

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
FEBRUARY 16, 2021 AGENDA

Subject:	Type:	Submitted By:
AMEND MUNICIPAL CODE SECTION 131.09 LOUD, UNNECESSARY NOISES	RESOLUTION ◆ ORDINANCE RECEIVE/FILE	BRUCE FOUNTAIN COMMUNITY DEVELOPMENT DIRECTOR

SYNOPSIS

An ordinance has been prepared to approve an amendment to Municipal Code Section 131.09 Loud, Unnecessary Noises allowing for exceptions for event center type facilities.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval.

BACKGROUND

An ordinance has been prepared to consider the adoption of an amendment to Section 131.09 of the La Vista Municipal Code related to loud, unnecessary noises. The proposed amendment adds two items to the list of exemptions from the Ordinance. The first exempts noises emanating from an event center in accordance with a current approved Conditional Use Permit from the City of La Vista, subject to specific curfew times. The second exempts City, community, or other events conducted or authorized by the City.

A copy of the red-lined draft Ordinance showing the proposed changes is attached.

ORDINANCE NO. ____

AN ORDINANCE TO AMEND SECTIONS 131.09 OF THE LA VISTA MUNICIPAL CODE RELATING TO LOUD, UNNECESSARY NOISES, TO PROVIDE FOR SEVERABILITY AND TO PROVIDE FOR THE EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AS FOLLOWS:

SECTION 1: Amendment of Section 131.09. Section 139.01 of the La Vista Municipal Code is hereby amended to read as follows:

§ 131.09 LOUD, UNNECESSARY NOISES.

(A) Findings. It is found and declared that:

- (1) The making, creation or maintenance of noises or sounds that are unreasonably loud, raucous, jarring, disturbing or a nuisance are a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the residents of this city.
- (2) The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of this city. ('79 Code, § 6-338)

(B) Unlawful to make, continue. It shall be unlawful for any person to create, assist in creating, permit, cause, continue or permit the continuance of any sound or noise that is unreasonably loud, raucous, jarring, disturbing or a nuisance within the limits of the city. The term "disturbing" as used in this section shall mean actual or imminent interference with peace or good order. ('79 Code, § 6-339)

(C) Enumeration; exceptions.

(1) Enumerations. The following sounds or noises, among others, are declared to be unreasonably loud, raucous, jarring, disturbing or a nuisance in violation of this code, but such enumeration shall not be deemed to be exclusive, namely:

(a) Horns, signaling devices and the like. The sounding of any horn, whistle or other signaling device on any automobile, truck, motorcycle or other vehicle on any private, residential or commercial property or any public property, including any street or public place of the city, except as a danger warning or a signal for help; the creation by means of any such signaling device of any sound that is unreasonably loud, raucous, jarring, disturbing or a nuisance; the sounding of any such signaling device for an unreasonable period of time; the use of any such signaling device when traffic is, for any reason, held up; the use of any such signaling device except one operated by hand or electricity; and, the use of any such signaling device operated by engine exhaust.

(b) Radios, phonographs, stereos, bass amplifiers and musical instruments. Using, operating or permitting to be played, used or operated, any radio, tape recorder, cassette player, compact disc (C.D.) player, musical instrument, phonograph, loud speaker, sound amplifier or other machine, apparatus or device for the producing, reproducing or amplifying of the human voice or of any sound:

1. Upon residential property or within a residential neighborhood, whether containing one or more units of multiple-family residential dwellings or a single-family residential dwelling, and upon property containing a hotel, motel or inn, unless the volume of such sound shall be so controlled that:

- a. It will not be plainly audible at a distance of 50 feet from any building, structure, chamber or vehicle in which such machine, apparatus or device is located, and
- b. In the case of a multiple-family residential dwelling, a hotel, motel or inn, it will not be plainly audible in any adjoining unit. Provided, however, that actual notice from an occupant of the adjoining unit to the occupant of the property containing the source of amplified sound shall be a necessary element of a violation under this subsection.

2. Upon any private property that is nonresidential and that is not located within a residential neighborhood, upon any public property, including any public street, highway, building, sidewalk, park or thoroughfare or in or upon any motor vehicle on such private or public property, unless in each such instance the volume of such sound shall be so controlled that it will not be plainly audible for a distance in excess of 100 feet from the source.

(c) Exhaust. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat or motor vehicle, except through a muffler or other device which is properly maintained and in good working condition and which will effectively prevent any noise that is unreasonably loud, raucous, jarring, disturbing or a nuisance.

