

## LA VISTA CITY COUNCIL MEETING AGENDA

May 18, 2021

6:00 p.m.

Harold "Andy" Anderson Council Chamber  
La Vista City Hall  
8116 Park View Blvd

- Call to Order
- Pledge of Allegiance
- Announcement of Location of Posted Open Meetings Act
- Proclamation: National Public Works Week
- Service Awards: Gary Gist – 10 Years

*All matters listed under item A, Consent Agenda, are considered to be routine by the city council and will be enacted by one motion in the form listed below. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.*

### A. CONSENT AGENDA

1. Approval of the Agenda as Presented
2. Approval of the Minutes of the May 4, 2021 City Council Meeting
3. Approval of the Minutes of the April 15, 2021 Planning Commission Meeting
4. Monthly Financial Report – March 2021
5. 2021 Annual TIF Report
6. Request for Payment – HDR Engineering – Professional Services – \$532.62
7. Request for Payment – Design Workshop, Inc – Professional Services – La Vista Wayfinding – \$11,020.00
8. Request for Payment – Design Workshop, Inc – Professional Services – La Vista Wayfinding – \$11,670.00
9. Request for Payment – Thompson, Dreessen & Dorner, Inc. – Professional Services – Miscellaneous Services – \$4,837.50
10. Request for Payment – Thompson, Dreessen & Dorner, Inc. – Professional Services – Central Park Improvements – \$2,642.50
11. Request for Payment – Marc Woodle – Professional Services – Certified General Appraiser – \$1,900.00
12. Approval of Claims

- Reports from City Administrator and Department Heads

### B. Zoning Text Amendments – Wireless Telecommunication Facilities

1. Public Hearing
2. Ordinance – Amend Section 7.11 of Zoning Ordinance
3. Ordinance – Amend Master Fee Ordinance

### C. American Heritage Firearms, LLC – Conditional Use Permit – Lot 492 Millard Highlands South Replat – Home Occupation – Gunsmithing

1. Public Hearing
2. Resolution

### D. Resolution – Approve Interlocal Agreement – Jail Services, Prosecutorial and Indigent Defense Services

### E. Resolution – Approve Personnel Manual Update

- Comments from the Floor
- Comments from Mayor and Council
- Central Park East/West – City Council Visit
- Adjournment

The public is welcome and encouraged to attend all meetings. If special accommodations are required, please contact the City Clerk prior to the meeting at 402-331-4343. A copy of the Open Meeting Act is posted in the Council Chamber and available in the public copies of the Council packet. Citizens may address the Mayor and Council under "Comments from the Floor." Comments should be limited to three minutes. We ask for your cooperation in order to provide for an organized meeting.



**PROCLAMATION  
NATIONAL PUBLIC WORKS WEEK**

WHEREAS, Public Works services provided in the City of La Vista are an integral part of our citizens' everyday lives; and

WHEREAS, the support of an understanding and informed citizenry is vital to the efficient operation of public works systems and programs such as streets and highways, park maintenance, sewers, snow removal, and public facilities; and

WHEREAS, the health, safety and comfort of La Vista citizens greatly depend on these facilities and services; and

WHEREAS, the efficiency of the qualified and dedicated personnel who staff the La Vista Public Works department is influenced by the public's attitude and understanding of the importance of their work.

NOW, THEREFORE, I, Douglas Kindig, Mayor of the City of La Vista, do hereby proclaim the week of May 16 through May 22, 2021 as NATIONAL PUBLIC WORKS WEEK and call upon all citizens and civic organizations to recognize the contributions that public works staff and officials make every day to our health, safety and comfort.

IN WITNESS WHEREOF, I have set my hand and caused the official Seal of the City of La Vista to be affixed this 18th day of May, 2021.



\_\_\_\_\_  
Douglas Kindig, Mayor

ATTEST:

\_\_\_\_\_  
Pamela A. Buethe, CMC  
City Clerk



## CITY OF LA VISTA

### CERTIFICATE OF APPRECIATION

A CERTIFICATE OF APPRECIATION PRESENTED TO GARY GIST OF THE LA VISTA PUBLIC WORKS DEPARTMENT, FOR 10 YEARS OF FAITHFUL AND EFFICIENT SERVICE TO THE CITY OF LA VISTA.

WHEREAS, Gary Gist has served the City of La Vista since May 17, 2011; and

WHEREAS, Gary Gist's input and contributions to the City of La Vista have contributed to the success of the City;

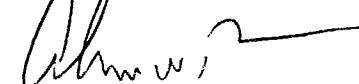
NOW, THEREFORE BE IT RESOLVED that this Certificate of Appreciation is hereby presented to Gary Gist on behalf of the City of La Vista for 10 years of service to the City.

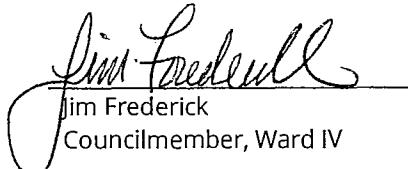
DATED THIS 18TH DAY OF MAY 2021.

  
Douglas Kindig, Mayor

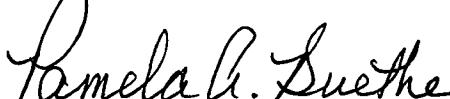
  
Kim J. Thomas  
Councilmember, Ward I

  
Terrilyn Quick  
Councilmember, Ward II

  
Alan W. Ronan  
Councilmember, Ward III

  
Jim Frederick  
Councilmember, Ward IV

ATTEST:

  
Pamela A. Buethe, CMC  
City Clerk



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**May 18, 2021**

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**Harold "Andy" Anderson Council Chamber**  
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**D. Resolution – Approve Interlocal Agreement – Jail Services, Prosecutorial and Indigent Defense Services**

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- **Comments from the Floor**
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# MINUTE RECORD

No. 729 — REDFIELD & COMPANY, INC. OMAHA E1310556LD

## LA VISTA CITY COUNCIL MEETING May 4, 2021

A meeting of the City Council of the City of La Vista, Nebraska was convened in open and public session at 6:00 p.m. on May 4, 2021. Present were Councilmembers: Ronan, Thomas, Crawford, Hale, and Sell. Also in attendance were City Attorney McKeon, City Administrator Gunn, Assistant City Administrator Ramirez, Chief of Police Lausten, City Clerk Buethe, Director of Public Works Soucie, Finance Director Miserez, Recreation Director Stopak, City Engineer Dowse, and Community Development Director Fountain.

A notice of the meeting was given in advance thereof by publication in the Times on April 21, 2021. Notice was simultaneously given to the Mayor and all members of the City Council and a copy of the acknowledgment of the receipt of notice attached to the minutes. Availability of the agenda was communicated to the Mayor and City Council in the advance notice of the meeting. All proceedings shown were taken while the convened meeting was open to the attendance of the public. Further, all subjects included in said proceedings were contained in the agenda for said meeting which is kept continuously current and available for public inspection at City Hall during normal business hours.

Mayor Kindig called the meeting to order, led the audience in the Pledge of Allegiance, and made the announcements.

### PROCLAMATION – PUBLIC SERVICE RECOGNITION WEEK

Mayor Kindig proclaimed May 2-8, 2021 as Public Service Recognition Week and presented the proclamation to all employees.

### PROCLAMATION – PEACE OFFICERS' MEMORIAL DAY

Mayor Kindig proclaimed May 15, 2021 as Peace Officers' Memorial Day and presented the proclamation to Chief Lausten.

### LIFE SAVING AWARD

Chief Lausten presented the Life Saving Award to Sergeant Kraig Gomon.

### SERVICE AWARD: JEFF THORNBURG – 20 YEARS

Mayor Kindig recognized Jeff Thornburg for 20 years of service to the City.

### APPOINTMENT – CITIZEN ADVISORY REVIEW COMMITTEE – SHEE COVARRUBIAS – 5 YEAR TERM

Mayor Kindig stated, with the approval of the City Council, he would like to appoint Shee Covarrubias to the Citizen Advisory Review Committee for a 5 year term. Councilmember Thomas motioned the approval, seconded by Councilmember Sell. Councilmembers voting aye: Ronan, Thomas, Crawford, Hale, and Sell. Nays: None. Abstain: None. Absent: Frederick, Sheehan and Quick. Motion carried.

### A. CONSENT AGENDA

1. APPROVAL OF THE AGENDA AS PRESENTED
2. APPROVAL OF THE MINUTES OF THE APRIL 20, 2021 CITY COUNCIL MEETING
3. REQUEST FOR PAYMENT – CITY OF OMAHA – PROFESSIONAL SERVICES – 108TH & HARRISON WAVETRONIX – \$8,138.72
4. REQUEST FOR PAYMENT – OLSSON, INC – PROFESSIONAL SERVICES – CITY CENTRE – \$2,162.25
5. REQUEST FOR PAYMENT – COMMERCIAL SEEDING CONTRACTORS – PROFESSIONAL SERVICES – 84TH STREET REDEVELOPMENT – \$3,597.00
6. REQUEST FOR PAYMENT – ALFRED BENESCH & COMPANY – PROFESSIONAL SERVICES – 96TH & 108TH ST PAVEMENT REHABILITATION – \$14,991.86
7. REQUEST FOR PAYMENT – FELSBURG, HOLT & ULLEVIG – PROFESSIONAL SERVICES – 114TH & GILES INTERSECTION IMPROVEMENTS – \$262.50

# MINUTE RECORD

May 4, 2021

No. 729 — REDFIELD & COMPANY, INC., OMAHA E1310556LD

8. **REQUEST FOR PAYMENT – RDG PLANNING & DESIGN – PROFESSIONAL SERVICES – PLACEMAKING & LA SERVICES – \$7,478.56**
9. **REQUEST FOR PAYMENT – SWAIN CONSTRUCTION – PROFESSIONAL SERVICES – 96TH & 108TH ST PAVEMENT REHABILITATION – \$390,983.36**
10. **APPROVAL OF CLAIMS**

