

**CITY OF LA VISTA**  
**MAYOR AND CITY COUNCIL REPORT**  
**SEPTEMBER 6, 2016 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
ZONING TEXT AMENDMENTS — VARIOUS AMENDMENTS TO ADDRESS MICROBREWERIES	RESOLUTION ◆ ORDINANCE RECEIVE/FILE	ANN BIRCH COMMUNITY DEVELOPMENT DIRECTOR

**SYNOPSIS**

A public hearing has been scheduled and an ordinance prepared to amend Section 2.14 (Definitions "M") and Sections 5.13 and 5.14 (I-1, Light Industrial and I-2 Heavy Industrial) of the Zoning Ordinance to specifically allow for microbreweries and to provide a definition for the use.

**FISCAL IMPACT**

N/A.

**RECOMMENDATION**

Approval.

**BACKGROUND**

Although microbreweries are currently allowed outright in the I-2 Heavy Industrial District through Section 5.14.2.15 (*Manufacturing of food and kindred products, limited to bakery items, dairy products, sugar and confectionary products, and beverages*), staff review has concluded that this use needs to be specifically addressed. A definition for microbreweries has been developed, based on Nebraska State Statute 53-103.21 that limits microbreweries to producing a maximum of 20,000 barrels of beer per year.

The proposed changes to the Zoning Ordinance provide for the use of microbreweries outright in both the I-1 Light Industrial and I-2 Heavy Industrial zoning districts. However, if the microbrewery were to include on-site sales as part of the operation on the site, a Conditional Use Permit would need to be obtained.

Redline copies of the aforementioned sections are attached.

**STAFF RECOMMENDATION:**

Staff recommends approval of the proposed amendments.

ORDINANCE NO. \_\_\_\_

AN ORDINANCE TO AMEND SECTIONS 2.14, 5.13, AND 5.14 OF ORDINANCE NO. 848 (ZONING ORDINANCE); TO REPEAL SECTION 2.14, 5.13, AND 5.14 OF ORDINANCE NO. 848 AS 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 2. Amendment of Section 2.14. Section 2.14 of the Ordinance No. 848 is hereby amended to read as follows:

**Section 2.14 - Definitions: M**

**MAIL ORDER SERVICES** shall mean an establishment primarily engaged in the retail sale of products by television, telemarketing, internet, catalog, and mail order. Such a use may include warehousing, shipping, and receiving of merchandise intended for retail sale. (*Ordinance No. 1083, 2-17-09*)

**MANUFACTURED HOME** A factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with standards promulgated by the United States Department of Housing and Urban Development. (*Ordinance No. 1083, 2-17-09*)

**MANUFACTURED HOME PARK** shall mean a parcel of land under single ownership that has been planned and improved for the placement of manufactured housing used or to be used for dwelling purposes and where manufactured home spaces are not offered for sale or sold. The term "manufactured home park" does not include sales lots on which new or used manufactured homes are parked for the purposes of storage, inspection, or sale.

**MANUFACTURED HOME SUBDIVISION** shall mean any area, piece, parcel, tract or plot of ground subdivided and used or intended to be used for the purpose of selling lots for occupancy by manufactured homes.

**MANUFACTURING** shall mean uses primarily engaged in the mechanical or chemical transformation of materials or substances into new products. These uses are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Uses engaged in assembling component parts of manufactured products are also considered manufacturing if the new product is neither a structure nor other fixed improvement. Also included is the blending of material such as lubricating oils, plastics, resins, or liquors. Manufacturing production is usually carried on for the wholesale market, for interplant transfer, or to order for industrial users, rather than for direct sale to the domestic consumer.

**MANUFACTURING, ARTISAN (LIMITED)** shall mean the manufacture and production of commercial goods by a manual worker or craftsman, such as jewelry, metalwork, cabinetry, stained glass, textiles, ceramics, or hand-made food products. Artisan Manufacturing and Production does not include any activity that causes noise, odor, or vibration to be detectable on a neighboring property.

**MANUFACTURING, LIGHT** shall mean an establishment engaged in the indoor manufacturing, assembly, fabrication, packaging or other industrial processing of finished parts or products, primarily from previously prepared materials, or the indoor provision of industrial services, where there are few external effects across property lines. This term includes but is not limited to a business engaged in the processing, fabrication, assembly, treatment, or packaging of food, textile, leather, wood, paper, chemical, plastic, or metal products, but does not include basic industrial processing from raw materials. (*Ordinance No. 1053, 1-15-08*)

**MAP, OFFICIAL ZONING DISTRICT** shall mean a map delineating the boundaries of zoning districts which, along with the zoning text, is officially adopted by the La Vista City Council.

