

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
APRIL 20, 2010 AGENDA**

Subject:	Type:	Submitted By:
AMEND SECTIONS 35.48 AND 130.02 OF THE MUNICIPAL CODE	RESOLUTION ◆ ORDINANCES RECEIVE/FILE	PAM BUETHE CITY CLERK

SYNOPSIS

Ordinances have been prepared to amend Sections 35.48 and 130.02 of the La Vista Municipal Code.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval.

BACKGROUND

These changes are a result of American Legal Publishing Corporation incorporating the legislative changes from the previous legislative session into our Code including some minor language changes.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA, TO AMEND THE LA VISTA MUNICIPAL CODE SECTION 35.48; 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 35.48 of the La Vista Municipal Code is amended to read as follows:

§ 35.48 ADOPTED BUDGET STATEMENT; FILING; CERTIFICATION OF AMOUNT TAXED.

(A) (1) After publication and hearing on the proposed budget statement and within the time prescribed by law, the City Council shall file with and certify to the levying board on or before September 20 of each year and file with the Auditor of Public Accounts a copy of the adopted budget statement, together with the amount of the tax required to fund the adopted budget, setting out separately:

(a) The amount to be levied for the payment of principal or interest on bonds issued by the City Council, and

(b) The amount to be levied for all other purposes.

(2) Proof of publication shall be attached to the statements.

(B) The City Council, in certifying the amount required, may make allowance for delinquent taxes not exceeding 5% of the amount required plus the actual percentage of delinquent taxes for the preceding tax year and for the amount of estimated tax loss from any pending or anticipated litigation which involves taxation and in which tax collections have been or can be withheld or escrowed by court order. For purposes of this section, anticipated litigation shall be limited to the anticipation of an action being filed by a taxpayer who or which filed a similar action for the preceding year which is still pending. Except for such allowances, the City Council shall not certify an amount of tax more than 1% greater or lesser than the amount determined under § 35.46(C) and Neb. RS 13-505.

(C) The City Council shall use the final-adjusted-certified taxable values as provided by the County Assessor pursuant to Neb. RS 13-509 for the current year in setting or certifying the levy. The City Council may designate one of its members to perform any duty or responsibility required of such body by this section. (Neb. RS 13-508) ('79 Code, § 1-904) (Am. Ord. 603, passed 1-3-95; Am. Ord. 670, passed 6-17-97; Am. Ord. 702, passed 10-21-97)

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 20TH DAY OF APRIL 2010.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

K:\APPS\City Hall\ORDINANCES\1090 Amend 33.21 Public Participation

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. An automobile shall be deemed to be abandoned if left unattended:

~~(a) With no number plates affixed thereto for more than six hours on any public property;~~

~~(b) For more than 24 hours on any public property except a portion thereof on which parking is legally permitted;~~

~~(c) For more than 48 hours after the parking of such vehicle shall have become illegal, if left on a portion of a public property on which parking is legally permitted; or;~~

~~(d) For more than seven days on private property if left initially without permission of the owner or after permission of the owner shall be terminated.~~

(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;

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

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;

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;

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 60-1093.01; or

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). No motor vehicle subject to forfeiture under Neb. RS 28-431 shall be an ABANDONED VEHICLE under this division (A).
(Neb. RS 60-1901)

(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, **PUBLIC PROPERTY** shall mean any public right-of-way, street, highway, alley, park or other state, county or city-owned property; and **PRIVATE PROPERTY** shall mean any privately-owned property which is not included within the definition of public property.
(Neb. RS 60-1901)

(4) Any person who abandons an automobile 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 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 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

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 20TH DAY OF APRIL 2010.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

K:\APPS\City Hall\ORDINANCES\ Amend 130.02 Abandoned automobiles