ACTION BATTERIES, maint.	112.50
AMAZON, supplies	437.03
AT&T MOBILITY LLC, phones	97.40
BERGANKDV LLC, services	20,000.00
BEST CARE EMPLOYEE ASST, services	4,158.00
BIBLIOTHECA LLC, books	4.47
BISHOP BUSINESS EQUIPMENT, services	275.43
BUILDERS SUPPLY CO, supplies	40.32
CINTAS CORP, services	279.45
CITY OF OMAHA, services	693,473.39
CITY OF PAPILLION, services	218,909.95
CORNHUSKER INTL TRUCKS INC, maint.	21.97
COX COMMUNICATIONS INC, services	427.58
DEMCO INC, supplies	176.74
DOUGLAS COUNTY SHERIFF, services	887.50
FASTENAL CO, maint.	31.15
FELSBURG HOLT & ULLEVIG INC, services	1,828.75
FIRST WIRELESS INC, services	681.00
GALE, books	124.45
GRAYBAR ELECTRIC CO, bld&grnds	119.05
GREAT PLAINS UNIFORMS, apparel	120.00
GREY HOUSE PUBLISHING, services	345.00
INFOGROUP, services	2,500.00
INGRAM LIBRARY SERVICES, books	802.65
JOHNSON CONTROLS, bld&grnds	611.50
K ELECTRIC, services	586.04
LAMP RYNEARSON & ASSOCIATES, services	16,975.20
LARSEN SUPPLY CO, supplies	291.44
LIBRA INDUSTRIES INC, apparel	197.00
LIBRARY IDEAS LLC, books	7.50
LINE-X, maint.	420.00
LOGO LOGIX EMBROIDERY, apparel	248.00
MENARDS-RALSTON, bld&grnds	195.88
METRO COMM COLLEGE, services	14,931.75
MIDWEST TAPE, media	576.94
MISEREZ, CYNTHIA, supplies	71.94
MOBOTREX INC, services	8,877.00
MOODY'S INVESTORS INC, services	4,875.00
MSC INDUSTRIAL SUPPLY CO, supplies	827.67
NE MUNICIPAL CLERKS ASSOC, services	45.00
NE STATE FIRE MARSHAL, bld&grnds	324.00
NORTH AMERICAN RESCUE, services	465.20
OCLC INC, media	161.21
OFFICE DEPOT INC, supplies	1,796.76
OMAHA WINNELSON SUPPLY, bld&grnds	1,294.30
RAINBOW GLASS & SUPPLY, bld&grnds	1,280.00
RED WING, apparel	150.00
SAPP BROS INC, maint.	1,445.50
SARPY ELECTION COMMISSIONER, services	1,899.20
SARPY DOUGLAS LAW ACADEMY, supplies	258.04
SHI INTERNATIONAL CORP, services	4,142.75
SIGN IT, services	715.00
SOUTHERN UNIFORM, apparel	192.96
SYMBOL ARTS LLC, apparel	997.75
COUNCIL OF STATE GOVERNMENTS, books	112.50
THE NEW YORK TIMES, services	650.00

# MINUTE RECORD

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THE PENWORTHY CO, books	559.32
THOMPSON DREESSEN & DORNER INC, services	5,200.00
TY'S OUTDOOR POWER, maint.	906.66
VERIZON CONNECT NWF, phones	631.41
VERIZON WIRELESS, phones	688.17
WALMART, supplies	443.85
WORLD TRADE PRESS, services	796.72

Councilmember Thomas made a motion to approve the consent agenda. Seconded by Councilmember Hale. Councilmember Crawford reviewed the bills and stated everything was in order. Councilmembers voting aye: Ronan, Thomas, Crawford, Hale, and Sell. Nays: None. Abstain: None. Absent: Frederick, Sheehan and Quick. Motion carried.

## REPORTS FROM CITY ADMINISTRATOR AND DEPARTMENT HEADS

Recreation Director Stopak reported on events at the Community Center and Senior Center Activities.

City Engineer Pat Dowse reported on 96<sup>th</sup> and 108<sup>th</sup> Street progress.

## B. REGULATION REQUIRING FACE COVERINGS IN THE CITY

### 1. DISCUSSION

After discussion, and with the consensus of the City Council, Mayor Kindig announced that the regulation requiring face coverings in the City will be allowed to expire on May 25, 2021.

## C. RESOLUTION – CONTRACT RENEWAL – EASTERN NEBRASKA OFFICE OF AGING

Councilmember Sell introduced and moved for the adoption of Resolution No. 21-050 entitled: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH THE EASTERN NEBRASKA OFFICE ON AGING FOR PROVISION OF A NUTRITION PROGRAM.

WHEREAS, the City of La Vista's Community Center has annually served as a hot meal site for senior citizens in conjunction with the Nutrition program of the Eastern Nebraska Office on Aging (ENOA); and

WHEREAS, the Mayor and City Council believe it is desirable to continue to participate in this important program.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City of La Vista be, and hereby is, authorized to execute an agreement with the Eastern Nebraska Office on Aging for provision of a nutrition program.

Seconded by Councilmember Thomas. Councilmembers voting aye: Ronan, Thomas, Crawford, Hale and Sell. Nays: None. Abstain: None. Absent: Frederick, Sheehan and Quick Motion carried.

## D. RESOLUTION – APPROVE PROFESSIONAL SERVICES AGREEMENT – OLSSON, INC- REDEVELOPMENT AREA (CHILI'S BUILDING) (ACTION ON THIS ITEM WILL BE TAKEN BY THE LA VISTA COMMUNITY DEVELOPMENT AGENCY)

Councilmember Thomas introduced and moved for the adoption of Resolution No. 21-051 entitled: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA VISTA, ACTING AS THE LA VISTA COMMUNITY DEVELOPMENT AGENCY AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH OLSSON, INC. TO PROVIDE PROJECT MANAGEMENT, DESIGN, AND CONSTRUCTION PHASE SERVICES, FOR DEMOLITION AND SITE PREPARATION OF THE CHILI'S BUILDING, AND OTHER IMPROVEMENTS LOCATED NEAR THE INTERSECTION OF 84<sup>TH</sup> STREET AND CITY CENTRE DRIVE IN AN AMOUNT NOT TO EXCEED \$20,125.00.

# MINUTE RECORD

May 4, 2021

No. 729 — REEDFIELD & COMPANY, INC., OMAHA E1310556LD

WHEREAS, the Community Development Agency ("Agency") consisting of and governed by the Mayor and City Council of the City of La Vista has been created; and

WHEREAS, the City Council acting as the La Vista Community Development Agency desires to approve and enter into a professional services agreement with Olson Associates to provide design phase and construction phase engineering services.

WHEREAS, the professional services agreement has a not-to-exceed amount of \$20,125; and

WHEREAS, the FY21/FY22 Biennial Budget includes funding for the proposed services;

NOW THEREFORE, BE IT RESOLVED that the City Council acting as the La Vista Community Development Agency hereby approves the Agreement presented with this Resolution.

BE IT FURTHER RESOLVED that the City Administrator on behalf of the Agency, is authorized to execute the Agreement; and the City Administrator or her designee, to include the City Engineer, is authorized to take such further actions as she or he determines necessary or appropriate to carry out the actions approved herein.

Seconded by Councilmember Hale. Councilmembers voting aye: Ronan, Thomas, Crawford, Hale, and Sell. Nays: None. Abstain: None. Absent: Frederick, Sheehan and Quick. Motion carried.

## E. RESOLUTION – AUTHORIZE PURCHASE – ROTARY LIFTS

Councilmember Sell introduced and moved for the adoption of Resolution No. 21-052 entitled: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AUTHORIZING THE PURCHASE OF TWO (2) ROTARY 12,000 LB 2-POST LIFTS FROM DANIELSON TECH SUPPLY, OMAHA, NEBRASKA IN AN AMOUNT NOT TO EXCEED \$17,760.00.

WHEREAS, the City Council of the City of La Vista has determined that the purchase of two (2) rotary lifts is necessary; and

WHEREAS, The FY21/FY22 Biennial Budget includes funding for this proposed purchase.

WHEREAS, Subsection (C) (9) of Section 31.23 of the La Vista Municipal code requires that the City Administrator secure council approval prior to authorizing any purchases over \$5,000;

NOW, THEREFORE BE IT RESOLVED, that the Mayor and City Council of the City of La Vista, Nebraska authorize the purchase of two (2) Rotary 12,000 lb 2-post lifts from Danielson Tech Supply Omaha, Nebraska in an amount not to exceed \$17,760.00.

Seconded by Councilmember Thomas. Councilmembers voting aye: Ronan, Thomas, Crawford, Hale, and Sell. Nays: None. Abstain: None. Absent: Frederick, Sheehan and Quick. Motion carried.

## COMMENTS FROM THE FLOOR

Terry Frecks of 7741 Park View Blvd stated his interest in purchasing a portion of right of way if the City chooses to sell.

## COMMENTS FROM MAYOR AND COUNCIL

There were no comments from the Mayor or Council.

At 6:27 p.m. Councilmember Crawford made a motion to adjourn the meeting. Seconded by Councilmember Thomas. Councilmembers voting aye: Ronan, Thomas,

# MINUTE RECORD

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Crawford, Hale, and Sell. Nays: None. Abstain: None. Absent: Frederick, Sheehan and Quick. Motion carried.

PASSED AND APPROVED THIS 18TH DAY OF MAY 2021.

CITY OF LA VISTA

\_\_\_\_\_  
Douglas Kindig, Mayor

ATTEST:

\_\_\_\_\_  
Patricia G. Anderson  
Deputy City Clerk



**CITY OF LA VISTA  
8116 PARK VIEW BOULEVARD  
LA VISTA, NE 68128  
P: (402) 331-4343**

**PLANNING COMMISSION MINUTES  
APRIL 15, 2021 6:30 P.M.**

The City of La Vista Planning Commission held a meeting on Thursday, April 15, 2021 in the Harold "Andy" Anderson Council Chamber at La Vista City Hall, 8116 Park View Boulevard. Chairman Wetuski called the meeting to order at 6:30 p.m. with the following members present: Mike Krzywicki, Gayle Malmquist, Harold Sargus, John Gahan, Kathleen Alexander, Mike Circo, and Josh Frey. Members absent were: Jason Dale, Mike Circo, and Patrick Coghlan. Also, in attendance were Chris Solberg, Deputy Community Development Director; Bruce Fountain, Community Development Director; Cale Brodersen, Assistant City Planner; Meghan Engberg, Permit Technician; and Pat Dowse, City Engineer.

Legal notice of the public meeting and hearing were posted, distributed, and published according to Nebraska law. Notice was simultaneously given to all members of the Planning Commission. All proceedings shown were taken while the convened meeting was open to the attendance of the public.

**1. Call to Order**

The meeting was called to order by Chairman Wetuski at 6:30 p.m. Copies of the agenda and staff reports were made available to the public.

**2. Approval of Meeting Minutes – February 18, 2021**

*Krzywicki moved, seconded by Malmquist, to approve the February 18, 2021 minutes. Ayes: Krzywicki, Gahan, Alexander, Frey, Sargus, Wetuski, and Malmquist. Nays: None. Abstain: None. Absent: Dale, Circo, and Coghlan. Motion Carried, (7-0)*

**3. Old Business**

None.

