. 627, passed 9-5-95)

SECTION 2. Section 30.47 of the La Vista Municipal Code is amended to read as follows:

**§ 30.47 PUBLICATION.**

(A) All ordinances of a general nature shall, within 15 days after they are passed, be published one time:

(1) In ~~some-a legal~~ newspaper published-of general circulation within the city;  
or

(2) In pamphlet form. (Neb. RS 19-3701)

(B) Every ordinance fixing a penalty or forfeiture for its violation shall, before the same takes effect, be published for at least one week in some manner prescribed in this section.

(Neb. RS 16-405) ('79 Code, § 1-705) (Am. Ord. 406, passed 12-3-85; Am. Ord. 697, passed 10-7-97)

SECTION 3. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances as previously enacted that are in conflict with this Ordinance or any part hereof are hereby repealed.

SECTION 4. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 5. Effective Date. This Ordinance shall be in full force and effect from and after passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED THIS 2ND DAY OF JULY 2019

CITY OF LA VISTA

\_\_\_\_\_  
Douglas Kindig, Mayor

ATTEST:

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Pamela A. Buethe, CMC  
City Clerk

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA, TO AMEND THE LA VISTA MUNICIPAL CODE SECTION 32.02; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; 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. Section 32.02 of the La Vista Municipal Code is amended to read as follows:

**§ 32.02 PLANNING COMMISSION.**

(A) The Planning Commission shall consist of nine regular members who shall represent, insofar as is possible, the different professions or occupations in the city and shall be appointed by the Mayor, by and with the approval of a majority vote of the members elected to the City Council. Two of the regular members may be residents of the area over which the city is authorized to exercise extraterritorial zoning and subdivision regulation. When there is a sufficient number of residents in the area over which the city exercises extraterritorial zoning or ~~and~~ subdivision regulation, one regular member of the Commission shall be a resident from such area. If it is determined by the City Council that a sufficient number of residents reside in the area subject to extraterritorial zoning and subdivision regulation, and no such resident is a regular member of the Commission, the first available vacancy on the Commission shall be filled by the appointment of such an individual. For purposes of this section, a sufficient number of residents shall mean 1,000 residents. All regular members of the Commission shall serve without compensation ~~and shall hold no other city office except when appointed to serve on the Board of Adjustment as provided in Neb. RS 19-908.~~ The term of each regular member shall be three years, except that three regular members of the first Commission shall serve for terms of one year, three for terms of two years and three for terms of three years. All regular members shall hold office until their successors are appointed. Any member may, after a public hearing before the City Council, be removed by the Mayor, with the consent of a majority vote of the members elected to the City Council, for inefficiency, neglect of duty or malfeasance in office, or other good and sufficient cause. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired portion of the term by the Mayor. (Neb. RS 19-926)

(B) A regular or alternate member of the planning commission may hold any municipal office except:

(1) mayor.

(2) a member of the city council.

(3) a member of any community redevelopment authority created under Neb. Rev. Stat. 18-2102.01, or

(4) a member of any citizen advisory review committee created under Neb. Rev. Stat. 18-2715.

~~(B)~~ (C) All members of the Commission may be required, in the discretion of the City Council, to give bond in a sum set by resolution of the Council and conditioned upon the faithful performance of their duties. The Commission shall elect its Chairperson and a Secretary from its members and create and fill such other of its offices as it may determine. The term of the Chairperson and the Secretary shall be one year, and they shall be eligible for reelection. No member of the Commission shall serve in the capacity of both the Chairperson and Secretary of the Commission. It shall be the duty of the Secretary to keep the full and correct minutes and records of all meetings and to file them with the City Clerk where they shall be available for public inspection during office hours. The Commission shall be funded by the City Council from time to time out of the General Fund. The expenditures of the Commission, exclusive of gifts, shall be within the amounts appropriated for that purpose by the City Council; and no expenditures nor agreements for expenditures shall be valid in excess of such amounts. A number of Commissioners equal to a majority of the number of regular members appointed to the Commission shall constitute a quorum for the transaction of any business. The Commission shall hold at least one regular meeting in each calendar quarter, except the City Council may require the Commission to meet more frequently, and the Chairperson

of the Commission may call for a meeting when necessary to deal with business pending before the Commission. Special meetings may also be held upon the call of any three members of the Commission. The Commission shall adopt rules and regulations for the transaction of business and shall keep a record of its resolutions, transactions, findings and determinations which shall be a public record. The Commission shall make and adopt plans for the physical development of the city, including any areas outside its boundaries which, in the Commission's judgment, bear relation to the planning of the city, and shall carry out the other duties and exercise the powers specified in Neb. RS 19-929. All actions by the Commission shall be subject to the review and supervision of the Mayor and City Council. The Commission shall make its recommendations to the City Council so that they are received by the City Council within 90 days after the Commission begins consideration of a matter relating to the comprehensive development plan, capital improvements, building codes, subdivision development, the annexation of territory or zoning. The Commission shall be responsible for making such reports and performing such other duties as the City Council may, from time to time, designate.

~~(G)(D)~~ The Mayor, with the approval of a majority vote of the other elected members of the City Council, shall appoint one alternate member to the Commission. The alternate member shall serve without compensation ~~and shall hold no other city office~~. The term of the alternate member shall be three years, and he or she shall hold office until his or her successor is appointed and approved. The alternate member may be removed from office in the same manner as a regular member. If the alternate member position becomes vacant other than through the expiration of the term, the vacancy shall be filled for the unexpired portion of the term by the Mayor with the approval of a majority vote of the elected members of the City Council. The alternate member may attend any meeting and may serve as a voting and participating member of the Commission at any time when less than the full number of regular Commission members is present and capable of voting.

('79 Code, § 2-202)

**Statutory reference:**

Powers and duties, see Neb. RS 19-924 through 19-929

**Cross reference:**

Planning, see Chapter 151

SECTION 2. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances as previously enacted that are in conflict with this Ordinance or any part hereof are hereby repealed.

SECTION 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 4. Effective Date. This Ordinance shall be in full force and effect from and after passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED THIS 2ND DAY OF JULY 2019

CITY OF LA VISTA

\_\_\_\_\_  
Douglas Kindig, Mayor

ATTEST:

\_\_\_\_\_  
Pamela A. Buethe, CMC  
City Clerk

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA, TO AMEND THE LA VISTA MUNICIPAL CODE SECTION 34.26 TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; 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. Section 34.26 of the La Vista Municipal Code is amended to read as follows:

**§ 34.26 RETIREMENT COMMITTEE.**

(A) Creation of Committee. There is hereby created a Retirement Committee pursuant to Neb. RS 16-1014 for the purpose of supervising the general operation of the retirement system adopted for police officers of the city. The Committee shall consist of six members. Four of the six members shall be selected by the officers in the police force in the manner they so choose, and the names of the officers so chosen shall be provided to the City Council by the Chief of Police or his or her designee. The remaining two members shall be the City Administrator and the City Clerk. The City Treasurer shall be an ex officio member of the Committee, and may attend and participate in Committee meetings, but shall not vote or be counted for quorum purposes. The City Attorney shall act as legal consultant to the Committee. Each Committee member shall be appointed for a four year term, and vacancies shall be filled for the remainder of the terms by a person with the same representation as his or her predecessor. Members of the Retirement Committee shall receive no salary and shall not be compensated for expenses.

(B) Duties of Committee shall be as stated in Neb. Rev. Stat. 16-1017 as amended from time to time. (Neb. RS 16-1017) ('79 Code, § 3-302) (Ord. 355, passed 12-20-83; Am. Ord. 533, passed 7-2-91)

SECTION 2. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances as previously enacted that are in conflict with this Ordinance or any part hereof are hereby repealed.