**MASTER FEE SCHEDULE** shall mean a fee schedule maintained by the City of La Vista and passed, and amended periodically, which establishes the required fees to be collected for specific Planning, Zoning, Subdivision, and Building Inspection activities.

**MECHANICAL EQUIPMENT** shall mean equipment, devices, and accessories, the use of which relates to water supply, drainage, heating, ventilating, air conditioning, and similar purposes.

**MEDICAL / DENTAL OFFICES / CLINICS** shall mean a building or portion of a building containing offices and facilities for providing medical, dental, and psychiatric services for outpatients only. (*Ordinance No. 1083, 2-17-09*)

**MEETING HALL** shall mean a building designed for public assembly. (*Ordinance No. 1083, 2-17-09*)

**MICROBREWERY** shall mean an establishment that produces and distributes beer, ale, or other fermented malt beverages. By definition, these establishments produce less than 20,000 barrels per year with 75 percent or more of its beer, ale, or other fermented malt beverage sold off-site.

**MINI-STORAGE OR MINI-WAREHOUSE** (See Self-Service Storage Facility)

**MISCELLANEOUS REPAIR SERVICES** shall include electrical repair shops; watch, clock and jewelry repair shops; and re-upholstery and furniture repair. (See also Standard Industrial Classification (SIC) Major Group 76, published by the U.S. Department of Labor) (*Ordinance No. 1053, 1-15-08*)

**MISCELLANEOUS STRUCTURES** shall mean structures, other than buildings, visible from public ways. Examples are: memorials, antennas, water tanks and towers, sheds, shelters, fences, and walls, kennels, transformers, drive-up facilities. (*Ordinance No. 1083, 2-17-09*)

**MIXED USE** shall mean properties where various uses, such as office, commercial, institutional, and residential, are combined in a single building or on a single site in an integrated development project with significant functional interrelationships and a coherent physical design.

**MOBILE HOME** (See Dwelling, Mobile Home)

**MOBILE HOME PARK** (See Manufactured Home Park)

**MOBILE HOME SUBDIVISION** (See Manufactured Home Subdivision)

**MORTUARY** shall mean an establishment in which the deceased are prepared for burial or cremation. The facility may include funeral services and spaces for informal gatherings or display of funeral equipment. This classification excludes cemeteries. (*Ordinance No. 1083, 2-17-09*)

**MOTEL** (See Hotel)

**MOTOR VEHICLE** shall mean every self-propelled vehicle, not operated upon rails, except mopeds and self-propelled invalid chairs. (*Ordinance No. 891, 2-04-03*)

SECTION 2. Amendment of Section 5.13. Section 5.13 of the Ordinance No. 848 is hereby amended to read as follows:

**Section 5.13 I-1 Light Industrial.**

**5.13.01 Intent:** *It is the intent of the Light Industrial District Regulations to provide for limited industrial uses and services, including some retail businesses, wholesaling, and storage activities; to preserve land for the expansion of basic economic activities; to avoid incompatible land uses, to serve these areas with adequate*

*transportation facilities, and to prevent or mitigate hazards to adjacent properties. (Ordinance No. 1053, 1-15-08)*

**5.13.02 Permitted Uses: (Revisions by Ordinance No. 1053, 1-15-08, unless otherwise noted)**

- 5.13.02.01 *Light Manufacturing*
- 5.13.02.02 *Automotive services, except repair, towing and wrecking*
- 5.13.02.03 *Business services*
- 5.13.02.04 *Facilities for building construction contractors*
- 5.13.02.05 *Landscape and horticultural services*
- 5.13.02.06 *Medical and dental laboratories*
- 5.13.02.07 *Assembly of electrical and electronic appliances*
- 5.13.02.08 *Miscellaneous repair services, not including automotive*
- 5.13.02.09 *Printing, publishing, and allied industries*
- 5.13.02.10 *Electric, gas and sanitary services, not including collection and disposal of solid waste or hazardous waste*
- 5.13.02.11 *General warehousing*
- 5.13.02.12 *Testing laboratories*
- 5.13.02.13 *Publicly owned and operated facilities (Ordinance No. 950, 3-1-05)*
- 5.13.02.14 *Special and vocational training facilities (Ordinance No. 950, 3-1-05)*
- 5.13.02.15 *Wholesale trade of goods*
- 5.13.02.16 *Microbreweries without on-site sales*

