

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
FEBRUARY 4, 2014 AGENDA**

Subject:	Type:	Submitted By:
AMEND SECTION 92.15 OF THE MUNICIPAL CODE	RESOLUTION ◆ ORDINANCE RECEIVE/FILE	CHRIS SOLBERG CITY PLANNER

SYNOPSIS

An ordinance has been prepared to amend the Municipal Code Chapter 92: Health and Sanitation – Nuisances - 92.15 Definition.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approve.

BACKGROUND

Since the adoption of Post-Construction Storm Water Management regulations on February 16, 2010, the City has witnessed an increase in the use of detention basins, bio-swales and other storm water management facilities with vegetation as an integral component to meet the requirements. However, due to the nature of their design and operation, these facilities would meet the definition of a nuisance under Section 92.15 of the City Code. Staff has prepared amendments to the definition of a nuisance in the Municipal Code to allow for the lawful operation of these facilities. One additional amendment is proposed to correct a spelling error (see number 13).

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA, TO AMEND THE LA VISTA MUNICIPAL CODE SECTION 92.15; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY; ORDERING THE PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM; AND TO PROVIDE 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 95.15 of the La Vista Municipal Code is 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 nonputrefying 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 dissembling 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 that have (or have on adjoining streets or alleys) any growth of 12 inches or more in height of weeds, grasses, or worthless vegetation or that have stagnant water, litter, or any other nuisance thereon. Any lots or pieces of ground within the city or within two miles of the corporate limits of the city that have (or have on adjoining streets or alleys) any weeds or plant growth in excess of 12 inches. Weeds shall be defined as all grasses, annual plants and vegetation other than trees or shrubs provided, however, this term shall not include cultivated flowers and gardens, including but not limited to native plantings used for aesthetic and/or wildlife promotion, to attract and aid wildlife, to improve storm water quality in city approved storm water management facilities, or cultivated expressly for the purpose of weed or erosion control. It shall be the duty of any person owning, leasing, occupying, or controlling any lot or pieces of ground in the jurisdiction to prevent the growth of noxious weeds such as cockleburs, thistles, ragweed, burdock, and wild lettuce thereon.

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 4TH DAY OF FEBRUARY 2014.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

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