SECTION 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 4. Effective Date. This Ordinance shall be in full force and effect from and after passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED THIS 2ND DAY OF JULY 2019

CITY OF LA VISTA

\_\_\_\_\_  
Douglas Kindig, Mayor

ATTEST:

\_\_\_\_\_  
Pamela A. Buethe, CMC  
City Clerk

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA, TO AMEND THE LA VISTA MUNICIPAL CODE SECTION 35.03 TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; 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. Section 35.03 of the La Vista Municipal Code is amended to read as follows:

**§ 35.03 CONTRACT ADVERTISING.**

(A) Before the City Council shall make any contract in excess of \$30,000 for general improvements, such as water extensions, sewers, public heating systems, bridges, work on streets or any other work or improvement where the cost of such improvement shall be assessed to the property, an estimate of the cost thereof shall be made by the City Engineer and submitted to the Council. No contract shall be entered into for any such work, improvement or enlargement of such an improvement, or for the purchase of equipment used in the construction of such enlargement or general improvement, for any price exceeding \$30,000 without advertising for bids. In advertising for bids for any such work, or for the purchase of such equipment, the Council may publish the amount of such estimate therewith. Such advertisement shall be published at least seven days in ~~some-a legal~~ newspaper of general circulation ~~published~~ in the city; provided, that in the case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, war or an exigency or pressing necessity or unforeseen need calling for immediate action or remedy to prevent a serious loss of or serious injury or damage to life, health or property, estimates of costs and advertising for bids may be waived in the emergency ordinance when adopted by a three-fourths vote of the Council and entered on record. If after advertising for bids as provided in this section, the City Council receives fewer than two bids on a contract for any work or improvement, or if the bids received by the city contain a price which exceeds the estimated cost of the project, the Mayor and City Council may negotiate a contract in an attempt to complete the proposed project at a cost commensurate with the estimate given.

(B) If the materials are of such a nature that, in the opinion of the manufacturer and with the concurrence of the City Council, no cost can be estimated until the materials have been manufactured or assembled to the specific qualifications of the city, the City Council may authorize the manufacture and assemblage of such materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer.

(C) Any city bidding procedure may be waived by the City Council:

(1) When materials or equipment are purchased at the same price and from the same seller as materials or equipment which have formerly been obtained pursuant to the state bidding procedure in Neb. RS 81-145 to 81-162;

(2) When the contract is negotiated directly with a sheltered workshop pursuant to Neb. RS 48-1503; or

(3) When required to comply with any federal grant, loan, or program. ('79 Code, § 1-922) (Am. Ord. 263, passed 12-4-79; Am. Ord. 548, passed 6-16-92; Am. Ord. 692, passed 9-16-97; Am. Ord. 1161, passed 1-17-12) Statutory reference: Contract advertising requirements, see Neb RS 16-321

SECTION 2. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances as previously enacted that are in conflict with this Ordinance or any part hereof are hereby repealed.

SECTION 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this Ordinance and each section, subsection,

sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 4. Effective Date. This Ordinance shall be in full force and effect from and after passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED THIS 2ND DAY OF JULY 2019

CITY OF LA VISTA

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Douglas Kindig, Mayor

ATTEST:

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Pamela A. Buethe, CMC  
City Clerk



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA TO AMEND THE LA VISTA MUNICIPAL CODE SECTIONS 70.042 AND 70.070; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; 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. Municipal Code Section 70.042 is hereby amended to read as follows:

**§ 70.042 SCHOOL BUS QUALIFICATIONS.**

(A) No person shall operate a school bus upon the streets of the city while the number of passengers therein exceeds the seating capacity designated by the manufacturer of said bus or while any passenger therein is not seated. ('79 Code, § 5-508)

(B) Each school bus transporting school children within the city shall be equipped with:

(1) An electric signal stop lamp, red in color, located on the rear of the vehicle at a height of not less than 42 inches nor more than 60 inches from the surface of the street or highway. Such device shall be operated independently by a control in the driver's compartment of the vehicle and shall be illuminated for a distance of not less than 100 feet in advance of any point in the city at which the operator intends to stop the vehicle. Said signal stop lamp shall comply with specifications for said lamps adopted by the Nebraska Department of ~~Roads~~ Transportation.

(2) Mechanical stop-signal arm, which the operator of the school bus shall cause to be extended from the left or driver's side of the school bus during such time as the bus is stopped for the purpose of loading or unloading passengers. Said mechanical stop-signal arm shall comply with specifications for same adopted by the Nebraska Department of ~~Roads~~ Transportation.

(3) A seating space for each passenger allowed to enter the bus. No operator of any school bus shall permit passengers to board the bus in greater number than the seating capacity designated by the manufacturer of said bus. ('79 Code, § 5-509) (Ord. 102, passed - -)

SECTION 2. Municipal Code Section 70.070 is hereby amended to read as follows:

**§ 70.070 PLACING AND MAINTAINING TRAFFIC CONTROL DEVICES.**

The city shall place and maintain such traffic-control devices upon streets, roads, avenues, boulevards, highways, or any other publicly maintained ways under its jurisdiction and open to the use of the public for vehicular traffic as it shall deem necessary to indicate and carry out the provisions of the Nebraska Rules of the Road or to regulate, warn, or guide traffic, and such devices shall conform with the Manual on Uniform Traffic Control Devices adopted by the Nebraska Department of ~~Roads~~ Transportation from time to time.

**Statutory reference:**

Traffic-control devices, see Neb. RS 60-6,119 et seq.

SECTION 3. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances as previously enacted that are in conflict with this ordinance or any part hereof, are hereby repealed.

SECTION 4. Severability Clause. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Council hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 5. Effective Date. This Ordinance shall be in force and take effect from and after passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED THIS 2ND DAY OF JULY 2019.

CITY OF LA VISTA

\_\_\_\_\_  
Douglas Kindig, Mayor

ATTEST:

\_\_\_\_\_  
Pamela A. Buethe, CMC  
City Clerk

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA, TO AMEND THE LA VISTA MUNICIPAL CODE SECTION 71.053 TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; 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. Section 71.053 of the La Vista Municipal Code is amended to read as follows:

**§ 71.053 HAND SIGNALS.**

A signal of intention to turn right or left shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning. The signals herein required shall be given either by means of the hand and arm or by a signal device of a type approved by the Department of ~~Roads~~ Transportation. The hand and arm signals herein required shall be given from the left side of the vehicle in the following manner: stop or decreased speed, hand and arm extended downward; left turn, hand and arm extended horizontally; right turn, hand and arm extended upward. Required signals shall be given by a signal device of a type approved by the Department of ~~Roads~~ Transportation under any condition when a hand and arm signal would not be visible for 100 feet to the front and rear of the signaling driver. Any person operating a bicycle may signal a right turn by fully extending the right arm and pointing.

(Neb. RS 60-6,161 through 60-6,163) ('79 Code, § 5-208) Penalty, see § 70.999

SECTION 2. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances as previously enacted that are in conflict with this Ordinance or any part hereof are hereby repealed.

SECTION 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 4. Effective Date. This Ordinance shall be in full force and effect from and after passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED THIS 2ND DAY OF JULY 2019

CITY OF LA VISTA

\_\_\_\_\_  
Douglas Kindig, Mayor

ATTEST:

\_\_\_\_\_  
Pamela A. Buethe, CMC  
City Clerk

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA TO AMEND MUNICIPAL CODE SECTIONS 92.15, 92.16, 92.17, 92.18, AND 92.21; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; 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. Municipal Code Section 92.15 is hereby amended to read as follows:

**§ 92.15 DEFINITION.**

(A) *General definition.* A nuisance consists in doing any unlawful act, omitting to perform a duty or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

- (1) Injures or endangers the comfort, repose, health or safety of others;
  - (2) Offends decency;
  - (3) Is offensive to the senses;
  - (4) Unlawfully interferes with, obstructs, tends to obstruct or renders dangerous for passage any stream, public park, parkway, square, street or highway in the city;
  - (5) In any way renders other persons insecure in life or the use of property; or
  - (6) Essentially interferes with the comfortable enjoyment of life and property or tends to depreciate the value of the property of others.
- ('79 Code, § 4-301)

B) *Specific definition.* The maintaining, using, placing, depositing, leaving or permitting of any of the following specific acts, omissions, places, conditions and things are hereby declared to be nuisances:

