

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
MAY 3, 2011 AGENDA**

Subject:	Type:	Submitted By:
AMEND SECTION 95.05 OF THE MUNICIPAL CODE	RESOLUTION ◆ ORDINANCES RECEIVE/FILE	PAM BUETHE CITY CLERK

SYNOPSIS

An ordinance have been prepared to amend Section 95.05 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.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA, TO AMEND THE LA VISTA MUNICIPAL CODE SECTION 95.05; 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 95.05. Section 95.05 of the La Vista Municipal Code is amended to read as follows:

§ 95.05 PITTING ANIMALS; DEFINITIONS; PROHIBITIONS.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BEARBAITING. The pitting of any animal against a bear.

COCKFIGHTING. The pitting of a fowl against another fowl.

DOGFIGHTING. The pitting of a dog against another dog.

PITTING. Bringing animals together in combat.

(Neb. RS 28-1004)

(B) *Pitting prohibited.* (1) No person shall knowingly:

(a) ~~Pro~~ Promote, engage in or be employed at dogfighting, cockfighting, bearbaiting or pitting an animal against another;

(b) ~~Nor shall any person knowingly receive~~ money for the admission of another person to a place kept for such purpose;

(c) ~~Nor shall any person knowingly own, use, train, sell or possess an animal for the such purpose; of animal pitting.~~

(d) ~~Nor shall any person knowingly permit~~ Permit any act as described in this section division (B)(1) to occur on any premises owned or controlled by him or her.

(Neb. RS 28-1005)

(C) *Spectators prohibited.* (2) No person shall knowingly and willingly be present at and witness as a spectator dogfighting, cockfighting, bearbaiting or the pitting of an animal against another as prohibited in division (B)(1) of this section.

(3) Any person who violates division (B)(1) or (B)(2) shall be guilty of a Class IV felony.

(Neb. RS 28-1005)

(‘79 Code, § 6-206) Penalty, see § 95.99

(C) (1) No person shall knowingly or intentionally own or possess animal fighting paraphernalia with the intent to commit a violation of this section.

(2) (a) For purposes of this section, except as provided in division (C)(2)(b) of this section, ANIMAL FIGHTING PARAPHERNALIA means equipment, products, and materials of any kind that are used, intended for use, or designed for use in the training, preparation, conditioning, or furtherance of the pitting of an animal against another as defined in division (A) of this section. ANIMAL FIGHTING PARAPHERNALIA includes, but is not limited to, the following:

1. A breaking stick, which means a device designed for insertion behind the molars of a dog for the purpose of breaking the dog’s grip on another animal or object;

2. A cat mill, which means a device that rotates around a central support with one arm designed to secure a dog and one arm designed to secure a cat, rabbit, or other small animal beyond the grasp of the dog;

3. A treadmill, which means an exercise device consisting of an endless belt on which the animal walks or runs without changing place;
4. A fighting pit, which means a walled are designed to contain an animal fight;
5. A springpole, which means a biting surface attached to a stretchable device, suspended at a height sufficient to prevent a dog from reaching the biting surface while touching the ground;
6. A heel, which means any edged or pointed instrument designed to be attached to the leg of a fowl;
7. A boxing glove or muff, which means a fitted protective covering for the spurs of a fowl; and
8. Any other instrument commonly used in the furtherance of pitting an animal against another.

(b) ANIMAL FIGHTING PARAPHERNALIA does not include equipment, products, or materials of any kind used by a verterinarian licensed to practice veterinary medicine an dsurgery in this state.

(3) Any person violating division (C)(1) of this section is guilty of a Class I misdemeanor. (Neb. RS 28-1005.01 Penalty, see § 95.99

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 3RD DAY OF MAY 2011.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk