

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
APRIL 2, 2024 AGENDA

Subject:	Type:	Submitted By:
AMEND MUNICIPAL CODE – ADD SECTION 131.10 – DISORDERLY PREMISES OR NUISANCE GATHERINGS	RESOLUTION ◆ ORDINANCE RECEIVE/FILE	D.J. BARCAL ACTING POLICE CHIEF

SYNOPSIS

An ordinance has been prepared to add a section to the La Vista Municipal Code for Disorderly Premises or Nuisance Gatherings.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval.

BACKGROUND

This section of code will assist the Police Department in addressing the street racing concerns where property owners in the industrial and commercial areas allow vehicles and spectators to gather after business hours. Our intent is the education and cooperation of the property owners in prohibiting loitering during these periods when they are closed which in turn will allow the Police Department to require the groups to disperse. Should a property owner decline to cooperate with the Police, they could face charges under this amended ordinance for allowing a Disorderly Premises or Nuisance Gatherings.

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA ENACTING SECTION 131.10 OF THE CITY OF LA VISTA MUNICIPAL CODE; AND TO PROVIDE FOR SEVERABILITY AND FOR THE EFFECTIVE DATE HEREOF.

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

SECTION 1. ENACTMENT OF SECTION 113.10 OF THE CITY OF LA VISTA MUNICIPAL. Sections 131.10 of the City of La Vista Municipal Code is hereby enacted as follows:

"131.10. Disorderly Premises or Nuisance Gatherings.

a. For purposes of this Section 131.10:

1. **Disorderly Premises** shall mean any real property or real property improvements, including without limitation any room, house, building, parking lot or any part thereof, within or upon which occurs any of the following prohibited activities in disturbance of the public peace, health, safety or general welfare of the City:
 - a. Any persons engaging in disorderly conduct as defined in Section 131.03 of this Code;
 - b. Noise or other sound in violation of Section 131.09 of this Code;
 - c. Maintenance of any nuisance condition or activity as defined in this Code or other applicable law;
 - d. Any persons engaging in public urination, public defecation, lewd conduct, pandering, or prostitution;
 - e. Any persons engaged in the dispensing, selling, or consumption of illegal drugs or controlled substances, or in the dispensing, selling, or consumption of alcoholic beverages in violation of Nebraska Revised Statutes, Reissued;
 - f. Any persons engaging in unlawful gambling activity as set forth in Nebraska Revised Statutes, Reissued;
 - g. Possession or use of drug paraphernalia; or
 - h. Any other unlawful or illegal act in violation of the provisions of this Code or Nebraska Revised Statutes, Reissued.
2. **Nuisance Gathering** shall mean any event, gathering or congregating of two or more persons within or upon any vacant real property or real property improvements, including without limitation any room, house, building, parking lot or any part thereof, that constitutes or results in two or more of the following prohibited activities at or as a result of the event, gathering or congregating within or upon such property or improvements, in disturbance of the public peace, health, safety, or general welfare of the City:
 - a. Any persons engaging in disorderly conduct as defined in Section 131.03 of this Code;
 - b. Noise or other sound in violation of Section 131.09 of this Code;
 - c. Maintenance of any nuisance condition or activity as defined in this Code or other applicable law;
 - d. Any persons engaging in public urination, public defecation, lewd conduct, pandering, or prostitution;
 - e. Any persons engaged in the dispensing, selling, or consumption of illegal drugs or controlled substances, or in the dispensing, selling, or consumption of alcoholic beverages in violation of Nebraska Revised Statutes, Reissued;
 - f. Any persons engaging in unlawful gambling activity as set forth in Nebraska Revised Statutes, Reissued;
 - g. Possession or use of drug paraphernalia; or
 - h. Any other unlawful or illegal act in violation of the provisions of this Code or Nebraska Revised Statutes, Reissued.

(b) It shall be unlawful for any person to host, maintain, permit, allow to continue, attend, or be present at a Disorderly Premises or Nuisance Gathering.

- (c) Any person or persons who own, possess or control any real property or real property improvements, including without limitation any room, house, building, parking lot or any part thereof, upon or within which a Disorderly Premises or Nuisance Gathering occurs may, jointly and severally, be charged with violating this Section 130.10 if he or she hosts, sponsors, conducts, permits, or allows to continue a Disorderly Premises or Nuisance Gathering. However, any such person who requests assistance from City of La Vista police officers to prevent a Disorderly Premises or Nuisance Gathering prior to the police receiving any complaints related to the Disorderly Premises or Nuisance Gathering shall not be in violation of this Section 130.10.
- (d) Any person or persons who are found to have violated any of the provisions of this Section 130.10 shall be guilty of a misdemeanor for each offense and shall be subject to the penalty in Section 10.99 of this Code.
- (e) In addition to any other penalty sought or obtained under this Section 130.10 or other applicable law, in the event of three (3) or more convictions or guilty or equivalent pleas under this Section 130.10 with respect to any real property or real property improvements in any eighteen-month period, the City Attorney may institute injunctive or other appropriate civil proceedings to obtain compliance with this Section 130.10 and avoid future violations of this Section 130.10, or the Director of Community Development or Chief Building Official may revoke any certificate of occupancy for such real property, real property improvements or part thereof.
- (f) This Section 130.10 shall apply to all persons and properties within the City and all persons and properties within the extraterritorial zoning jurisdiction of the City."

SECTION 2. 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 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 by the City Clerk or any designee of the City Clerk in a legal newspaper in or of general circulation within the City, or in book, pamphlet or electronic form in accordance with applicable law.

PASSED AND APPROVED THIS 2ND DAY OF APRIL 2024.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, MMC
City Clerk