- (1) Any odorous, putrid, unsound or unwholesome grain, meat, hides, skins, feathers, vegetable matter or the whole or any part of any dead animal, fish or fowl;
- (2) Privies, vaults, cesspools, dumps, pits or like places which are not securely protected from flies or rats, or which are foul or malodorous;
- (3) Filthy, littered or trash-covered cellars, houseyards, barnyards, stable-yards, factory-yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings or premises;
- (4) Animal manure in any quantity which is not securely protected from flies and the elements, or which is kept or handled in violation of any ordinance of the city;
- (5) Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish or any waste vegetable or animal matter in any quantity, provided that nothing herein contained shall prevent the temporary retention of waste in receptacles in a manner provided by the health officer of the city, nor the dumping of non-putrefying waste in a place and manner approved by the health officer;
- (6) Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster and all trash or abandoned material, unless the same be kept in covered bins or galvanized iron receptacles;
- (7) Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, old automobiles or parts thereof, or any other waste materials when any of the articles or materials create a condition or harborage in which flies, rats, or rodents may breed or multiply, or which may be a fire danger or which are so unsightly as to depreciate property values in the

vicinity thereof;

(8) Any unsafe or unsightly building, billboard or other structure, any old, abandoned or partially destroyed building or structure or any building or structure commenced and left unfinished, which buildings, billboards or other structures are either a fire hazard, a menace to the public health or safety or are so unsightly as to depreciate the value of property in the vicinity thereof;

(9) All places used or maintained as junk yards, dumping grounds or for the wrecking and disassembling of automobiles, trucks, tractors or machinery of any kind, or for the storing or leaving of worn-out, wrecked or abandoned automobiles, trucks, tractors or machinery of any kind, or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others, or which are so unsightly as to tend to depreciate property values in the vicinity thereof;

(10) Stagnant water permitted or maintained on any lot or piece of ground. Stagnant water is defined as water which stands upon premises in such a manner, and over such a period of time, that it is likely to become a breeding place for mosquitoes;

(11) Stockyards, granaries, mills, pig pens, cattle pens, chicken pens or any other place, building or enclosure in which animals or fowls of any kind are confined or on which are stored tankage or any other animal or vegetable matter, or on which any animal or vegetable matter including grain is being processed, when the places in which the animals are confined, or the premises on which the vegetable or animal matter is located are maintained and kept in such a manner that foul and noxious odors are permitted to emanate therefrom to the annoyance of inhabitants of the city or are maintained and kept in such a manner as to be injurious to the public health; or

(12) All other things specifically designated as nuisances elsewhere in this code or applicable state law.

(13) Storage, accumulation, keeping, placing or allowing to remain of trash, garbage, scrap and wrecked, worn-out, broken or inoperative or partially destroyed or disassembled personal or real property of any kind, including any motor vehicles, tractors, trailers, machinery and equipment;

(14) Any lots or pieces of ground within the city or within ~~two miles of the corporate limits of the city's~~ extraterritorial zoning jurisdiction that have (or have on adjoining streets or alleys) any growth in excess of 12 inches of weeds, grasses or other worthless vegetation or ~~any other~~ nuisance thereon ~~pursuant to any other provisions of this code or applicable law~~, excluding city approved plantings, structures, devices or facilities for purposes of weed or erosion control, neighborhood enhancement and/or wildlife promotion or storm water quality, detention, management or control. Without limiting the foregoing provisions of this division (14), it shall be the duty of any person owning, leasing, occupying, or controlling any lot or piece of ground in the jurisdiction to prevent the growth of noxious weeds or other worthless vegetation thereon, including without limitation, cockleburrs, thistles, ragweed, burdock, and wild lettuce thereon. ('79 Code, § 4-301.01) (Ord. 646, passed 5-7-96; Am. Ord. 1257, passed 7-7-15)

**Statutory reference:**

*Authority to regulate and abate nuisances, see Neb. RS 18-1720*

**Cross reference:**

*Stagnant waters, weeds and litter, see § 133.01*

SECTION 2. Municipal Code Section 92.16 is hereby amended to read as follows:

**§ 92.16 MAINTAINING A NUISANCE PROHIBITED.**

It shall be unlawful for any person by act or omission to erect, keep up or continue, maintain, allow or permit any nuisance within the city or within the city's extraterritorial zoning jurisdiction.

('79 Code, § 4-301.02) (Ord. 646, passed 5-7-96) Penalty, see § 92.99

SECTION 3. Municipal Code Section 92.17 is hereby amended to read as follows:

**§ 92.17 ABATEMENT PROCEDURE.**

(A) (1) Whenever a nuisance exists as defined in this subchapter, the city may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(2) Whenever, in any action, it is established that a nuisance exists, the court may together with the fine or penalty imposed, enter an order of abatement as part of the judgement in the case.  
(‘79 Code, § 4-502)

(B) (1) It shall be the duty of every owner or occupant of real estate in the city to keep such real estate free of public nuisances. Upon determination by the ~~Board of Health~~ Chief building official, Code enforcement officer, or other City representative that the owner or occupant has failed to keep such real estate free of public nuisances, notice to abate and remove such nuisance ~~and notice of the right to a hearing before the City Council and the manner in which it may be requested~~ shall be given to the owner or ~~occupant, or~~ the owner's or occupant's duly authorized agent and to the occupant, if any, by personal service, first-class mail, or certified mail. If notice is given by first-class mail, such mail shall be conspicuously marked as to its importance. Such notice shall:

(a) Describe the condition as found by the Chief building official, Code enforcement officer, or other City representative Board of Health and state that the condition has been declared a public nuisance and that the condition must be remedied at once. The notice shall specify the period of time within which the nuisance must be abated or removed, and

(b) Advise of the right to appeal the determination of the City and request a hearing before the Board of Health, for matters involving public health, or the City Administrator, for all other matters, and the manner in which such hearing may be requested. Any such appeal and request for hearing shall be in writing and filed with the City Clerk in the manner described in subsection (B)(2) below.

~~Within ten days after the receipt of such notice, if the owner or occupant of the real estate does not request a hearing or fails to comply with the order to abate and remove the nuisance, the city shall have such work done and may levy and assess the costs and expenses of the work upon the real estate so benefitted in the same manner as other special taxes for improvements are levied and assessed.~~

(2) Within five days after the receipt of the notice described in subsection (B)(1), the owner or occupant of the real estate may request a hearing with the Board of Health, for matters involving public health, or the City Administrator, for all other matters, to appeal the decision to abate or remove the nuisance by filing a written appeal with the office of the City Clerk. If the owner or occupant requests in writing a hearing with the City Council, the City Council Administrator or his or her designee shall fix a time and place at which a hearing will be held. The hearing on the appeal shall be held within 14 days after the filing of the appeal. Notice of the hearing shall be given by personal service, first-class mail, or certified mail and require the owner or occupant to appear at the specified time and place before the City Council to show cause why such condition should not be found to be a public nuisance and remedied. Such notice shall be given not less than seven, nor more than 14 days before the time of the hearing. Upon the date fixed for the hearing and pursuant to the notice, the City Council Board of Health for matters involving public health, or the City Administrator (or any other appointed officer of the City designated by the City Administrator, Mayor or City Council) for all other matters, shall hear all objections made by the owner or occupant and shall hear evidence submitted by the Board of Health Chief building official, Code enforcement officer, or other proper City representative. A decision on the appeal will be rendered within five business days after the conclusion of the hearing. If after consideration of all the evidence the appeal fails, the City may have such work done to abate or remove the nuisance the City Council finds that the condition is a public nuisance, it shall, by resolution, order and direct the owner or occupant to remedy the public nuisance at once.

(3) If the owner or occupant of the real estate within five days after receipt of the notice described in subsection (B)(1) does not request a hearing, or fails to comply with the order to abate or remove the nuisance within the required time refuses or neglects to comply promptly with the order of the City Council, the City Council shall proceed to cause the abatement of the described public nuisance and may levy and assess the costs and expenses of the work upon the real estate so benefitted in the same manner as other special taxes for improvements are levied and assessed may have the work done.

(4) The costs and expenses of any work of the City to abate or remove a nuisance pursuant to this Section 92.17 shall be paid by the owner. Any such costs or expenses that are unpaid shall be subject to collection or assessment by the City in accordance with applicable law., including without limitation, Neb. Res. Stat. Section 16-



230 for removal or abatement of nuisances relating to drainage, weeds or litter.

(5) Unless otherwise specified by applicable law, notice for purposes of this section shall be deemed to be received upon deposit in the United States mail, postage prepaid, if by first-class mail, or upon actual receipt, if by personal service or certified mail. ('79 Code, § 4-302)

(3C) —Notwithstanding ~~divisions (B)(1) or (2) above~~ anything in this Section 92.17 or elsewhere in this Code to the contrary:

(a) If the Mayor-Chief building official, Code enforcement officer, or other proper City representative determines that any public nuisance constitutes an immediate danger to life, safety, health, or property, the city may remove or abate the nuisance (or cause it to be removed or abated) and assess the cost thereof to the property creating the nuisance or on which the nuisance arises, to the extent necessary or appropriate to eliminate the immediacy and/or magnitude of the danger, upon 48 hours personal or certified written notice to the owner or tenant of the subject property (or the owner's or tenant's duly authorized representative) or, in light of the immediacy or magnitude of the danger, such lesser notice that can reasonably be provided under the circumstances; and, in the event any public nuisance is within the scope of the Nebraska Statutes, including without limitation, Neb. Rev. Stat. Section 16-230 or 18-1752, the city shall proceed in accordance with the applicable provision or provisions thereof; and the city shall further have the option to proceed in accordance with any other applicable ordinance or state law, as amended from time to time, with respect to any public nuisance.

(b) Unless otherwise provided by state law, the city shall have the option to proceed under one or more applicable ordinances or state laws with respect to any public nuisance. (Ord. 1274, passed 4-5-18)

**Statutory reference:**

*Authority to regulate and abate nuisances, see Neb. RS 18-1720*

*Authority to repair and remove buildings and the like, see Neb. RS 18-1722*

SECTION 3. Municipal Code Section 92.18 is hereby amended to read as follows:

**§ 92.18 JURISDICTION.**

The Mayor and Chief of Police of the city are directed to enforce this city code against all nuisances. The jurisdiction of the Mayor, Chief of Police and court shall extend to and the territorial application of this chapter shall include all territory adjacent to the limits of the city within two miles thereof and all territory within the corporate limits of the City or within its extraterritorial zoning jurisdiction.

('79 Code, § 4-303)

**Statutory reference:**

*Authority to regulate and abate nuisances, see Neb. RS 18-1720*

*Zoning jurisdiction, see Neb. RS 16-901*

SECTION 4. Municipal Code Section 92.21 is hereby amended to read as follows:

**§ 92.21 DEAD OR DISEASED TREES.**

(A) It is hereby declared a nuisance for a property owner to permit, allow or maintain any dead or diseased trees within the right-of-way of streets within the corporate limits of the city or within the city's extraterritorial zoning jurisdiction.

(B) It is hereby declared a nuisance for a property owner to permit, allow or maintain any dead or diseased trees on private property within the corporate limits of the city or within the city's extraterritorial zoning jurisdiction.

(C) Upon determination by the Chief building official, Code enforcement officer, or other proper City representative that the owner or occupant has failed to keep such real estate free of nuisances, Nnotice to abate and remove such nuisance and notice of the right to a hearing and the manner in which it may be requested shall be given to each owner or owner's duly authorized agent and to the occupant, if any. Such notice shall include the information and shall be given in the manner required by Code Section 92.17. If notice is given by first-class mail, such mail shall be conspicuously marked as to its importance. ~~by personal service or certified mail.~~ Within five~~30~~ days after the receipt of such notice, if the owner or occupant of the lot or piece of ground does not~~may~~ request a hearing with the city to appeal the decision or fails to comply with the order to abate and remove the nuisance by filing a written appeal with the office of the eCity

~~eClerk-. A hearing to appeal shall be held within 14 days after the filing of the appeal and shall be conducted by the City Administrator or any other appointed officer of the city from time to time designated by the City Administrator, Mayor or City Council. The hearing officer, based on all information presented at the hearing, shall render a decision on the appeal within five business days after the conclusion of the hearing. If the appeal fails, the city may have such work done to abate and remove the dead or diseased trees. If the owner or occupant of the lot or piece of ground within five days after receipt of such notice does not request a hearing with the city or fails to comply with the order to abate and remove the nuisance within the required time, the city may have such work done. The costs and expenses of any such work shall be paid by the owner. The city and may levy and assess all or any portion of the costs and expenses of the work upon the lot or piece of ground so benefitted in the same manner as other a special taxes assessmentfor improvements are levied or assessed. Unless otherwise specified by applicable law, notice for purposes of this section shall be deemed to be received upon deposit in the United States mail, postage prepaid, if by first-class mail, or upon actual receipt, if by personal service or certified mail.~~

('79 Code, § 4-306) (Ord. 630, passed 9-5-95) (Ord. 1274, passed 4-5-16)

**Statutory reference:**

*Authority to regulate and abate dead and diseased trees, see Neb. RS 16-207*

*Nuisances prohibited, see Neb. 28-1321*

**Cross reference:**

*Tree management, see Chapter 94*

SECTION 5. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances as previously enacted that are in conflict with this ordinance or any part hereof, are hereby repealed.

SECTION 6. Severability Clause. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Council hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 7. Effective Date. This Ordinance shall be in force and take effect from and after passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED THIS 2ND DAY OF JULY 2019.

CITY OF LA VISTA

\_\_\_\_\_  
Douglas Kindig, Mayor

ATTEST:

\_\_\_\_\_  
Pamela A. Buethe, CMC  
City Clerk



**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA, TO AMEND THE LA VISTA MUNICIPAL CODE SECTION 95.13 AND 95.15; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; 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. Section 95.13 of the La Vista Municipal Code is amended to read as follows:

**§ 95.13 DANGEROUS AND POTENTIALLY DANGEROUS DOMESTIC ANIMALS; DEFINITIONS.**

(A) It shall be unlawful for any person to keep or harbor a dangerous domestic animal or a potentially dangerous domestic animal, except as otherwise provided in this chapter.

(B) For purposes of this chapter, ***DANGEROUS DOMESTIC ANIMAL*** means any domestic animal that:

- (1) Has killed a human being;
  - (2) Has inflicted injury on a human being that requires medical treatment;
  - (3) Has killed or inflicted serious injury on a domestic animal without provocation;
  - (4) Ferociously and without provocation has attacked, snapped at, or bitten one or more human beings, or one or more other domestic animals, one or more times, or has a history of any of such behaviors;
  - (5) Has been previously determined to be a potentially dangerous domestic animal by the animal control authority of the city, the owner of which has received notice from the animal control authority of the city of such determination, and that inflicts an injury on a human being that does not require medical treatment, injures a domestic animal, or threatens the safety of humans or domestic animals;
  - (6) Is owned or harbored primarily or in part for the purpose of animal fighting;
- or
- (7) By training, disposition, or behavior poses a potential risk of attacking and inflicting injury without provocation upon human beings or other domestic animals.

(C) For purposes of this chapter, ***POTENTIALLY DANGEROUS DOMESTIC ANIMAL*** means:

- (1) Any domestic animal that, when unprovoked, inflicts an injury on a human being that does not require medical treatment, either on public or private property;
- (2) Any domestic animal that, when unprovoked, injures a domestic animal, either on public or private property;
- (3) Any domestic animal that, when unprovoked, chases or approaches a person who is upon a street, sidewalk, or any other public ground or public area, in a menacing or threatening fashion or apparent attitude of attack; or
- (4) Any specific domestic animal with a known propensity, tendency, or disposition to attack when unprovoked, or to cause injury, or to threaten the safety of human beings or other domestic animals.

(D) (1) No animal may be declared to be a dangerous domestic animal or a potentially dangerous domestic animal if it inflicts injury or damage upon a human being committing a willful trespass or other tort upon premises occupied by the owner of the animal or upon a human being committing or attempting to commit a crime.

(2) No animal may be declared to be a dangerous domestic animal or a potentially dangerous domestic animal for taking action to defend or protect a human being within the immediate vicinity of the animal from an unjustified attack or assault.

(3) No animal used in lawful activities of law enforcement officials shall be declared to be a dangerous domestic animal or a potentially dangerous domestic animal.