**4. New Business**

**A. Conditional Use Permit – 12806 Emilie Street – American Heritage Firearms, LLC**

- i. **Staff Report – Cale Brodersen:** Brodersen stated that the applicant, American Heritage Firearms, LLC, is requesting a Conditional Use Permit to operate a gunsmithing operation in the garage of a home located at 12806 Emilie St. Brodersen reminded the commission that there are two other home occupation gunsmithing businesses in the City's jurisdiction and that the same requirements will exist for this Conditional Use Permit. He then went over a couple of the requirements. Brodersen that the Fire Marshall and Police Department have reviewed the request and are comfortable with it due to the requirements of the ATF needed to obtain the FFL. Staff recommends approval of the Conditional Use Permit for Lot 492 Millard Highlands South Replat, with the requirements outlined in the

staff report, as the request is consistent with La Vista's Comprehensive Plan and Zoning Ordinance.

ii. **Public Hearing; Wetuski opened the public hearing.**

Pat and Brian Licher, owners of American Heritage Firearms, LLC, came forward and offered to answer any questions. Pat Licher said that this is not something that they are looking to make a lot of money from, that it is mostly family and friends that they will be doing business for. Brian mentioned that this is something they intend to have as a hobby, not as a career.

Sargus asked if they thought they would do more gunsmithing versus gun sales.

Pat Licher said that they are not actually gunsmiths and that they will just be doing sales. Brian mentioned that the ATF calls this type of license a "gunsmithing license" even if it only involves sales. Pat also mentioned that they will not be loading or selling ammunition.

Sargus brought up the recommendation report by staff and asked why it was necessary to have section IV B.1 if there will not be any ammunition.

Brodersen said that it wouldn't apply to the home occupation since they are not actually dealing or stocking ammunition, but that it was included to ensure conformance with fire and life safety codes if the owners have a personal supply of ammunition in the house.

Frey mentioned that there wasn't a No Objections Form put in the packet and asked if any of the close neighbors had objections or issues, or, if the planning department had seen or heard of any issues.

Licher said that there were three neighbors that opted not to sign, that there were no objections or concerns, they just chose not to sign. He also mentioned that had been discussion on the NextDoor App regarding this and that he provided his contact information, what they would be doing, and that one of the motivations for them doing this was to try and bring in one of the .50 caliber guns that was on his Grandfather's plane that is currently in the Netherlands.

Frey then asked if the neighbors were aware of the Planning Commission meeting or the City Council meeting.

Licher said that it was included in the post on NextDoor.

Krzywicki asked if they would be repairing and selling guns and if they were going to be old or new guns that were being sold.

Licher said that they would be new, manufacturer supplied guns.

**Wetuski closed the Public Hearing.**

- iii. **Recommendation:** Malmquist moved, seconded by Frey, to recommend approval of the Conditional Use Permit for Lot 492 Millard Highlands South Replat, with the requirements outlined in this staff report, as the request is consistent with La Vista's Comprehensive Plan and Zoning Ordinance. **Ayes: Krzywicki, Gahan, Alexander, Frey, Sargus, Wetuski, and Malmquist. Nays: None. Abstain: None. Absent: Dale, Circo, and Coghlan. Motion Carried, (7-0)**

**B. Zoning Ordinance Amendment – Section 7.11 (Wireless Telecommunications Facilities)**

- i. **Staff Report- Cale Brodersen:** Brodersen stated that staff are proposing an amendment to Section 7.11 of the Zoning Ordinance, which relates to wireless communication facilities. He said that several years ago, the FCC passed new regulations regarding eligible facilities requests. He explained that equipment modifications to existing cell towers, like upgrading individual antennas or radios, are considered eligible facilities. Currently, the City's Zoning Ordinance requires a Conditional Use Permit for such requests, which means public hearings at both Planning Commission and City Council meetings. He said that the new FCC Order made it so that local governments must process those requests within 60 days, which can be difficult to achieve with the current review process due to public hearing notice requirements. Brodersen said that this amendment will allow staff to review requests for eligible facilities administratively so they can complete the review in the timeline mandated by the FCC. Staff recommends approval of the Zoning Text Amendments to Section 7.11 of the La Vista Zoning Ordinance.
- ii. **Public Hearing:** Wetuski opened the Public Hearing.

Wetuski closed the Public Hearing as no members of the public came forward.
- iii. **Recommendation:** Malmquist moved, seconded by Sargus, to recommend approval of the Zoning Text Amendments to Section 7.11 of the La Vista Zoning Ordinance. **Ayes: Krzywicki, Gahan, Alexander, Frey, Sargus, Wetuski, and Malmquist. Nays: None. Abstain: None. Absent: Dale, Circo, and Coghlan. Motion Carried, (7-0)**

**5. Comments from the Floor**

**None.**

## **6. Comments from the Planning Commission**

Gahan asked how many cell towers are currently in La Vista now.

Solberg said there are around 8 currently.

Brodersen said that most of those have CUP's, so they do go around and do annual inspections.

Gahan asked if they saw more towers coming to La Vista.

Brodersen said not necessarily, that with small cell and new technology, wireless providers prefer to have smaller facilities spread more throughout the city. He said that if there was request for a new tower, that would still need to go through the full review process with public hearings, and that the amendment proposed tonight does not affect those.

Gahan asked if the coverage in La Vista is sufficient.

Solberg said that it depended on what bandwidth you were talking about and as technology gets better, then we will start to see more requests for facilities upgrades.

Krzywicki brought up the last meeting and the discussion of the development of the Rocket Car Wash on West Giles Road.

Brodersen said that was for a PUD for an office building next to that.

Krzywicki said that he had brought up at the meeting that he had seen cars parking on that access road by the dental office. He said that he has always been a stickler for parking because he had always wondered if we are requiring enough parking in certain developments and that it's obvious that dental office is over capacity because the lot was full and there were 4 cars parked on the access road. He then mentioned that it was brought up that the overflow traffic would be able to park in the new development and was wondering if someone in the city could look at how it was originally platted and approved to see if our current parking requirements are sufficient.

Brodersen said that their intention is to a deep dive into the Zoning Ordinance and potentially update many of the sections in the next 2 years and that one of the things they really want to look into is the parking requirements.

Fountain said that it is tough sometimes to get them exact when there's professional office standards, which in some cases there will be way too many and in others it ends up being a very successful business and will have overflow.

Wetuski brought up the residents of the farm that were at the last meeting that were complaining about the light and said that he drove out there and saw that the light fixture is 180 degrees off and isn't facing the parking lot.

Solberg said that the architect did talk to him about that, and he did go out there and saw that it is 180 degrees from what it should be. Solberg told the architect that when they are starting to develop the new lot, to have the contractor flip the light around.

## **7. Comments from Staff**

Fountain said that the Zoning Map Amendment and the items related to Lots 2 and 3 Gary and Debbie Pink Number 3 for TNT Holdings was approved by the City Council, as were the applications relating to the Streck Housing project. Fountain mentioned that things are really picking up this Spring; that the amphitheater will probably be starting construction in a few months and that the City will be building the interface and the second parking garage soon. He also pointed out the building in City Centre that is currently under construction that will house 4 restaurants.

## **8. Adjournment**

Wetuski adjourned the meeting at 6:52 p.m.

Reviewed by Planning Commission:

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Planning Commission Secretary

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Planning Commission Chair

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Date

**CITY OF LAVISTA, NEBRASKA**  
**COMBINED STATEMENT OF REVENUES, EXPENDITURES**  
**AND CHANGES IN FUND BALANCE-ALL GOVERNMENTAL FUND TYPES**  
For the Six months ending March 31, 2021  
50% of the Fiscal Year 2021

	<b>Total All Funds</b>					% of Budget Used
	<u>Budget</u> (12 month)	<u>MTD</u> <u>Actual</u>	<u>YTD</u> <u>Actual</u>	Over(under) <u>Budget</u>		
<b><u>OPERATING REVENUES</u></b>						
General Fund	\$ 18,573,006	\$ 1,211,989	\$ 6,809,765	\$ (11,763,241)	37%	
Sewer Fund	4,469,263	375,168	2,112,620	(2,356,643)	47%	
Debt Service Fund	3,401,489	278,067	1,619,851	(1,781,638)	48%	
Capital Improvement Program Fund	387	0	0	(387)	0%	
Lottery Fund	940,945	138,652	806,149	(134,796)	86%	
Economic Development Fund	10,070	0	4	(10,066)	0%	
Off Street Parking Fund	24,111	2,236	11,988	(12,123)	50%	
Redevelopment Fund	2,038,587	199,053	1,225,436	(813,151)	60%	
Police Academy	148,423	(11)	132,365	(16,058)	89%	
TIF 1A	305,081	-	-	(305,081)	0%	
TIF 1B	418,803	-	-	(418,803)	0%	
Sewer Reserve Fund	17,747	262	2,618	(15,129)	15%	
Qualified Sinking Fund	3,757	47	470	(3,287)	13%	
<b>Total Operating Revenues</b>	<b>30,351,669</b>	<b>2,205,465</b>	<b>12,721,265</b>	<b>(17,630,404)</b>	<b>42%</b>	
<b><u>OPERATING EXPENDITURES</u></b>						
General Fund	19,306,753	1,343,150	8,588,577	(10,718,176)	44%	
Sewer Fund	4,034,908	62,391	1,459,570	(2,575,338)	36%	
Debt Service Fund	3,334,779	345,051	2,684,949	(649,830)	81%	
Capital Improvement Program Fund	-	-	-	-	0%	
Lottery Fund	685,187	61,249	270,281	(414,906)	39%	
Economic Development Fund	82,510	-	-	(82,510)	0%	
Off Street Parking Fund	1,098,065	104,762	706,711	(391,354)	64%	
Redevelopment Fund	1,807,575	30	352,348	(1,455,227)	19%	
Police Academy	116,612	7,970	58,887	(57,725)	50%	
TIF 1A	352,417	-	47,336	(305,081)	13%	
TIF 1B	434,083	-	15,281	(418,802)	4%	
Sewer Reserve Fund	-	-	-	-	0%	
Qualified Sinking Fund	-	-	-	-	0%	
<b>Total Operating Expenditures</b>	<b>31,252,889</b>	<b>1,924,604</b>	<b>14,183,939</b>	<b>(17,068,950)</b>	<b>45%</b>	
<b><u>OPERATING REVENUES NET OF EXPENDITURES</u></b>						
General Fund	(733,747)	(131,161)	(1,778,812)	(1,045,065)		
Sewer Fund	434,355	312,777	653,050	218,695		
Debt Service Fund	66,710	(66,984)	(1,065,099)	(1,131,809)		
Capital Improvement Program Fund	387	0	0	(387)		
Lottery Fund	255,758	77,403	535,868	280,110		
Economic Development Fund	(72,440)	0	4	72,444		
Off Street Parking Fund	(1,073,954)	(102,526)	(694,723)	379,231		
Redevelopment Fund	231,012	199,023	873,088	642,076		
Police Academy	31,811	(7,981)	73,478	41,667		
TIF 1A	(47,336)	-	(47,336)	(0)		
TIF 1B	(15,280)	-	(15,281)	(1)		
Sewer Reserve Fund	17,747	262	2,618	(15,129)		
Qualified Sinking Fund	3,757	47	470	(3,287)		
<b>Operating Revenues Net of Expenditures</b>	<b>(901,220)</b>	<b>280,861</b>	<b>(1,462,674)</b>	<b>(561,454)</b>	<b>(0)</b>	