**5.13.03 Permitted Conditional Uses: (Revisions by Ordinance No. 1053, 1-15-08, unless otherwise noted)**

- 5.13.03.01 *Animal specialty services*
- 5.13.03.02 *Automotive rental / leasing and other heavy equipment rental*
- 5.13.03.03 *Household furniture, furnishings, and equipment store*
- 5.13.03.04 *Hardware, lawn and garden supply store*
- 5.13.03.05 *Lumber and other building materials dealer*
- 5.13.03.06 *Outdoor display of merchandise*
- 5.13.03.07 *Radio, television and communication towers and transmitters, as per Section 7.11*
- 5.13.03.08 *Utility substations, terminal facilities, and reservoirs*
- 5.13.03.09 *Farm-implement sales and service*
- 5.13.03.10 *Cabinetry millwork*
- 5.13.03.11 *Gasoline service stations*
- 5.13.03.12 *Automotive repair services*
- 5.13.03.13 *Sale of recreational vehicles, including boats and jet skis*
- 5.13.03.14 *Indoor recreational facility (Ordinance No. 918, 10-6-03)*
- 5.13.03.15 *Veterinary Services, not including livestock*
- 5.13.03.16 *Self-service storage facility (Ordinance No. 1069, 8-19-08)*
- 5.13.03.17 *Industrial Condominiums*
- 5.13.03.18 *Microbreweries with on-site sales*

**5.13.04 Permitted Accessory Uses**

- 5.13.04.01 *Buildings and uses customarily incidental to the permitted uses*
- 5.13.04.02 *Parking as permitted in Section 7.05 through 7.09*
- 5.13.04.03 *Signs allowed in Section 7.01 through 7.04*
- 5.13.04.04 *Temporary buildings and uses incidental to construction work that will be removed upon completion or abandonment of the construction work*
- 5.13.04.05 *Landscaping as required by Section 7.17*

**5.13.05 Height and Lot Requirements:**

- 5.13.05.01 The height and minimum lot requirements shall be as follows:

Use	Lot Area (SF) <sup>2</sup>	Lot Width <sup>2</sup>	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	10,000	100	35' <sup>1</sup>	30'	25'	45'	65%
Permitted Conditional Uses	10,000	100	35' <sup>1</sup>	30'	25'	45'	65%

<sup>1</sup> 35' front yard setback required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of sixty (60) feet.

<sup>2</sup> *Lots created before January 1, 2008 may have a minimum Lot Area of 10,000 square feet and may have less than the minimum 100 feet lot width. (Ordinance No. 1053, 1-15-08)*

### **5.13.06 Use Limitations:**

5.13.06.01 When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in any required yard within *thirty (30)* feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Section 7.17.04. (**Ordinance No. 1053, 1-15-08**)

5.13.06.02 No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.

5.13.06.03 Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.

5.13.06.04 *No use shall produce a nuisance or hazard from fire, explosion, toxic or corrosive fumes, gas, smoke, odors, obnoxious dust or vapor, harmful radioactivity, offensive noise or vibration, flashes, objectionable effluent, or electrical interference which may affect or impair the normal use and peaceful enjoyment of any surrounding property, structure, or dwelling. (Ordinance No. 1053, 1-15-08)*

### **5.13.07 Performance Standards:**

See Section 7.16 of the Supplemental Regulations.

**SECTION 3. Amendment of Section 5.14.** Section 5.14 of the Ordinance No. 848 is hereby amended to read as follows:

#### **Section 5.14 I-2 Heavy Industrial**

**5.14.01 Intent:** *It is the intent of the Heavy Industrial District Regulations to provide for industrial uses and services, including some manufacturing, wholesaling and storage activities; to preserve land for the expansion of the basic economic activities; to avoid incompatible land uses; to serve these areas with adequate transportation facilities; and to prevent or mitigate hazards to adjacent properties. (Ordinance No. 1053, 1-15-08)*

Adult Entertainment Facilities are included in this Zoning District. The intent of the La Vista Zoning Ordinance is not to prohibit these uses but to regulate the secondary effects of these uses within the community.