(4) No animal may be declared to be a dangerous domestic animal under division (B)(2) of this section if the individual was tormenting, abusing, or assaulting the animal at the time of the injury or has, in the past, been observed or reported to have tormented, abused or assaulted the animal.

(5) No animal may be declared to be a dangerous domestic animal under division (B)(5) of this section if the injury, damage, or threat was sustained by an individual who, at the time, was tormenting, abusing, or assaulting the animal, or has, in the past, been observed or reported to have tormented, abused or assaulted the animal.

(E) *Definitions.* For purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ANIMAL CONTROL AUTHORITY.** An entity authorized to enforce the animal control laws of the city.

**ANIMAL CONTROL OFFICER.** Any individual designated or authorized by an animal control authority for the purpose of aiding in the enforcement of this chapter or of any other law or ordinance relating to the licensing of animals, control of animals, or seizure and impoundment of animals, and also includes any state or local law enforcement officer as well as any other state or local employee or appointee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal or animals.

**DOMESTIC ANIMAL.** A cat or a dog.

**MEDICAL TREATMENT.** Treatment administered by a physician or other licensed health care professional that results in one or more sutures, surgery, or treatment for one or more broken bones.

**OWNER.** Any person, firm, corporation, organization, political subdivision, or department possessing, harboring, keeping, or having control or custody of a domestic animal.

**SERIOUS INJURY ON A DOMESTIC ANIMAL.** An injury to a domestic animal that requires treatment administered by a veterinarian, veterinary clinic, veterinary hospital, or veterinary office, that results in one or more sutures, surgery, or treatment for one or more broken bones.

('79 Code, § 6-114) (Am. Ord. 283, passed 4-11-81; Am. Ord. 1160, passed 12-20-11) Penalty, see § 95.99

**SECTION 2.** Section 95.15 of the La Vista Municipal Code is amended to read as follows:

#### **§ 95.15 SEIZURE AND CONFINEMENT.**

(A) It shall be the duty of the animal control authority to capture, secure, and remove to the animal shelter or other suitable impoundment or care facility, in as humane manner as is practicable under the circumstances, any animal running at large, owned, kept, harbored, or confined in violation of this chapter. The animals so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day. Each impounded animal shall be kept and maintained at the animal shelter, impoundment, or other care facility for a period of not less than five days after public notice has been given unless keeping or harboring the animal is lawful within the city and the animal has been reclaimed earlier by its owner. Notice of impoundment of all animals, including any significant marks or identifications, shall be posted at the office of the animal control authority within 24 hours after impoundment as public notification of such impoundment.

(B) If keeping or harboring the impounded animal is lawful within the city, then such animal may be reclaimed by its owner during the period of impoundment by payment of the required fees as set by the animal control authority. The owner shall then be required to comply with applicable licensing and rabies vaccination requirements within 72 hours after release. If the animal is not claimed at the end of the required waiting period after public notice has been given, the animal control authority may dispose of the animal in accordance with the applicable rules and regulations pertaining to the same, provided that if, in the judgment of the animal control authority, a suitable home can be found for

any such animal, the animal shall be turned over to that person and the new owner shall then be required to pay all fees and comply with all applicable licensing and vaccinating requirements provided in this chapter.

(C) The city and/or animal control authority shall acquire legal title to any unlicensed animal impounded in the animal shelter for a period longer than the required waiting period after giving notice.

(D) All expenses of licensing such animals and maintaining the city dog pound and the salary of the humane officer shall be paid out of the general fund of the city, and all sums collected by the City Clerk for animal licensing and all impounding charges collected shall be deposited to and become a part of the general fund of the city, unless otherwise provided for by a contract entered into pursuant to § 95.16 of this chapter.

(E) Notwithstanding anything to the contrary in this Code Section 95.15:

(1) In the event that the County Attorney files a criminal complaint in connection with a seized animal, the court in which such complaint was filed shall have exclusive jurisdiction for disposition of the animal and to determine any rights therein, including questions respecting the title, possession, control, and disposition thereof.

(2) In the event that an animal seized pursuant to Neb. Rev. State. Section 28-1006 or Neb Rev. Stat. Section 28-1012, disposition and the cost for the care of such animal shall be governed by Neb. Rev. Stat. Section 28-1012.01.  
(‘79 Code, § 6-119) (Ord. 212, passed - -; Am. Ord. 348, passed 9-6-83; Am. Ord. 1160, passed 12-20-11)

SECTION 2. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances as previously enacted that are in conflict with this Ordinance or any part hereof are hereby repealed.

SECTION 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 4. Effective Date. This Ordinance shall be in full force and effect from and after passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED THIS 2ND DAY OF JULY 2019

CITY OF LA VISTA

\_\_\_\_\_  
Douglas Kindig, Mayor

ATTEST:

\_\_\_\_\_  
Pamela A. Bueth, CMC  
City Clerk

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA, TO AMEND THE LA VISTA MUNICIPAL CODE SECTIONS 114.02, 114.23, 114.24, 114.30 AND 114.51; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; 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. Section 114.02 of the La Vista Municipal Code is amended to read as follows:

**§ 114.02 CITY POWERS AND DUTIES.**

(A) The City Council is authorized to regulate by ordinance, not inconsistent with the Nebraska Liquor Control Act, the business of all retail, bottle club, craft brewery, or microdistillery, ~~and~~ licensees carried on within the corporate limits of the city.

(B) The City Council shall further have the following power and duties in respect to licensees within the corporate limits of the city:

(1) To cancel or revoke for cause retail, craft brewery or microdistillery licenses to sell or dispense alcoholic liquor or bottle club licenses, issued to persons for premises within its jurisdiction, subject to the right of appeal to the Nebraska Liquor Control Commission;

(2) To enter or to authorize any law enforcement officer to enter at any time upon any premises licensed under the Nebraska Liquor Control Act to determine whether any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule or regulation adopted by the City Council has been or is being violated, and at that time examine the premises of the licensee in connection with such determination;

(3) To receive a signed complaint from any resident within its jurisdiction that any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule or regulation relative to alcoholic liquor has been or is being violated, and to act upon such complaints in the manner provided in the Act; and

(4) To cancel or revoke on its own motion any license if, upon the same notice and hearing as provided for resident complaints, it determines that the licensee has violated any of the provisions of the Nebraska Liquor Control Act or any valid and subsisting ordinance, resolution, rule, or regulation duly enacted relating to alcoholic liquor; and to collect for the benefit of the State of Nebraska and the city all license fees and occupation taxes as prescribed by law.

(Neb. RS 53-134) ('79 Code, § 10-112) (Am. Ord. 1163, passed 1-17-12)

SECTION 2. Section 114.23 of the La Vista Municipal Code is amended to read as follows:

**§ 114.23 LIQUOR APPLICATION; CITY EXAMINATION.**

Any person or persons desiring to obtain a license to sell alcoholic liquors at retail, a bottle club license, a craft brewery license, or a microdistillery license shall file with the Liquor Control Commission. The Commission shall then notify by registered or certified mail the City Clerk. The City Council shall then meet and determine the desirability of the application and report in writing or in person to the Commission within 45 days. The City Council may examine, or cause to be examined, under oath, any applicant; examine, or cause to be examined, the books and records of any such applicant; to hear testimony, and to take proof for its information in the performance of its duties. For the purpose of obtaining any of the information desired, the City Council may authorize its agent, or the City Attorney, to act on their behalf. The City Council may hold the said examination and hearing upon the receipt from the Commission of the notice and copy of the application. The City Council shall fix a time and place at which a hearing will be held, and at which time the City Council may receive competent evidence under oath, either orally or by affidavit, from the applicant or any other person concerning the propriety of the issuance of such license. Notice shall be published in a legal newspaper in or of general

circulation in the city one time not less than seven, nor more than 14 days before the time of the hearing. Such notice shall include, but not be limited to a statement that all persons desiring to give evidence before the local City Council in support of or protest against the issuance of such license may do so at the time of the hearing. Such hearing shall be held not more than 45 days after the receipt of the Commission's letter of notice, and after such hearing, the City Council shall cause to be read at large in the minute record of their proceedings a resolution recommending either issuance or refusal of said applicant. The City Clerk shall thereupon mail to the Commission a copy of the resolution which shall state the cost of the published notice except that failure to hold a hearing and to examine the said applicant shall not render void any license issued by the Commission. In the event the Commission refuses to issue a license, the cost of the publication of notice as herein required shall be paid by the Commission.

('79 Code, § 10-105) (Am. Ord. 471, passed 10-18-88; Am. Ord. 493, passed 2-6-90; Am. Ord. 546, passed 6-16-92)

***Statutory reference:***

*Application; hearings, Neb. RS 53-131 through 53-134*

**SECTION 3.** Section 114.24 of the La Vista Municipal Code is amended to read as follows:

**§ 114.24 LICENSING CONSIDERATION CRITERIA.**

(A) The City Council shall only consider the following licensing standards and criteria at the examination hearing held pursuant to § 114.23 and in evaluation of any applicant for a retail alcoholic liquor license, bottle club license, craft brewery license, or microdistillery license for the upgrading or a license to sell alcoholic liquor or for the expansion or change in the location of the premises, and for the purpose of formulating a recommendation from the city to the Nebraska Liquor Control Commission in accordance with the Nebraska Liquor Control Act:

- (1) The adequacy of existing law enforcement resources and services in the area;
- (2) The recommendation of the Police Department or any other law enforcement agency;
- (3) Existing motor vehicle and pedestrian traffic flow in the vicinity of the proposed licensed premises; potential traffic and parking problems and the proximity and availability of on street and off street parking;
- (4) Zoning restrictions and the City Council's zoning and land use policies;
- (5) Sanitation or sanitary conditions on or about the proposed licensed premises;
- (6) The existence of a citizen's protest and similar evidence in support of or in opposition to the application;
- (7) The existing population and projected growth within the jurisdiction of the local governing body and within the area to be served;
- (8) The existing liquor licenses, the class of each license and the distance between establishments that issued such licenses;
- (9) Whether the proposed license would be compatible with the neighborhood or community where the proposed premises are located;
- (10) Whether the type of business or activity proposed to be operated or presently operated in conjunction with the proposed license is and will be consistent with the public interest as declared in Neb. R.S. 53-101.01;
- (11) Whether the applicant can ensure that all alcoholic beverages, including beer and wine, will be handled by persons in accordance with Neb. RS 53-102;
- (12) Whether the applicant has taken every precaution to protect against the possibility of shoplifting of alcoholic liquor, which alcoholic liquor shall be displayed and kept in and sold from an area which is reasonably secured;

(13) Whether the applicant is fit, willing and able to properly provide the service proposed in conformance with all provisions and requirements of and rules and regulations adopted and promulgated pursuant to the Nebraska Liquor Control Act;

(14) Whether the applicant has demonstrated that the type of management and control exercised over the licensed premises will be sufficient to ensure that the licensee can conform to all the provisions and requirements of and rules and regulations adopted and promulgated pursuant to the Nebraska Liquor Control Act;

(15) The background information of the applicant established by information contained in the public records of the Commission and investigations conducted by law enforcement agencies;

(16) Past evidence of discrimination involving the applicant as evidenced by findings of fact before any administrative board or agency of the local governing body, any other governmental board or agency of the city, any other governmental unit or any court of law;

(17) Whether the applicant or the applicant's representatives suppressed any fact or provided any inaccurate information to the Nebraska Liquor Control Commission, the City Council or the employees of the Nebraska Liquor Control Commission in regard to the license application or liquor investigations. The applicant shall be required to cooperate in providing a full disclosure to the investigating agents of the City Council;

(18) Proximity of and impact on schools, hospitals, libraries, parks and public institutions;

(19) Whether activities proposed to be conducted on the licensed premises or in adjacent related outdoor areas will create unreasonable noise or disturbance; and

(20) Compliance with state laws, liquor rules and regulations and city ordinances and regulations and whether or not the applicant has ever forfeited bond to appear in court to answer charges of having committed a felony or charges of having violated any law or ordinance enacted in the interest of good morals and decency or has been convicted of violating or has forfeited bond to appear in court and answer charges for violating any law or ordinance relating to alcoholic liquor.

(B) It shall be the applicant's duty to produce evidence pertaining to the designated criteria prescribed in this subsection. The burden of proof and persuasion shall be on the party filing the application. When applicable for purposes of this section, "applicant" shall be synonymous with "licensee."

('79 Code, § 10-106) (Ord. 43, passed - -; Am. Ord. 412, passed 5-20-86; Am. Ord. 494, passed 2-6-90)

Statutory reference:

Similar provisions, see Neb. RS 53-132

**SECTION 4.** Section 114.30 of the La Vista Municipal Code is amended to read as follows:

**§ 114.30 CATERING LICENSE.**

(A) The holder of a Class C, Class D ~~or~~, Class I or Class J license issued under Neb. RS 53-124 or a craft brewery license, or a manufacturer's license issued under Neb. RS 53-123.01 may obtain an annual catering license as prescribed in this section. Any such licensee desiring to obtain a catering license shall file an application with the Nebraska Liquor Control Commission.  
(Neb. RS 53-124.12(1))

(B) Upon receipt from the Commission of the notice and copy of the application as provided in Neb. RS 53-124.12, the City Council shall process the application in the same manner as provided in § 114.23.

(C) The City Council with respect to catering licensees within its corporate limits may cancel a catering license for cause for the remainder of the period for which that license is issued. Any person whose catering license is canceled may appeal to the District Court.  
(Neb. RS 53-124.12(4)) ('79 Code, § 10-134) (Am. Ord. 545, passed 6-16-92; Am. Ord.



638, passed 12-19-95; Am. Ord. 708, passed 11-18-97; Am. Ord. 1035, passed 5-1-07)

**SECTION 5.** Section 114.51 of the La Vista Municipal Code is amended to read as follows:

**§ 114.51 ACQUISITION AND POSSESSION.**

It shall be unlawful for any person to purchase, receive, acquire, accept or possess any alcoholic liquor acquired from any other person other than one duly licensed to handle alcoholic liquor under the Nebraska Liquor Control Act; provided, nothing in this section shall prevent:

(A) The possession of alcoholic liquor for the personal use of the possessor and his or her family and guests, as long as: (i) the quantity of alcoholic liquor transported, imported, brought or shipped into the state by such possessor, other than from a holder of retail direct sales shipping license or its equivalent, does not exceed nine liters in any one calendar month; and (ii) the quantity of alcoholic liquor imported, brought or shipped into the state by such possessor from a holder of a retail direct sales shipping license or its equivalent, does not exceed 109 liters in any one calendar year;

(B) The making of wine, cider or other alcoholic liquor by a person from fruits, vegetables or grains, or the product thereof, by simple fermentation and without distillation, if made solely for the use of the maker and his or her family and guests;

(C) Any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his or her profession, any hospital or other institution caring for the sick and diseased persons from possessing and using alcoholic liquor for the treatment of bona fide patients of such hospital or other institution or any drug store employing a licensed pharmacist from possessing or using alcoholic liquor in compounding of prescriptions of licensed physicians;

(D) The possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by such church;

(E) Persons who are 16 years old or older from carrying alcoholic liquor from licensed establishments when they are accompanied by a person not a minor;

(F) Persons who are 16 years old or older from handling alcoholic liquor containers and alcoholic liquor in the course of their employment;

(G) Persons who are 16 years old or older from removing and disposing of alcoholic liquor containers for the convenience of the employer and customers in the course of their employment; ~~or~~

(H) Persons who are 16 years old or older from completing a transaction for the sale of alcoholic liquor in the course of their employment if they are not handling or serving alcoholic liquor; or

(I) Persons who are 19 years old or older from serving or selling alcoholic liquor in the course of their employment.

(Neb. RS 53-168.06, 53-175, 53-194.03) ('79 Code, § 10-131) (Am. Ord. 405, passed 11-19-85; Am. Ord. passed 7-1-97) Penalty, see § 114.99

**SECTION 6. Repeal of Conflicting Ordinances.** All ordinances and parts of ordinances as previously enacted that are in conflict with this Ordinance or any part hereof are hereby repealed.