**CITY OF LAVISTA, NEBRASKA**  
**COMBINED STATEMENT OF REVENUES, EXPENDITURES**  
**AND CHANGES IN FUND BALANCE-ALL GOVERNMENTAL FUND TYPES**  
For the Six months ending March 31, 2021  
50% of the Fiscal Year 2021

	<b>Total All Funds</b>			
	<u>Budget</u> (12 month)	<u>MTD</u> <u>Actual</u>	<u>YTD</u> <u>Actual</u>	Over(under) <u>Budget</u>

**OTHER FINANCING SOURCES & USES**

**TRANSFERS IN**

General Fund	193,867	-	-	(193,867)	0%
Sewer Fund	350,000	-	-	(350,000)	0%
Debt Service Fund	577,831	-	-	(577,831)	0%
Capital Improvement Program Fund	484,445	69,550	117,819	(366,626)	24%
Lottery Fund	-	-	-	-	-
Economic Development Fund	82,510	-	-	(82,510)	0%
Off Street Parking Fund	1,275,065	627,216	727,216	(547,849)	57%
Redevelopment Fund	-	-	-	-	-
Police Academy	-	-	-	-	-
TIF 1A	-	-	-	-	-
TIF 1B	-	-	-	-	-
Sewer Reserve Fund	-	-	-	-	-
Qualified Sinking Fund	50,000	-	-	(50,000)	0%
<b>Total Transfers In</b>	<b>3,013,718</b>	<b>696,766</b>	<b>845,035</b>	<b>(2,168,683)</b>	<b>28%</b>

**TRANSFERS OUT**

General Fund	(940,943)	(25,000)	(125,000)	815,943	13%
Sewer Fund	-	-	-	-	-
Debt Service Fund	(1,182,985)	(596,320)	(644,589)	538,396	54%
Capital Improvement Program Fund	-	-	-	-	-
Lottery Fund	(293,867)	-	-	293,867	0%
Economic Development Fund	-	-	-	-	-
Off Street Parking Fund	-	-	-	-	-
Redevelopment Fund	(245,923)	(75,446)	(75,446)	170,477	31%
Police Academy	-	-	-	-	-
TIF 1A	-	-	-	-	-
TIF 1B	-	-	-	-	-
Sewer Reserve Fund	(350,000)	-	-	350,000	0%
Qualified Sinking Fund	-	-	-	-	-
<b>Total Transfers Out</b>	<b>(3,013,718)</b>	<b>(696,766)</b>	<b>(845,035)</b>	<b>2,168,683</b>	<b>28%</b>

**NET TRANSFERS**

General Fund	(747,076)	(25,000)	(125,000)	622,076	17%
Sewer Fund	350,000	-	-	(350,000)	0%
Debt Service Fund	(605,154)	(596,320)	(644,589)	(39,435)	107%
Capital Improvement Program Fund	484,445	69,550	117,819	(366,626)	24%
Lottery Fund	(293,867)	-	-	293,867	0%
Economic Development Fund	82,510	-	-	(82,510)	0%
Off Street Parking Fund	1,275,065	627,216	727,216	(547,849)	57%
Redevelopment Fund	(245,923)	(75,446)	(75,446)	170,477	31%
Police Academy	-	-	-	-	-
TIF 1A	-	-	-	-	-
TIF 1B	-	-	-	-	-
Sewer Reserve Fund	(350,000)	-	-	350,000	0%
Qualified Sinking Fund	50,000	-	-	(50,000)	0%
<b>Total Net Transfers</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>(0)</b>	<b>-</b>

**CITY OF LAVISTA, NEBRASKA**  
**COMBINED STATEMENT OF REVENUES, EXPENDITURES**  
**AND CHANGES IN FUND BALANCE-ALL GOVERNMENTAL FUND TYPES**  
**For the Six months ending March 31, 2021**  
**50% of the Fiscal Year 2021**

	<b>Total All Funds</b>				
	<u>Budget</u> (12 month)	<u>MTD</u> <u>Actual</u>	<u>YTD</u> <u>Actual</u>	<u>Over(under)</u> <u>Budget</u>	<u>% of Budget</u> <u>Used</u>
Sewer Fund	-	-	-	-	-
Capital Improvement Program Fund	6,490,000	-	-	(6,490,000)	0%
Economic Development Fund	3,000,000	-	-	(3,000,000)	0%
Off Street Parking Fund	-	-	-	-	-
Redevelopment Fund	9,615,000	-	-	(9,615,000)	0%
<b>Total Bond Proceeds</b>	<b>19,105,000</b>	<b>-</b>	<b>-</b>	<b>(19,105,000)</b>	<b>0%</b>

**OTHER REVENUE: BOND PROCEEDS**

Sewer Fund	-	-	-	-	-
Capital Improvement Program Fund	6,490,000	-	-	(6,490,000)	0%
Economic Development Fund	3,000,000	-	-	(3,000,000)	0%
Off Street Parking Fund	-	-	-	-	-
Redevelopment Fund	9,615,000	-	-	(9,615,000)	0%
<b>Total Bond Proceeds</b>	<b>19,105,000</b>	<b>-</b>	<b>-</b>	<b>(19,105,000)</b>	<b>0%</b>

**OTHER EXPENDITURES: CAPITAL IMPROVEMENT PROGRAM**

Sewer Fund	630,000	-	259	(629,741)	0%
Capital Improvement Program Fund	6,979,445	21,194	97,937	(6,881,508)	1%
Off Street Parking Fund	100,000	-	2,188	(97,812)	2%
Redevelopment Fund	4,181,000	9,641	59,252	(4,121,748)	1%
<b>Total Capital Improvement Program</b>	<b>11,890,445</b>	<b>30,835</b>	<b>159,636</b>	<b>(11,730,809)</b>	<b>1%</b>

**OTHER EXPENDITURES: EDP GRANT**

Economic Development Fund	1,000,000	-	-	(1,000,000)	0%
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**NET FUND ACTIVITY**

General Fund	(1,480,823)	(156,161)	(1,903,812)	(422,989)	
Sewer Fund	154,355	312,777	652,791	498,436	
Debt Service Fund	(538,444)	(663,304)	(1,709,687)	(1,171,243)	
Capital Improvement Program Fund	(4,613)	48,356	19,882	24,495	
Lottery Fund	(38,109)	77,403	535,868	573,977	
Economic Development Fund	2,010,070	0	4	(2,010,066)	
Off Street Parking Fund	101,111	524,690	30,305	(70,806)	
Redevelopment Fund	5,419,089	113,936	738,390	(4,680,699)	
Police Academy	31,811	(7,981)	73,478	41,667	
TIF 1A	(47,336)	-	(47,336)	(0)	
TIF 1B	(15,280)	-	(15,281)	(1)	
Sewer Reserve Fund	(332,253)	262	2,618	334,871	
Qualified Sinking Fund	53,757	47	470	(53,287)	
<b>Net Activity</b>	<b>\$ 5,313,335</b>	<b>250,026</b>	<b>(1,622,310)</b>	<b>(6,935,645)</b>	

**CITY OF LAVISTA, NEBRASKA**  
**COMBINED STATEMENT OF REVENUES, EXPENDITURES**  
**AND CHANGES IN FUND BALANCE-ALL GOVERNMENTAL FUND TYPES**  
**For the Six months ending March 31, 2021**  
**50% of the Fiscal Year 2021**

	<b>Total All Funds</b>				
	<b>Budget (12 month)</b>	<b>MTD Actual</b>	<b>YTD Actual</b>	<b>Over(under) Budget</b>	<b>% of Budget Used</b>
<b>FUND BALANCE</b>	<b>As of 9/30/2021</b>		<b>As of 3/31/2021</b>	<b>Variance</b>	<b>Notes</b>
General Fund	6,063,848		6,692,347	628,499	
Sewer Fund	1,064,689		1,818,408	753,719	
Debt Service Fund	2,546,407		1,729,016	(817,391)	
Capital Improvement Program Fund	36,922		(18,626)	(55,548)	
Lottery Fund	3,813,883		4,417,337	603,454	
Economic Development Fund	2,017,138		7,073	(2,010,065)	
Off Street Parking Fund	165,570		45,449	(120,121)	
Redevelopment Fund	8,831,835		4,532,004	(4,299,831)	
Police Academy	58,683		105,252	46,569	
TIF 1A	-		-	-	
TIF 1B	-		-	-	
Sewer Reserve Fund	1,623,681		1,959,878	336,197	
Qualified Sinking Fund	404,998		351,943	(53,055)	
<b>Net Fund Balance</b>	<b>26,627,654</b>	<b>-</b>	<b>21,640,081</b>	<b>(4,987,573)</b>	

**CITY OF LAVISTA, NEBRASKA**  
**COMBINED STATEMENT OF REVENUES, EXPENDITURES**  
**AND CHANGES IN FUND BALANCE-ALL GOVERNMENTAL FUND TYPES**  
**For the Six months ending March 31, 2021**  
**50% of the Fiscal Year 2021**

	<b>General Fund</b>					% of Budget Used
	<b>Budget (12 month)</b>	<b>MTD Actual</b>	<b>YTD Actual</b>	<b>Over(under) Budget</b>		
<b>REVENUES</b>						
Property Taxes	\$ 9,393,170	\$ 409,187	\$ 1,652,517	\$ (7,740,653)		18%
Sales and use taxes	3,887,077	395,252	2,431,048	(1,456,029)		63%
Payments in Lieu of taxes	356,710	-	-	(356,710)		0%
State revenue	1,739,301	162,457	1,051,124	(688,177)		60%
Occupation and franchise taxes	885,022	12,260	427,283	(457,739)		48%
Hotel Occupation Tax	363,215	49,098	258,342	(104,873)		71%
Licenses and permits	457,113	64,954	314,940	(142,173)		69%
Interest income	67,207	1,704	14,444	(52,763)		21%
Recreation fees	171,782	15,626	58,403	(113,379)		34%
Special Services	24,000	2,171	10,025	(13,975)		42%
Grant Income	165,736	19,601	97,889	(67,847)		59%
Other	1,062,673	79,678	493,749	(568,924)		46%
<b>Total Revenues</b>	<b>18,573,006</b>	<b>1,211,989</b>	<b>6,809,765</b>	<b>(11,763,241)</b>		<b>37%</b>
<b>EXPENDITURES</b>						
Administrative Services	582,929	35,972	260,313	(322,616)		45%
Mayor and Council	220,064	12,791	94,072	(125,992)		43%
Boards & Commissions	6,335	60	636	(5,699)		10%
Building Maintenance	635,049	29,946	231,212	(403,837)		36%
Administration	689,538	40,744	308,171	(381,367)		45%
Police and Animal Control	5,406,114	411,850	2,714,427	(2,691,687)		50%
Fire	2,412,062	192,021	1,152,184	(1,259,878)		48%
Community Development	675,426	49,289	307,049	(368,377)		45%
Public Works	4,157,840	249,796	1,604,722	(2,553,118)		39%
Recreation	860,732	44,466	311,398	(549,334)		36%
Library	948,460	69,980	414,457	(534,003)		44%
Information Technology	399,586	24,378	134,157	(265,429)		34%
Human Resources	1,001,387	60,933	397,543	(603,844)		40%
Public Transportation	111,198	5,426	41,092	(70,106)		37%
Finance	475,544	57,704	225,107	(250,437)		47%
Communication	216,020	11,468	63,320	(152,700)		29%
Capital outlay	508,469	46,328	328,717	(179,752)		65%
<b>Total Expenditures</b>	<b>19,306,753</b>	<b>1,343,150</b>	<b>8,588,577</b>	<b>(10,718,176)</b>		<b>44%</b>
<b>REVENUES NET OF EXPENDITURES</b>	<b>(733,747)</b>	<b>(131,161)</b>	<b>(1,778,812)</b>	<b>(1,045,065)</b>		
<b>OTHER FINANCING SOURCES (USES)</b>						
Operating transfers in (Lottery)	193,867	-	-	(193,867)		0%
Operating transfers out (DSF, OSP, CIP)	(940,943)	(25,000)	(125,000)	815,943		13%
<b>Total other Financing Sources (Uses)</b>	<b>(747,076)</b>	<b>(25,000)</b>	<b>(125,000)</b>	<b>622,076</b>		
<b>NET FUND ACTIVITY</b>	<b>\$ (1,480,823)</b>	<b>\$ (156,161)</b>	<b>\$ (1,903,811.6)</b>	<b>\$ (422,989)</b>		

**CITY OF LAVISTA, NEBRASKA**  
**COMBINED STATEMENT OF REVENUES, EXPENDITURES**  
**AND CHANGES IN FUND BALANCE-PROPRIETARY FUNDS**  
For the Six months ending March 31, 2021  
50% of the Fiscal Year 2021

	<b>Sewer Fund</b>					% of Budget Used
	<u>Budget</u> (12 month)	<u>MTD</u> <u>Actual</u>	<u>YTD</u> <u>Actual</u>	Over(under) <u>Budget</u>		
<b>REVENUES</b>						
User fees	\$ 4,336,482	\$ 372,840	\$ 2,089,389	\$ (2,247,093)	48%	
Service charge and hook-up fees	123,065	1,494	19,975	(103,090)	16%	
Miscellaneous	19	2	20	1	1	
<b>Total Revenues</b>	<b>4,459,566</b>	<b>374,337</b>	<b>2,109,384</b>	<b>(2,350,182)</b>	<b>47%</b>	
<b>EXPENDITURES</b>						
Personnel Services	549,189	41,514	268,235	(280,954)	49%	
Commodities	35,356	1,009	6,456	(28,900)	18%	
Contract Services	3,065,964	18,602	1,171,312	(1,894,652)	38%	
Maintenance	39,084	1,267	8,115	(30,969)	21%	
Other	230	-	98	(133)	42%	
Storm Water Grant	55,085	-	5,355	(49,730)	10%	
Capital Outlay	290,000	-	-	(290,000)	0%	
<b>Total Expenditures</b>	<b>4,034,908</b>	<b>62,391</b>	<b>1,459,570</b>	<b>(2,575,338)</b>	<b>36%</b>	
<b>OPERATING INCOME (LOSS)</b>	<b>424,658</b>	<b>311,946</b>	<b>649,814</b>	<b>225,156</b>		Note 1
<b>NON-OPERATING REVENUE (EXPENSE)</b>						
Interest income	9,697	831	3,235	(6,462)	33%	
	<u>9,697</u>	<u>831</u>	<u>3,235</u>	<u>(6,462)</u>	<u>33%</u>	
<b>INCOME (LOSS) BEFORE OPERATING TRANSFERS</b>	<b>434,355</b>	<b>312,777</b>	<b>653,050</b>	<b>218,695</b>		
<b>OTHER FINANCING SOURCES (USES)</b>						
Operating transfers in (Lottery Events)	350,000	-	-	(350,000)	0%	
Operating transfers out (CIP & Sewer Reserve)	-	-	-	-	0%	
Bond/registered warrant proceeds					0%	
Capital Improvement	(630,000)	-	(259)	629,741	0%	
<b>Total other Financing Sources (Uses)</b>	<b>(280,000)</b>	<b>-</b>	<b>(259)</b>	<b>279,741</b>	<b>0%</b>	
<b>NET INCOME (LOSS)</b>	<b>\$ 154,355</b>	<b>\$ 312,777</b>	<b>\$ 652,791</b>	<b>\$ 498,436</b>		
<b>Note 1: Restatement of Operating Income Variance</b>						
Operating Income Variance				225,156		
City of Omaha billing in arrears 1 months				(220,000)		
Adjusted Operating Income Variance				<u>5,156</u>		

**CITY OF LAVISTA, NEBRASKA**  
**COMBINED STATEMENT OF REVENUES, EXPENDITURES**  
**AND CHANGES IN FUND BALANCE-ALL GOVERNMENTAL FUND TYPES**  
For the Six months ending March 31, 2021  
50% of the Fiscal Year 2021

	<b>Debt Service Fund</b>				<b>% of Budget Used</b>
	<b>Budget (12 month)</b>	<b>MTD Actual</b>	<b>YTD Actual</b>	<b>Over(under) Budget</b>	
<b>REVENUES</b>					
Property Taxes	\$ 891,190	\$ 37,696	\$ 145,889	\$ (745,301)	16%
Sales and use taxes	1,943,539	197,626	1,215,524	(728,015)	63%
Payments in Lieu of taxes	35,279	-	-	(35,279)	0%
Other (Special Assessments; Fire Reimbursement)	503,714	41,976	251,856	(251,858)	50%
Interest income	27,767	769	6,582	(21,185)	24%
<b>Total Revenues</b>	<b><u>3,401,489</u></b>	<b><u>278,067</u></b>	<b><u>1,619,851</u></b>	<b><u>(1,781,638)</u></b>	<b><u>48%</u></b>
<b>EXPENDITURES</b>					
Administration	98,571	403	7,177	(91,394)	7%
Fire Contract Bond	122,906	17,794	106,764	(16,142)	87%
Debt service					
Principal	2,645,000	310,000	2,375,000	(270,000)	90%
Interest	468,302	16,854	196,008	(272,294)	42%
<b>Total Expenditures</b>	<b><u>3,334,779</u></b>	<b><u>345,051</u></b>	<b><u>2,684,949</u></b>	<b><u>(649,830)</u></b>	<b><u>81%</u></b>
<b>REVENUES NET OF EXPENDITURES</b>					
	<b><u>66,710</u></b>	<b><u>(66,984)</u></b>	<b><u>(1,065,099)</u></b>	<b><u>(1,131,809)</u></b>	
<b>OTHER FINANCING SOURCES (USES)</b>					
Operating transfers in (GF Hwy Alloc)	577,831	-	-	(577,831)	0%
Operating transfers out (CIP, OSP)	(1,182,985)	(596,320)	(644,589)	538,396	54%
<b>Total other Financing Sources (Uses)</b>	<b><u>(605,154)</u></b>	<b><u>(596,320)</u></b>	<b><u>(644,589)</u></b>	<b><u>(39,435)</u></b>	
<b>NET FUND ACTIVITY</b>					
	<b><u>\$ (538,444)</u></b>	<b><u>\$ (663,304)</u></b>	<b><u>\$ (1,709,687)</u></b>	<b><u>\$ (1,171,243)</u></b>	

**CITY OF LAVISTA, NEBRASKA**  
**COMBINED STATEMENT OF REVENUES, EXPENDITURES**  
**AND CHANGES IN FUND BALANCE-ALL GOVERNMENTAL FUND TYPES**  
For the Six months ending March 31, 2021  
50% of the Fiscal Year 2021

	<b>Capital Fund</b>					<b>% of Budget Used</b>
	<b>Budget (12 month)</b>	<b>MTD Actual</b>	<b>YTD Actual</b>	<b>Over(under) Budget</b>		
<b>REVENUES</b>						
Interest income	\$ 387	\$ 0	\$ 0	\$ (387)		0%
Grant Income	-	-	-	-		0%
Special Assessment	-	-	-	-		0%
Interagency	-	-	-	-		0%
<b>Total Revenues</b>	<b>387</b>	<b>0</b>	<b>0</b>	<b>(387)</b>		<b>0%</b>
<b>EXPENDITURES</b>						
Other	-	-	-	-		0%
<b>Total Expenditures</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>		<b>0%</b>
<b>REVENUES NET OF EXPENDITURES</b>	<b>387</b>	<b>0</b>	<b>0</b>	<b>(387)</b>		
<b>OTHER FINANCING SOURCES (USES)</b>						
Operating transfers in (GF, DSF)	484,445	69,550	117,819	(366,626)		24%
Operating transfers out (DSF)	-	-	-	-		0%
Bond/registered warrant proceeds	6,490,000	-	-	(6,490,000)		0%
Capital outlay	(6,979,445)	(21,194)	(97,937)	6,881,508		1%
<b>Total other Financing Sources (Uses)</b>	<b>(5,000)</b>	<b>48,356</b>	<b>19,882</b>	<b>24,882</b>		<b>-398%</b>
<b>NET FUND ACTIVITY</b>	<b>\$ (4,613)</b>	<b>\$ 48,356</b>	<b>\$ 19,882</b>	<b>\$ 24,495</b>		