#### **5.14.02 Permitted Uses: (*Revisions by Ordinance No. 1053, 1-15-08, unless otherwise noted*)**

5.14.02.01 Assembly, fabrication, *packaging*, and processing of products inside an enclosed building, except hazardous or toxic materials

5.14.02.02 *Automotive services, except repair, towing and wrecking*

5.14.02.03 *Business services*

5.14.02.04 *Facilities for building construction contractors*

5.14.02.05 *Landscape and horticultural services*

5.14.02.06 *Medical and dental laboratories*

5.14.02.07 *Miscellaneous repair services, not including automotive*

5.14.02.08 *Printing, publishing, and allied industries*

5.14.02.09 *Electric, gas and sanitary services, not including collection and disposal of solid waste or hazardous waste*

5.14.02.10 *General warehousing*

5.14.02.11 *Testing laboratories*

5.14.02.12 *Facilities for heavy construction contractors*

5.14.02.13 *Manufacturing of apparel, textile mill products, furniture and fixtures, transportation equipment, and assembly of electrical and electronic equipment and components*

5.14.02.14 Manufacture of light sheet metal products including heating and ventilation equipment.

5.14.02.15	<i>Manufacturing of food and kindred products, limited to bakery items, dairy products, sugar and confectionary products, and beverages</i>
5.14.02.16	<i>Manufacturing stone, clay, glass and concrete products</i>
5.14.02.17	<i>Millwork; veneer, plywood and structural wood products manufacturing-</i>
5.14.02.18	<i>Publicly owned and operated facilities. (Ordinance No. 950, 3-1-05)</i>
5.14.02.19	<i>Special and vocational educational and training facilities. (Ordinance No. 950, 3-1-05)</i>
5.14.02.20	<i>Transportation services</i>
5.14.02.21	<i>Trucking and courier services, except air</i>
5.14.02.22	<i>Veterinary Services, including livestock</i>
5.14.02.23	<i>Wholesale trade of goods</i>
5.14.02.24	<i>Microbreweries without on-site sales</i>

**5.14.03 Permitted Conditional Uses: (Revisions by Ordinance No. 1053, 1-15-08, unless otherwise noted)**

5.14.03.01	<i>Automotive rental / leasing and other heavy equipment rental</i>
5.14.03.02	<i>Manufacturing of food and kindred products, except bakery items, dairy products, sugar and confectionary products, and beverages</i>
5.14.03.03	<i>Lumber and other building materials dealer</i>
5.14.03.04	<i>Outdoor storage or display of merchandise</i>
5.14.03.05	<i>Radio, television and communication towers and transmitters, as per Section 7.11</i>
5.14.03.06	<i>Utility substations, terminal facilities, and reservoirs</i>
5.14.03.07	<i>Farm-implement sales and service</i>
5.14.03.08	<i>Temporary Batch plant for concrete, asphalt, or paving material, not to exceed 24 months of operations</i>
5.14.03.09	<i>Cabinetry millwork</i>
5.14.03.10	<i>Recycling center for computers, televisions and household items</i>
5.14.03.11	<i>Storage of bulk petroleum products</i>
5.14.03.12	<i>The manufacturing, compounding, processing, extruding, painting, coating and assembly of steel, metal, vinyl, plastic, paper and similar products and related outdoor and indoor storage activities. (Ordinance No. 855, 3-5-02)</i>
5.14.03.13	<i>Gasoline service stations</i>
5.14.03.14	<i>Automotive repair services</i>
5.14.03.15	<i>Sale of recreational vehicles, including boats and jet skis</i>
5.14.03.16	<i>Indoor recreational facility (Ordinance No. 918, 10-6-03)</i>
5.14.03.17	<i>Self-service storage facility (Ordinance No. 1069, 8-19-08)</i>
5.14.03.18	<i>Adult Entertainment establishments</i>
1.	No Adult business shall be closer than 500 feet to any similar use and no closer than 500feet to a residential district / use, religious uses, educational uses and recreational uses. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the main entrance of such adult business to the point on the property line of such other adult business, residential district / use, religious use, educational uses and recreational use. In addition, no Adult establishment shall be located within the Gateway Corridor Overlay or within 500 feet of said Overlay Corridor.
2.	Said businesses shall be screened along adjoining property lines as to prevent any direct visual contact of the adult business at the perimeter.
3.	Doors, curtains and any other means of obstruction to the opening of all booths and other preview areas, including but not limited to Adult Novelty Businesses, Adult Motion Picture Arcades, Adult Mini-Motion Picture Theaters, and Adult Motion Picture Theaters shall be removed and kept off at all times during the execution of this Permit. Failure to comply with this condition shall result in revocation of the Conditional Use Permit.
4.	No adult business shall be open for business between the hours of one am and six a.m.
5.	The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety, and general welfare of persons residing or working in adjoining or surrounding property.

6. Such use shall not impair an adequate supply of light and air to surrounding property.
7. Such use shall not unduly increase congestion in the streets or public danger of fire and safety.
8. Any explicit signs shall not be seen from any point off-premises.
9. Such use shall not diminish or impair established property values in adjoining or surrounding property.
10. Such use shall be in accord with the intent, purpose and spirit of this Ordinance and the Comprehensive Development Plan of La Vista, Nebraska.
11. Applications for adult businesses under the terms of this Section shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property and shall include a site plan defining the areas to be developed for buildings and structure, the areas to be developed for parking, driveways and points of ingress and egress, the location and height of walls, the location and type of landscaping, and the location, size and number of signs.
12. An adult business shall post a sign at the entrance of the premises which shall state the nature of the business and shall state that no one under the age of eighteen (18) years of age is allowed on the premises. This Section shall not be construed to prohibit the owner from establishing an older age limitation for coming on the premises.
13. Prohibited Activities of Adult Businesses
  - A. No adult business shall employ any person less than eighteen (18) years of age.
  - B. No adult business shall furnish any merchandise or services to any person who is under eighteen (18) years of age.
  - C. No adult business shall be conducted in any manner that permits the observation of any model or any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other opening from any public way or from any property not licensed as an adult use. No operator of an adult business or any officer, associate, member, representative, agent, owner, or employee of such business shall engage in any activity or conduct in or about the premises which is prohibited by this Ordinance or any other laws of the State.
  - D. No part of the interior of the adult business shall be visible from the pedestrian sidewalk, walkway, street, or other public or semi-public area.

5.14.03.19

*Industrial Condominiums*

5.14.03.20

*Microbreweries with on-site sales*

#### **5.14.04 Permitted Accessory Uses:**

5.14.04.01	Buildings and uses customarily incidental to the permitted uses
5.14.04.02	Parking as permitted in Section 7.05 through 7.09
5.14.04.03	Signs allowed in Section 7.01 through 7.04
5.14.04.04	Temporary buildings and uses incidental to construction work which will be removed upon completion or abandonment of the construction work
5.14.04.05	Live-in quarters used by live-in watchman or custodians during periods of construction
5.14.04.06	Landscaping as required by Section 7.17

#### **5.14.05 Height and Lot Requirements:**

5.14.05.01 The height and minimum lot requirements shall be as follows:

Use	Lot Area (SF) <sup>2</sup>	Lot Width <sup>2</sup>	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	10,000	100	35' <sup>1</sup>	30'	25'	45'	75%
Permitted Conditional Uses	10,000	100	35' <sup>1</sup>	30'	25'	45'	75%

<sup>1</sup> 35' front yard setback required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of sixty (60) feet.

<sup>2</sup> Lots created before January 1, 2008 may have a minimum Lot Area of 10,000 square feet and may have less than the minimum 100 feet lot width. (Ordinance No. 1053, 1-15-08)

**5.14.06 Use Limitations:**

5.14.06.01 When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in any required yard within *thirty (30)* feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Section 7.17.04. (*Ordinance No. 1053, 1-15-08*)

5.14.06.02 Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.

5.14.06.03 *No use shall produce a nuisance or hazard from fire, explosion, toxic or corrosive fumes, gas, smoke, odors, obnoxious dust or vapor, harmful radioactivity, offensive noise or vibration, flashes, objectionable effluent, or electrical interference which may affect or impair the normal use and peaceful enjoyment of any surrounding property, structure, or dwelling. (Ordinance No. 1053, 1-15-08)*

**SECTION 4. Repeal of Section 2.14, 5.13 and 5.14 as Previously Enacted.** Section 2.14, 5.13, 5.14 of Ordinance No. 848 as previously enacted is hereby repealed.

**SECTION 5. 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, 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 6. Effective Date.** This ordinance shall be in full force and effect from and after passage, approval and publication as provided by law.

**SECTION 7.** This ordinance shall be published in pamphlet form and take effect as provided by law.

PASSED AND APPROVED THIS 6<sup>th</sup> DAY OF SEPTEMBER 2016.

CITY OF LA VISTA

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Douglas Kindig, Mayor

ATTEST:

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Pamela A. Buethe, CMC  
City Clerk