**SECTION 7. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

**SECTION 8. Effective Date.** This Ordinance shall be in full force and effect from and after passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED THIS 2ND DAY OF JULY 2019.

CITY OF LA VISTA

\_\_\_\_\_  
Douglas Kindig, Mayor

ATTEST:

\_\_\_\_\_  
Pamela A. Buethe, CMC  
City Clerk



**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA, TO AMEND THE LA VISTA MUNICIPAL CODE SECTION 117.15 TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; 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. Section 117.15 of the La Vista Municipal Code is amended to read as follows:

**§ 117.15 CITIZENS ADVISORY REVIEW COMMITTEE.**

There is hereby created a Citizen Advisory Review Committee, which shall review the functioning and progress of the Economic Development Program and shall advise the Mayor and City Council with regard to the Program. The Committee shall consist of five registered voters of the city. Said members shall be appointed by the Mayor, subject to approval by the City Council. The members of the Committee shall serve for five-year terms. Any member of the Committee may be removed from office by the Mayor, with the approval of the City Council.

(A) At least one member of the Committee shall have expertise or experience in the field of business finance and accounting.

(B) The Program Administrator specified below shall have responsibility for the administration of the Economic Development Program and serve as an ex officio member of the Committee with responsibility for assisting the committee and providing it with necessary information and advice on the Economic Development Program.

(C) A representative from the Sarpy County Economic Development Corporation and any other person as from time to time designated by the Mayor with the approval of the City Council may also serve as an ex-officio member of the Citizen Advisory Review Committee and may also provide the committee with necessary information and advise the committee on the Economic Development Program.

(D) No member of the Citizen Advisory Review Committee shall be an elected or appointed city official, a member of any planning commission created under Neb. Rev. Stat. §19-925, an employee of the city, a member of the Application Review Committee or otherwise a participant in a decision-making position regarding expenditures of program funds, or an official or employee of any qualifying business receiving financial assistance under the Economic Development Program or of any financial institution participating directly in the Economic Development Program.

(E) The Citizen Advisory Review Committee shall elect a chairperson from its membership and shall create and fill such other offices as it may determine. The term of the chairperson shall be one year and such person shall be eligible for re-election.

(F) The Citizen Advisory Review Committee shall hold regular meetings once per quarter to review the functioning and progress of the Economic Development Program and shall advise the governing body of the city with regard to the program. Special meetings of the Citizen Advisory Review Committee shall be held whenever called by the Mayor or the chairperson for the Committee.

(G) At least once in every six-month period after the effective date of this chapter, the Committee shall report to the governing body on its findings and suggestions at a public hearing called for that purpose.  
(Ord. 921, passed 12-2-03)

SECTION 2. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances as previously enacted that are in conflict with this Ordinance or any part hereof are hereby repealed.

SECTION 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity or constitutionality of the

remaining portions of this Ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 4. Effective Date. This Ordinance shall be in full force and effect from and after passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED THIS 2ND DAY OF JULY 2019

CITY OF LA VISTA

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Douglas Kindig, Mayor

ATTEST:

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Pamela A. Buethe, CMC  
City Clerk

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA, TO AMEND THE LA VISTA MUNICIPAL CODE SECTION 130.02; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; 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. Section 130.02 of the La Vista Municipal Code is amended to read as follows:

**§ 130.02 ABANDONED AUTOMOBILES.**

(A) (1) It shall be unlawful to abandon any automobile on the city streets, highways, alleys, parks or other property.

(a) A motor vehicle is an **ABANDONED VEHICLE**:

1. If left unattended, with no license plates or valid In Transit stickers issued pursuant to the Motor Vehicle Registration Act affixed thereto, for more than six hours on any public property;

1-2. If left unattended for more than 24 hours on any public property, except a portion thereof on which parking is legally permitted;

2-3. If left unattended for more than 48 hours, after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;

3-4. If left unattended for more than seven days on private property if left initially without permission of the owner, or after permission of the owner is terminated;

4-5. If left for more than 30 days in the custody of a city law enforcement agency after the agency has sent a letter to the last-registered owner under Neb. RS 60-~~4093.04~~ 1903.01; or

5-6. If removed from private property by the city pursuant to a city ordinance or this code.

(b) An all-terrain vehicle or minibike is an **ABANDONED VEHICLE**:

1. If left unattended for more than 24 hours on any public property, except a portion thereof on which parking is legally permitted;

2. If left unattended for more than 48 hours, after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;

3. If left unattended for more than seven days on private property if left initially without permission of the owner, or after permission of the owner is terminated;

4. If left for more than 30 days in the custody of a city law enforcement agency after the agency has sent a letter to the last-registered owner under Neb. RS 60-1903.01; or

5. If removed from private property by the city pursuant to a city ordinance or this code.

(c) A mobile home is an **ABANDONED VEHICLE**: if applicable provisions of Neb. Rev. Stat. §60-1901 are satisfied.

(d) No motor vehicle subject to forfeiture under Neb. RS 28-431 shall be an **ABANDONED VEHICLE** under this division (A). (Neb. RS 60-1901) (Am. Ord. 1122, passed 4-20-10)

(2) The title to any automobile so abandoned which at the time of such abandonment has no number plates of the current year affixed and is of a wholesale

value, taking into consideration the condition of such vehicle, of \$250 or less, shall immediately vest in the city. In the event the automobile is licensed for the current year or is of a wholesale value of over \$250, the city police shall make a reasonable effort to contact the owner of the said automobile by sending a notice to the registered owner, if known; by sending an inquiry to the county it is registered in, if the owner is unknown; or by contacting the Director of Motor Vehicles, if the car is without license plates and the owner is unknown. If notified by the Director of Motor Vehicles that a lien or mortgage exists on said vehicle, notice shall also be sent to the lienholder or mortgagee. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle. If the owner, lienholder or mortgagee is known and does not claim the automobile within five days after the date when the notice was mailed or upon receiving word from the Director of Motor Vehicles that the owner is unknown, title will immediately vest in the city and the automobile may be sold. Any proceeds from the sale of the automobile less any expenses incurred by the city in such sale shall be held without interest for the benefit of the owner of such vehicle for a period of two years. If not claimed within such period of time, the proceeds shall then be paid into the General Fund. (Neb. RS 60-1902 and 60-1903)

(3) For purposes of this section:

(a) **MOBILE HOME** shall have the meaning specified in Neb. Rev. Stat. §60-1901;

(b) **PUBLIC PROPERTY** shall mean any public right-of-way, street, highway, alley, park or other state, county or city-owned property; and

(a)(c) **PRIVATE PROPERTY** shall mean any privately-owned property which is not included within the definition of public property.  
(Neb. RS 60-1901)

(d) **TRESPASSING VEHICLE** shall mean a vehicle that is parked without permission on private property that is not typically made available for public parking.

(3)(4) Any person who ~~abandons an automobile~~ causes an abandoned vehicle as hereinbefore defined shall be deemed to be guilty of an offense. ('79 Code, § 6-330)

(B) The City Police Department shall be charged with the responsibility of enforcing the provisions of this section and Neb. RS Chapter 60 Article 19 pertaining to abandoned motor vehicles, ~~as same are herein defined in division (A) of this section,~~ within the corporate limits of the city. ('79 Code, § 6-331)

(C) The Police Department shall retain for a period of at least five years a record of all pertinent data for each abandoned vehicle disposed of and shall make such reports to the Director of Motor Vehicles as shall be required by law. ('79 Code, § 6-332)

(D) For the purposes of this section and Neb. RS 60-1902, should the Police Department determine that an abandoned motor vehicle has a wholesale value of \$250 or less, such determination shall be supported by such of the following as shall be appropriate:

(1) If the "Blue Book" wholesale value of automobiles of the same make, model, year, equipment and general condition as said automobile is less than \$250, a statement as to said "Blue Book" value at date of pickup of the abandoned automobile shall be entered in the file pertaining to same.