**CITY OF LAVISTA, NEBRASKA**  
**COMBINED STATEMENT OF REVENUES, EXPENDITURES**  
**AND CHANGES IN FUND BALANCE-ALL GOVERNMENTAL FUND TYPES**  
For the Six months ending March 31, 2021  
50% of the Fiscal Year 2021

<b>Lottery Fund</b>						
	<u>Budget</u> (12 month)	<u>MTD</u> <u>Actual</u>	<u>YTD</u> <u>Actual</u>	Over(under) <u>Budget</u>	% of Budget <u>Used</u>	

**REVENUES**

Lottery Rev/Community Betterment	\$ 645,147	\$ 111,113	\$ 635,681	\$ (9,466)	99%
Lottery Tax Form 51	258,067	25,187	161,818	(96,249)	63%
Interest income	37,731	2,353	8,050	(29,681)	21%
Miscellaneous / Other	-	-	600	600	0%
<b>Total Revenues</b>	<b>940,945</b>	<b>138,652</b>	<b>806,149</b>	<b>(134,796)</b>	<b>86%</b>

**EXPENDITURES**

Professional Services	174,735	13,890	40,970	(133,765)	23%
Salute to Summer	150,127	16,726	16,902	(133,225)	11%
Community Events	29,840	3,321	24,167	(5,673)	81%
Events - Marketing	60,000	2,125	26,424	(33,576)	44%
Recreation Events	1,518	-	-	(1,518)	0%
Concert & Movie Nights	10,900	-	-	(10,900)	0%
State Taxes	258,067	25,187	161,818	(96,249)	63%
<b>Total Expenditures</b>	<b>685,187</b>	<b>61,249</b>	<b>270,281</b>	<b>(414,906)</b>	<b>39%</b>

<b>REVENUES NET OF EXPENDITURES</b>	<b>255,758</b>	<b>77,403</b>	<b>535,868</b>	<b>280,110</b>
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**OTHER FINANCING SOURCES (USES)**

Operating transfers in	-	-	-	-	0%
Operating transfers out (GF, SF, DSF)	(293,867)	-	-	293,867	0%
<b>Total other Financing Sources (Uses)</b>	<b>(293,867)</b>	<b>-</b>	<b>-</b>	<b>293,867</b>	<b>0%</b>

<b>NET FUND ACTIVITY</b>	<b>S (38,109)</b>	<b>S 77,403</b>	<b>S 535,868</b>	<b>S 573,977</b>
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**CITY OF LAVISTA, NEBRASKA**  
**COMBINED STATEMENT OF REVENUES, EXPENDITURES**  
**AND CHANGES IN FUND BALANCE-ALL GOVERNMENTAL FUND TYPES**  
For the Six months ending March 31, 2021  
50% of the Fiscal Year 2021

	<b>Economic Development</b>				
	<u>Budget</u> (12 month)	<u>MTD</u> <u>Actual</u>	<u>YTD</u> <u>Actual</u>	Over(under) <u>Budget</u>	% of Budget <u>Used</u>
<b><u>REVENUES</u></b>					
Other Income	\$ -	\$ -	\$ -	\$ -	
Interest income	<u>10,070</u>	<u>0</u>	<u>4</u>	<u>(10,066)</u>	
<b>Total Revenues</b>	<b><u>10,070</u></b>	<b><u>0</u></b>	<b><u>4</u></b>	<b><u>(10,066)</u></b>	
<b><u>EXPENDITURES</u></b>					
Professional Services	34,500	-	-	(34,500)	0%
Debt service: (Warrants)					0%
Principal	-	-	-	-	0%
Interest	<u>48,010</u>	<u>-</u>	<u>-</u>	<u>(48,010)</u>	<u>0%</u>
<b>Total Expenditures</b>	<b><u>82,510</u></b>	<b><u>-</u></b>	<b><u>-</u></b>	<b><u>(82,510)</u></b>	<b><u>0%</u></b>
<b><u>REVENUES NET OF EXPENDITURES</u></b>	<b><u>(72,440)</u></b>	<b><u>0</u></b>	<b><u>4</u></b>	<b><u>72,444</u></b>	
<b><u>OTHER FINANCING SOURCES (USES)</u></b>					
Operating transfers in (GF, DSF)	82,510	-	-	(82,510)	0%
Operating transfers out	-	-	-	-	0%
Bond/registered warrant proceeds	<u>3,000,000</u>	<u>-</u>	<u>-</u>	<u>(3,000,000)</u>	<u>0%</u>
Community Development - Grant	<u>(1,000,000)</u>	<u>-</u>	<u>-</u>	<u>1,000,000</u>	<u>0%</u>
<b>Total other Financing Sources (Uses)</b>	<b><u>2,082,510</u></b>	<b><u>-</u></b>	<b><u>-</u></b>	<b><u>(2,082,510)</u></b>	<b><u>0%</u></b>
<b><u>NET FUND ACTIVITY</u></b>	<b><u>\$ 2,010,070</u></b>	<b><u>\$ 0</u></b>	<b><u>\$ 4</u></b>	<b><u>\$ (2,010,066)</u></b>	

**CITY OF LAVISTA, NEBRASKA**  
**COMBINED STATEMENT OF REVENUES, EXPENDITURES**  
**AND CHANGES IN FUND BALANCE-ALL GOVERNMENTAL FUND TYPES**  
For the Six months ending March 31, 2021  
50% of the Fiscal Year 2021

	<b>Off Street Parking</b>					% of Budget Used
	<u>Budget</u> (12 month)	<u>MTD</u> <u>Actual</u>	<u>YTD</u> <u>Actual</u>	Over(under) <u>Budget</u>		
<b>REVENUES</b>						
Garage fees	\$ 23,000	\$ 2,236	\$ 11,976	\$ (11,024)		52%
Interest income	1,111	-	12	(1,099)		1%
<b>Total Revenues</b>	<b>24,111</b>	<b>2,236</b>	<b>11,988</b>	<b>(12,123)</b>		<b>50%</b>
<b>EXPENDITURES</b>						
General & Administrative	160,326	15,596	87,747	(72,579)		55%
Professional Services	780	250	375	(405)		48%
Maintenance	32,276	13,020	16,047	(16,229)		50%
Commodities	11,000	700	700	(10,300)		6%
Debt service: (Warrants)						
Principal	695,000	-	500,000	(195,000)		72%
Interest	198,683	75,196	101,841	(96,842)		51%
<b>Total Expenditures</b>	<b>1,098,065</b>	<b>104,762</b>	<b>706,711</b>	<b>(391,354)</b>		<b>64%</b>
<b>REVENUES NET OF EXPENDITURES</b>	<b>(1,073,954)</b>	<b>(102,526)</b>	<b>(694,723)</b>	<b>379,231</b>		
<b>OTHER FINANCING SOURCES (USES)</b>						
Operating transfers in (GF, DSF, RDF)	1,275,065	627,216	727,216	(547,849)		57%
Operating transfers out	-	-	-	-		0%
Bond/registered warrant proceeds	-	-	-	-		0%
Capital Improvement	(100,000)	-	(2,188)	97,812		2%
<b>Total other Financing Sources (Uses)</b>	<b>1,175,065</b>	<b>627,216</b>	<b>725,028</b>	<b>(450,037)</b>		<b>62%</b>
<b>NET FUND ACTIVITY</b>	<b>\$ 101,111</b>	<b>\$ 524,690</b>	<b>\$ 30,305</b>	<b>\$ (70,806)</b>		

**CITY OF LAVISTA, NEBRASKA**  
**COMBINED STATEMENT OF REVENUES, EXPENDITURES**  
**AND CHANGES IN FUND BALANCE-ALL GOVERNMENTAL FUND TYPES**  
For the Six months ending March 31, 2021  
50% of the Fiscal Year 2021

	<b>Redevelopment Fund</b>					
	<u>Budget</u> (12 month)	<u>MTD</u> <u>Actual</u>	<u>YTD</u> <u>Actual</u>	Over(under) <u>Budget</u>	% of Budget <u>Used</u>	
<b>REVENUES</b>						
Sales and use taxes	\$ 1,943,539	\$ 197,626	\$ 1,215,524	\$ (728,015)	63%	
Franchise Fee & Occupation Tax	34,657	-	-	(34,657)	0%	
Interest income	60,391	1,428	9,912	(50,479)	16%	
<b>Total Revenues</b>	<b><u>2,038,587</u></b>	<b><u>199,053</u></b>	<b><u>1,225,436</u></b>	<b><u>(813,151)</u></b>	<b><u>60%</u></b>	
<b>EXPENDITURES</b>						
Professional Services	99,700	-	514	(99,186)	1%	
Financial / Legal Fees	196,750	30	43,384	(153,366)	22%	
Debt service: (Warrants)						0%
Principal	750,000	-	-	(750,000)	0%	
Interest	761,125	-	308,450	(452,675)	41%	
<b>Total Expenditures</b>	<b><u>1,807,575</u></b>	<b><u>30</u></b>	<b><u>352,348</u></b>	<b><u>(1,455,227)</u></b>	<b><u>19%</u></b>	
<b>REVENUES NET OF EXPENDITURES</b>	<b><u>231,012</u></b>	<b><u>199,023</u></b>	<b><u>873,088</u></b>	<b><u>642,076</u></b>		
<b>OTHER FINANCING SOURCES (USES)</b>						
Operating transfers in	-	-	-	-	0%	
Operating transfers out (OSP)	(245,923)	(75,446)	(75,446)	170,477	31%	
Bond/registered warrant proceeds	9,615,000	-	-	(9,615,000)	0%	
Capital Improvement	(4,181,000)	(9,641)	(59,252)	4,121,748	1%	
<b>Total other Financing Sources (Uses)</b>	<b><u>5,188,077</u></b>	<b><u>(85,087)</u></b>	<b><u>(134,699)</u></b>	<b><u>(5,322,776)</u></b>		
<b>NET FUND ACTIVITY</b>	<b><u>\$ 5,419,089</u></b>	<b><u>\$ 113,936</u></b>	<b><u>\$ 738,390</u></b>	<b><u>\$ (4,680,699)</u></b>		

**CITY OF LAVISTA, NEBRASKA**  
**COMBINED STATEMENT OF REVENUES, EXPENDITURES**  
**AND CHANGES IN FUND BALANCE-ALL GOVERNMENTAL FUND TYPES**  
**For the Six months ending March 31, 2021**  
**50% of the Fiscal Year 2021**

<b>Police Academy Fund</b>						
	<u>Budget</u> (12 month)	<u>MTD</u> <u>Actual</u>	<u>YTD</u> <u>Actual</u>	Over(under) <u>Budget</u>	% of budget <u>Used</u>	
<b>REVENUES</b>						
Academy income	\$ 148,000	S (18)	S 132,304	S (15,696)	89%	
Interest income	423	7	61	(362)	14%	
<b>Total Revenues</b>	<b>148,423</b>	<b>(11)</b>	<b>132,365</b>	<b>(16,058)</b>	<b>89%</b>	
<b>EXPENDITURES</b>						
Personnel Services	97,692	7,428	47,155	(50,537)	48%	
Commodities	2,150	122	1,702	(448)	79%	
Contract Services	11,970	408	4,269	(7,701)	36%	
Other Charges	4,800	11	5,761	961	120%	
<b>Total Expenditures</b>	<b>116,612</b>	<b>7,970</b>	<b>58,887</b>	<b>(57,725)</b>	<b>50%</b>	
<b>REVENUES NET OF EXPENDITURES</b>	<b>31,811</b>	<b>(7,981)</b>	<b>73,478</b>	<b>41,667</b>		
<b>OTHER FINANCING SOURCES (USES)</b>						
Operating transfers in (GF)	-	-	-	-	0%	
Operating transfers out	-	-	-	-	0%	
<b>Total other Financing Sources (Uses)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>		
<b>NET FUND ACTIVITY</b>	<b>\$ 31,811</b>	<b>S (7,981)</b>	<b>S 73,478</b>	<b>S 41,667</b>		

**CITY OF LAVISTA, NEBRASKA**  
**COMBINED STATEMENT OF REVENUES, EXPENDITURES**  
**AND CHANGES IN FUND BALANCE-ALL GOVERNMENTAL FUND TYPES**  
For the Six months ending March 31, 2021  
50% of the Fiscal Year 2021

<b>TIF 1A</b>					
	<u>Budget</u> <u>(12 month)</u>	<u>MTD</u> <u>Actual</u>	<u>YTD</u> <u>Actual</u>	<u>Over(under)</u> <u>Budget</u>	<u>% of Budget</u> <u>Used</u>
<b><u>REVENUES</u></b>					
Property Tax	\$ 305,081	\$ -	\$ -	\$ (305,081)	0%
<b>Total Revenues</b>	<b>\$ 305,081</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ (305,081)</b>	<b>0%</b>
<b><u>EXPENDITURES</u></b>					
TIF Distributed Funds	349,366	-	47,336	(302,030)	14%
Contract Services	3,051	-	-	(3,051)	0%
<b>Total Expenditures</b>	<b>352,417</b>	<b>-</b>	<b>47,336</b>	<b>(305,081)</b>	<b>-</b>
<b><u>REVENUES NET OF EXPENDITURES</u></b>	<b><u>(47,336)</u></b>	<b><u>-</u></b>	<b><u>(47,336)</u></b>	<b><u>(0)</u></b>	
<b><u>OTHER FINANCING SOURCES (USES)</u></b>					
Operating transfers in	-	-	-	-	0%
Operating transfers out	-	-	-	-	0%
<b>Total other Financing Sources (Uses)</b>	<b><u>-</u></b>	<b><u>-</u></b>	<b><u>-</u></b>	<b><u>-</u></b>	
<b><u>NET FUND ACTIVITY</u></b>	<b><u>\$ (47,336)</u></b>	<b><u>\$ -</u></b>	<b><u>\$ (47,336)</u></b>	<b><u>\$ (0)</u></b>	

**CITY OF LAVISTA, NEBRASKA**  
**COMBINED STATEMENT OF REVENUES, EXPENDITURES**  
**AND CHANGES IN FUND BALANCE-ALL GOVERNMENTAL FUND TYPES**  
For the Six months ending March 31, 2021  
50% of the Fiscal Year 2021

**TIF 1B**

	<u>Budget</u> (12 month)	<u>MTD</u> <u>Actual</u>	<u>YTD</u> <u>Actual</u>	<u>Over(under)</u> <u>Budget</u>	<u>% of Budget</u> <u>Used</u>
<b>REVENUES</b>					
Property Tax	\$ 418,803	\$ -	\$ -	\$ (418,803)	0%
<b>Total Revenues</b>					
	<u>418,803</u>	<u>-</u>	<u>-</u>	<u>(418,803)</u>	<u>0%</u>
<b>EXPENDITURES</b>					
TIF Distributed Funds	429,895	-	15,281	(414,614)	4%
Contract Services	4,188	-	-	(4,188)	0%
<b>Total Expenditures</b>					
	<u>434,083</u>	<u>-</u>	<u>15,281</u>	<u>(418,802)</u>	<u>-</u>
<b>REVENUES NET OF EXPENDITURES</b>					
	<u>(15,280)</u>	<u>-</u>	<u>(15,281)</u>	<u>(1)</u>	
<b>OTHER FINANCING SOURCES (USES)</b>					
Operating transfers in				-	0%
Operating transfers out				-	0%
<b>Total other Financing Sources (Uses)</b>					
	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
<b>NET FUND ACTIVITY</b>					
	<u>\$ (15,280)</u>	<u>\$ -</u>	<u>\$ (15,281)</u>	<u>\$ (1)</u>	

**CITY OF LAVISTA, NEBRASKA**  
**COMBINED STATEMENT OF REVENUES, EXPENDITURES**  
**AND CHANGES IN FUND BALANCE-ALL GOVERNMENTAL FUND TYPES**  
For the Six months ending March 31, 2021  
50% of the Fiscal Year 2021

<b>Sewer Reserve Fund</b>					
	<u>Budget</u> (12 month)	<u>MTD</u> <u>Actual</u>	<u>YTD</u> <u>Actual</u>	<u>Ovr(under)</u> <u>Budget</u>	<u>% of Budget</u> <u>Used</u>
<b><u>REVENUES</u></b>					
Interest income	\$ 17,747	S 262	\$ 2,618	S (15,129)	15%
<b>Total Revenues</b>	<b>\$ 17,747</b>	<b>S 262</b>	<b>\$ 2,618</b>	<b>S (15,129)</b>	<b>15%</b>
<b><u>EXPENDITURES</u></b>					
Other	-	-	-	-	0%
<b>Total Expenditures</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b><u>REVENUES NET OF EXPENDITURES</u></b>	<b><u>17,747</u></b>	<b><u>262</u></b>	<b><u>2,618</u></b>	<b><u>(15,129)</u></b>	
<b><u>OTHER FINANCING SOURCES (USES)</u></b>					
Operating transfers in	-	-	-	-	0%
Operating transfers out	(350,000)	-	-	350,000	0%
<b>Total other Financing Sources (Uses)</b>	<b>(350,000)</b>	<b>-</b>	<b>-</b>	<b>350,000</b>	
<b><u>NET FUND ACTIVITY</u></b>	<b><u>\$ (332,253)</u></b>	<b><u>S 262</u></b>	<b><u>S 2,618</u></b>	<b><u>S 334,871</u></b>	

**CITY OF LAVISTA, NEBRASKA**  
**COMBINED STATEMENT OF REVENUES, EXPENDITURES**  
**AND CHANGES IN FUND BALANCE-ALL GOVERNMENTAL FUND TYPES**  
For the Six months ending March 31, 2021  
50% of the Fiscal Year 2021

<b>Qualified Sinking Fund</b>						
	<u>Budget</u> (12 month)	<u>MTD</u> <u>Actual</u>	<u>YTD</u> <u>Actual</u>	Over(under) <u>Budget</u>	% of Budget <u>Used</u>	
<b>REVENUES</b>						
Interest income	\$ 3,757	S 47	470	S (3,287)	13%	
<b>Total Revenues</b>	<u>3,757</u>	<u>47</u>	<u>470</u>	<u>(3,287)</u>	<u>13%</u>	
<b>EXPENDITURES</b>						
Other	-	-	-	-	-	0%
<b>Total Expenditures</b>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
<b>REVENUES NET OF EXPENDITURES</b>	<u>3,757</u>	<u>47</u>	<u>470</u>	<u>(3,287)</u>		
<b>OTHER FINANCING SOURCES (USES)</b>						
Operating transfers in	50,000	-	-	(50,000)	0%	
Operating transfers out	-	-	-	-	0%	
<b>Total other Financing Sources (Uses)</b>	<u>50,000</u>	<u>-</u>	<u>-</u>	<u>(50,000)</u>		
<b>NET FUND ACTIVITY</b>	<u>S 53,757</u>	<u>S 47</u>	<u>S 470</u>	<u>S (53,287)</u>		

**Annual TIF Report - City of La Vista**  
**Approval and Progress of Redevelopment Projects Financed by Division of Taxes**  
**Per LB 874 (2018) Nebraska Revised Statutes 18-2117.02**  
**As of January 1, 2021**

1 The total number of active redevelopment projects within the city that have been financed in whole or in part through the division of taxes as provided in section 18-2147:

3

2 The total estimated project costs for all such redevelopment projects: \$ 35,458,790

**Phase 1A** - 7885 S. 84th Street, La Vista, Sarpy County, Nebraska 68128, La Vista City Centre, Lot 15 and La Vista City Centre Replat 1, Lot 2 Base Value Year 2017 Effective 2018

\$ 10,811,823

**Phase 1B** - 7885 S. 84th Street, La Vista, Sarpy County, Nebraska 68128, Lot 14 La Vista City Centre, SW 1/4 Section 14 T14N R12E; and Lot 10, La Vista City Centre, SW 1/4 Section 14 T14N R12E Base Value Year 2018 Effective 2019

\$ 17,934,473

**Phase 2** - 7885 S. 84th Street, La Vista, Sarpy County, Nebraska 68128, Lots 3, 4, and 5 La Vista City Centre Replat 3, W half of NW 1/4 of the SW Quarter of Section 14 T14N R12E; Base Value Year 2020 Effective 2021

\$ 6,712,494

3 A comparison between the initial projected valuation of property included in each such redevelopment project as described in the redevelopment contract or, for redevelopment projects approved using an expedited review under section 18-2155, in the redevelopment plan and the assessed value of the property included in each such redevelopment project as of January 1 of the year of the report (<https://www.sarpy.com/offices/assessor/political-sub-valuations>) :