(d) Animals, birds and the like. The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort and repose of any person or resident.

(e) Yelling, shouting, hooting, whistling and singing. Yelling, shouting, hooting, whistling and singing or making other verbal noises on the public streets or public areas or from private property between the hours of 10:00 p.m. and 6:00 a.m. so as to be plainly audible at a distance of 50 feet from the public area or private property from which such noise emanates.

(f) Pile drivers, hammers, blowers, construction equipment and the like. The operation of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, blower, power fan or other power tools whether air, electric or gasoline powered, unless the sound produced thereby shall be so controlled that it is not plainly audible for a distance in excess of 100 feet from the source; and the operation of any internal combustion engine, unless such engine is equipped with a muffler device used and maintained in accordance with the manufacturer's specifications.

(2) Exemptions. The following activities are exempt from the application of this section:

- (a) Devices used solely for the purpose of warning, protecting or alerting the public, or some segment thereof, of the existence of an emergency situation.
- (b) Construction operation for which building permits have been issued, or construction operations not requiring permits due to ownership of the project by an agency of the government, providing all equipment is operated in accordance with manufacturers' specifications and with all standard equipment, manufacturers' mufflers and noise reducing equipment in use and in proper operating condition. However, such exception shall apply only to construction operations between the hours of 7:00 a.m. and dusk Monday through Sunday, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the Building Inspector, which permit may be granted for a

period not to exceed three days while the emergency continues and which permit may be renewed for periods of three days while the emergency continues. If the Building Inspector shall determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 6:00 p.m. and 7:00 a.m. and /or Sunday, and if he or she shall further determine that hardship would result to any party in interest if permission is not granted, he or she may grant permission for such work to be done within the hours of 6:00 p.m. and 7:00 a.m. and or on Sunday upon application being made at the time the permit for the work is awarded or during the progress of work.

(c) Noises of safety signals, warning devices, emergency pressure relief valves and bells and chimes of churches.

(d) Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting or operating within the scope of the authority of said agency or as is necessary for the safety of the public in time of emergency. (e) Operations by city departments.

(f) Sound emanating from duly licensed and/or authorized athletic contests, parades and city-sponsored public celebrations.

(g) Noises emanating from industrial facilities operating in industrial zoned areas of the city, provided that such noises are incidental to the normal operations of such facility and further provided that such facility is operating in accordance with all city, state and federal codes, statutes, regulations, special use permits and other enforceable orders.

(h) Noises of lawn care equipment in normal usage between the hours of 6:00 a.m. and 10:00 p.m. if used and maintained in accordance with the manufacturers' specifications.

(i) Except as set forth in subsection (C)(1), motor vehicles on public roads, but this section is not intended and shall not be construed to interfere with the enforcement of § 70.039 or any other city, state or federal statute, regulation, ordinance, code or like regulations of motor vehicles.

(j) Noises of aircraft, railroad trains, transit buses, school buses and other publicly- owned and/or operated transportation vehicles.

(k) Operations by, or sanctioned by, the proper authorities (city, state or federal) for the protection of persons or property where imminent physical trauma or property damage demands immediate action. ('79 Code, § 6-340) (Am. Ord. 762, passed 2-16-99) Penalty, see § 10.99

(l) Noises emanating from an event center in accordance with a current Conditional Use Permit from the City of La Vista, subject to the following conditions:

1. A curfew shall exist during which time no outdoor amplified sound shall be permitted. The curfew shall have the following beginning and ending times:

<u>Day of the Week</u>	<u>Beginning</u>	<u>Ending</u>
<u>Sunday through Thursday</u>	<u>10:00 pm</u>	<u>8:00 am the following day</u>
<u>Friday and Saturday</u>	<u>10:30 pm</u>	<u>8:00 am the following day</u>

Amplified sound shall mean any sound, the volume of which is increased by, or by use of, any equipment or device designed for such purpose.

(m) City, community, or other events conducted or authorized by the City.

SECTION 2. 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 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 3. Effective Date. This ordinance shall be in full force and effect from and after passage, approval and publication in book or pamphlet form or as otherwise provided by law.

PASSED AND APPROVED THIS 16TH DAY OF FEBRUARY, 2021.

CITY OF LA VISTA,

Douglas Kindig, Mayor

Attest:

Pamela A. Buethe, CMC
City Clerk