(2) If the "Blue Book" wholesale value is more than \$250 and the Police Department shall determine that the wholesale value is less than \$250, such determination shall be further supported by:

(a) A statement as to the "Blue Book" wholesale value at date of pickup;

(b) Photograph or photographs showing the condition of the vehicle at date of pickup;

(c) Appraisal by a licensed automobile dealer stating the value of said automobile to be \$250 or less. ('79 Code, § 6-333) (Ord. 172, passed - -) Penalty, see § 10.99

(E) (1) The City Police Department pursuant to Neb. Rev. Stat. §60-1903.02 is authorized to remove an abandoned or trespassing vehicle from private property upon the request of the private property owner on whose property the vehicle is located and upon information indicating that the vehicle is an abandoned or trespassing vehicle. After removal, the law enforcement agency with custody of the vehicle shall follow the applicable procedures of Neb. Rev. Stat. §§ 60-1902 and 60-1903.

(2) The City Police Department pursuant to Neb. Rev. Stat. §60-1903.02 is authorized to contact a private towing service in order to remove an abandoned or trespassing vehicle from private property upon the request of the private property owner on whose property the vehicle is located and upon information indicating that the vehicle is an abandoned or trespassing vehicle. A vehicle towed away under this subsection is subject to applicable provisions of Neb. Rev. Stat. §§ 52-601.01 through 52-605 and 60-2410 by the private towing service which towed the vehicle.

(3) A private property owner in the City is authorized to remove or cause the removal of an abandoned or trespassing vehicle from such property and may contact a private towing service for such removal. A private towing service that tows the vehicle shall notify, within twenty-four hours, the City Police Department pursuant to Neb. Rev. Stat. §60-1903.02 and provide the registration plate number, the vehicle identification number, if available, the make, model, and color of the vehicle, and the name of the private towing service and the location, if applicable, where the private towing service is storing the vehicle. A vehicle towed away under this subsection is subject to Neb. Rev. Stat. §§ 52-601.01 through 52-605 and 60-2410 by the private towing service that towed the vehicle.

**Statutory reference:**

*Additional regulations, see Neb. RS 60-1901 through 60-1911*

**SECTION 2. Repeal of Conflicting Ordinances.** All ordinances and parts of ordinances as previously enacted that are in conflict with this Ordinance or any part hereof are hereby repealed.

**SECTION 3. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

**SECTION 4. Effective Date.** This Ordinance shall be in full force and effect from and after passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED THIS 2ND DAY OF JULY 2019

CITY OF LA VISTA

\_\_\_\_\_  
Douglas Kindig, Mayor

ATTEST:

\_\_\_\_\_  
Pamela A. Buethe, CMC  
City Clerk

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA TO AMEND MUNICIPAL CODE SECTION 133.01; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; 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. Municipal Code Section 133.01 is hereby amended to read as follows:

**§ 133.01 STAGNANT WATERS, WEEDS, AND LITTER.**

(A) Lots or pieces of ground within the city or within the city's extraterritorial zoning jurisdiction shall be drained or filled so as to prevent stagnant water or any other nuisance accumulating thereon.

(B) The owner or occupant of any lot or piece of ground within the city or within the city's extraterritorial zoning jurisdiction shall keep the lot or piece of ground and the adjoining streets and alleys free of any excessive growth of weeds, grasses, or worthless vegetation. "Excessive growth" for purposes of this Section 133.01 shall include without limitation, 12 inches or more in height of weeds, grasses, or worthless vegetation.

(C) The throwing, depositing, or accumulation of litter on any lot or piece of ground within the city or within the city's extraterritorial zoning jurisdiction is prohibited, except that grass, leaves, and worthless vegetation may be used as a ground mulch or in a compost pile.

(D) It is hereby declared to be a nuisance to permit or maintain any excessive growth of weeds, grasses, or worthless vegetation on any lot or piece of ground within the city or within the city's extraterritorial zoning jurisdiction or on the adjoining streets or alleys or to litter or cause litter to be deposited or remain thereon except in proper receptacles.

(E) Any owner or occupant of a lot or piece of ground shall, upon conviction of violating this section, be guilty of an offense as provided by Nebraska Statutes.

(F) (1) The city shall, during the month of April of each year, publish or cause to be published in one or more newspapers of general circulation within the city a general notice setting forth the requirements of this section.

(2) In addition to the above general notice, upon determination by the Chief building official, Code enforcement officer, or other proper City representative that the owner or occupant has failed to keep such real estate free of nuisances, notice to abate and remove such nuisance shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service, first class mail or certified mail. Such notice shall include the information and shall be given in the manner required by Code Section 92.17. If notice is given by first-class mail, such ~~notice-mail~~ shall be conspicuously marked as to its importance. Within five days after receipt of such notice, the owner or occupant of the lot or piece of ground may request a hearing with the city to appeal the decision to abate or remove a nuisance by filing a written appeal with the office of the city clerk. A hearing on the appeal shall be held within fourteen days after the filing of the appeal and shall be conducted by the City Administrator or any other appointed officer of the City from time to time designated by the City Administrator, Mayor or City Council. Notice of the hearing will be provided in the manner described in Section 92.17. ~~The hearing officer,~~ based on all information presented at the hearing, shall render a decision of the appeal within five business days after the conclusion of the hearing. If the appeal fails, the city may have such work done. ~~Within five days after receipt of such notice,~~ if the owner or occupant of the lot or piece of ground within five days after receipt of such notice does not request a hearing with the city or fails to comply with the order to abate and remove the nuisance within the required time, the city may have such work done. The costs and expenses of any such work shall be paid by the owner. If unpaid for two months after such work is done, the city may either:



(a) Levy and assess the costs and expenses of the work upon the lot or piece of ground so benefitted ~~in the same manner as other a special taxes assessment for improvements are levied and assessed~~; or

(b) Recover in a civil action the costs and expenses of the work upon the lot or piece of ground and the adjoining streets and alleys.

Unless otherwise specified by applicable law, notice for purposes of this section shall be deemed to be received upon deposit in the United States mail, postage prepaid, if by first-class mail, or upon actual receipt, if by personal service or certified mail.

(3) Notwithstanding any other provision of the Code to the contrary, Aat all times thereafter until new growth of the following year, the city shall have the right, without providing further notice to such owner, agent, occupant, tenant or person in possession, charge or control of such lot or ground, to continue cutting and/or removing from such lot or ground all litter or excessive growth of weeds or grass or worthless vegetation.

(G) For purposes of this section:

(1) LITTER includes, but is not limited to:

(a) Trash, rubbish, refuse, garbage, paper, rags, and ashes;

(b) Wood, plaster, cement, brick, or stone building rubble;

(c) Grass, leaves, and worthless vegetation;

(d) Offal and dead animals; and

(e) Any machine or machines, vehicle or vehicles, or parts of a machine or vehicle which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling, or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk; and

(2) WEEDS includes, but is not limited to, bindweed (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*), Johnson grass (*Sorghum halepense*), nodding or musk thistle, quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus* sp.) (toun), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*).

(3) Weeds, grasses, and worthless vegetation does not include vegetation applied or grown on a lot or piece of ground outside the corporate limits of the city but inside the city's extraterritorial zoning jurisdiction expressly for the purpose of weed or erosion control, as determined to the satisfaction of the city engineer. ('79 Code, § 6-328) (Ord. 147, passed - -; Am. Ord. 450, passed 9-15-87; Am. Ord. 547, passed 6-16-92; Am. Ord. 938, passed 8-17-04; Am Ord. 1256, passed 7-7-15) Penalty, see § 10.99

**Statutory reference:**

*Municipal authority; notice and hearing requirements, see Neb. RS 16-230*

*Additional authority to regulate nuisances, see Neb. RS 18-1720*

SECTION 2. Repeal of Conflicting Ordinances. Section 31.21as originally enacted, and all ordinances and parts of ordinances as previously enacted that are in conflict with this ordinance or any part hereof, are hereby repealed.

SECTION 3. Severability Clause. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Council hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 4. Effective Date. This Ordinance shall be in force and take effect from and after passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED THIS 2ND DAY OF JULY 2019.

CITY OF LA VISTA

\_\_\_\_\_  
Douglas Kindig, Mayor

ATTEST:

\_\_\_\_\_  
Pamela A. Buethe, CMC  
City Clerk