	Base Year	1/1/2021	Net Change
<b>Phase 1A</b>	\$ 443,108	\$ 12,497,892	\$ 12,054,784
<b>Phase 1B</b>	\$ 487,729	\$ 4,882,638	\$ 4,394,909
<b>Phase 2</b>	\$ 837,821	\$ 837,821	\$ -

4 The number of such redevelopment projects approved by the governing body in the previous calendar year:

1

5 Information specific to each such redevelopment project approved by the governing body in the previous calendar year, including the project area, project type, amount of financing approved, and total estimated project costs:

**Phase 2** - 7885 S. 84th Street, La Vista, Sarpy County, Nebraska 68128, Lots 3, 4, and 5 La Vista City Centre Replat 3, W half of NW 1/4 of the SW Quarter of Section 14 T14N R12E; Base Value Year 2020 Effective 2021

<b>Project Type:</b>	<u>Mixed Use</u>
<b>Amount Financed:</b>	<u>\$ 798,000</u>
<b>Total Estimated Project Costs:</b>	<u>\$ 6,712,494</u>

6 The number of redevelopment projects for which financing has been paid in full during the previous calendar year and for which taxes are no longer being divided pursuant to section 18-2147:

0

7 The percentage of the city that has been designated as blighted: less than 1%

**Provide to:**

- 1 City of La Vista City Council
- 2 Sarpy County Board
- 3 Papillion/La Vista School District
- 4 Educational Service Unit #3
- 5 Papio/Missouri River Natural Resource District

**Contact Information:**

Cindy Miserez  
Finance Director  
[cmiserez@cityoflavista.org](mailto:cmiserez@cityoflavista.org)  
402-331-4343 ext 140  
City of La Vista  
8116 Park View Blvd  
La Vista, NE 68128

**Provide to Details:****1 City of La Vista City Council**

Place on the consent agenda for the second City Council meeting of April each year. After the City Council meeting mail the report on the first tab to the other jurisdictions.

**2 Sarpy County Board**

1210 Golden Gate Drive  
Papillion, NE 68046-2839

**3 Papillion/La Vista School District**

420 South Washington Street  
Papillion, NE 68046-2667

**4 Educational Service Unit #3**

6949 South 110th Street  
La Vista, NE 68128

**5 Papio/Missouri River Natural Resource District**

8901 S 154th Street  
Omaha, NE 68138-3733

**18-2117.02. Redevelopment projects; annual report; contents.**

On or before May 1 of each year, each authority, or such other division or department of the city as designated by the governing body, shall compile information regarding the approval and progress of redevelopment projects that are financed in whole or in part through the division of taxes as provided in section 18-2147 and report such information to the governing body of the city and to the governing body of each county, school district, community college area, educational service unit, and natural resources district whose property taxes are affected by such division of taxes. The report shall include, but not be limited to, the following information:

- (1) The total number of active redevelopment projects within the city that have been financed in whole or in part through the division of taxes as provided in section 18-2147;
- (2) The total estimated project costs for all such redevelopment projects;
- (3) A comparison between the initial projected valuation of property included in each such redevelopment project as described in the redevelopment contract or, for redevelopment projects approved using an expedited review under section 18-2155, in the redevelopment plan and the assessed value of the property included in each such redevelopment project as of January 1 of the year of the report;
- (4) The number of such redevelopment projects approved by the governing body in the previous calendar year;
- (5) Information specific to each such redevelopment project approved by the governing body in the previous calendar year, including the project area, project type, amount of financing approved, and total estimated project costs;
- (6) The number of redevelopment projects for which financing has been paid in full during the previous calendar year and for which taxes are no longer being divided pursuant to section 18-2147; and
- (7) The percentage of the city that has been designated as blighted.

**Source:** Laws 2018, LB874, § 16; Laws 2020, LB1003, § 177; Laws 2020, LB1021, § 14.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB1003, section 177, with LB1021, section 14, to reflect all amendments.

**Note:** Changes made by LB1003 became operative November 14, 2020. Changes made by LB1021 became effective November 14, 2020.

**Effective Date:** November 14, 2020



# Invoice

Reference Invoice Number with Payment

**HDR Engineering Inc.**  
Omaha, NE 68106-2973  
Phone: (402) 399-1000

HDR Invoice No. 1200343475  
Invoice Date 29-APR-2021  
Invoice Amount Due \$532.62  
Payment Terms 30 NET

**City of La Vista**  
Rita Ramirez  
8116 Park View Blvd  
La Vista, NE 68128

Remit To PO Box 74008202  
ACH/EFT Payments Chicago, IL 60674-8202  
Bank of America ML US  
ABA# 081000032  
Account# 355004076604

Project Management for Services for Public Improvements and Other Works.

Purchase Order : 20-008348

**Professional Services**

From: 25-OCT-2020 To: 24-APR-2021

<b>Professional Services Summarization</b>	<b>Hours</b>	<b>Billing Rate</b>	<b>Amount</b>
Communications Coordinator	0.50		48.39
Graphic Designer	2.00		224.35
Project Manager	1.00		250.92
	<b>3.50</b>		<b>\$523.66</b>
		<b>Total Professional Services</b>	<b>\$523.66</b>

<b>Expense Summarization</b>	<b>Quantity</b>	<b>Billing Rate</b>	<b>Amount</b>
Mileage Personal			8.96
		<b>Total Expenses</b>	<b>\$8.96</b>

**Amount Due This Invoice (USD)** \$532.62

Fee Amount	\$670,695.00
Fee Invoiced to Date	\$501,588.76
Fee Remaining	\$169,106.24

*R. Ramirez*  
5-7-21

<b>HDR Internal Reference Only</b>	
Client Number	41331
Cost Center	10134
Project Number	10053040

# Invoice

HDR Invoice No. 1200343475  
Invoice Date 29-APR-2021

## Professional Services and Expense Detail

Project Number:	10053040	Project Description:	LaVista-Project Mgmt Svcs	
Task Number:	1.0	Task Description:	Project Management	
<b>Professional Services</b>				
		Hours	<b>Billing Rate</b>	<b>Amount</b>
Project Manager	Koenig, Christopher J	1.00	250.92	250.92
		1.00		\$250.92
		<b>Total Professional Services</b>		<b>\$250.92</b>
<b>Expense</b>				
		Qty	<b>Billing Rate</b>	<b>Amount</b>
Mileage Personal	Koenig, Christopher J	16.00	0.56	8.96
		16.00		\$8.96
		<b>Total Expense</b>		<b>\$8.96</b>
		<b>Total Task</b>		<b>\$259.88</b>

## Professional Services and Expense Detail

Project Number:	10053040	Project Description:	LaVista-Project Mgmt Svcs	
Task Number:	3.0	Task Description:	Public Outreach	
<b>Professional Services</b>				
		Hours	<b>Billing Rate</b>	<b>Amount</b>
Communications Coordinator	Veldhouse, Kristen Lynn	0.50	96.78	48.39
Graphic Designer	Rodriguez, Christina Anne	0.25	109.29	27.32
Graphic Designer	Rolfs	1.75	112.59	197.03
	Rodriguez, Christina Anne	2.50		\$272.74
	Rolfs			
		<b>Total Professional Services</b>		<b>\$272.74</b>
		<b>Total Task</b>		<b>\$272.74</b>

Design Workshop, Inc.  
Landscape Architecture  
Planning  
Urban Design

April 5, 2021  
Invoice No: 0066877

**Current Invoice Total \$11,020.00**

Rita Ramirez  
City of LaVista  
8116 Parkview Blvd.  
LaVista, NE 68128

Project 006515.00 La Vista Wayfinding

Purchase Order # 21-009295

*R. Ramirez*  
5-11-21

**Professional Services from March 1, 2021 to March 31, 2021**

Task 001 Project Kick-off and Project Management  
Fee

Fee	Percent Complete	Earned to Date	Previous Fee Billing	Current Fee Billing
3,500.00	82.5714	2,890.00	2,890.00	0.00

**Total Fee 0.00**

**Total this Task 0.00**

Task 002 Project Context  
Fee

Fee	Percent Complete	Earned to Date	Previous Fee Billing	Current Fee Billing
15,000.00	48.6333	7,295.00	7,295.00	0.00

**Total Fee 0.00**

**Total this Task 0.00**

Task 003 Signage and Wayfinding Framework  
Fee

Fee	Percent Complete	Earned to Date	Previous Fee Billing	Current Fee Billing
30,000.00	42.65	12,795.00	1,775.00	11,020.00

**Total Fee 11,020.00**

**Total this Task \$11,020.00**

**DESIGNWORKSHOP**

Aspen • Austin • Chicago • Denver • Houston • Lake Tahoe • Los Angeles • Shanghai  
1390 Lawrence Street, Suite 100, Denver, Colorado 80204 • 303.623.5186 • 303.623.2260 (fax)

Project	006515.00	La Vista Wayfinding	Invoice	0066877
Task Fee	004	Signage and Wayfinding Plan		
			Fee	Percent Complete
				Earned to Date
				Previous Fee Billing
				Current Fee Billing
		5,500.00	0.00	0.00
			<b>Total Fee</b>	<b>0.00</b>
			<b>Total this Task</b>	<b>0.00</b>
Task Fee	099	Reimbursable Expenses		
			Fee	Percent Complete
				Earned to Date
				Previous Fee Billing
				Current Fee Billing
		2,500.00	0.00	0.00
			<b>Total Fee</b>	<b>0.00</b>
			<b>Total this Task</b>	<b>0.00</b>
			<b>Total this Invoice</b>	<b><u>\$11,020.00</u></b>

Please include invoice number on remittance to:

1390 Lawrence Street, Suite 100, Denver, CO 80204

**DESIGNWORKSHOP**

Aspen • Austin • Chicago • Denver • Houston • Lake Tahoe • Los Angeles • Shanghai  
1390 Lawrence Street, Suite 100, Denver, Colorado 80204 • 303.623.5186 • 303.623.2260 (fax)

Design Workshop, Inc.  
 Landscape Architecture  
 Planning  
 Urban Design

May 10, 2021  
 Invoice No: 0067217

Rita Ramirez  
 City of LaVista  
 8116 Parkview Blvd.  
 LaVista, NE 68128

**Current Invoice Total** **\$11,670.00**

*R. Ramirez*  
 5-11-21

Project 006515.00 La Vista Wayfinding

Purchase Order # 21-009295

**Professional Services from April 1, 2021 to April 30, 2021**

Task 001 Project Kick-off and Project Management  
 Fee

Fee	Percent Complete	Earned to Date	Previous Fee Billing	Current Fee Billing
3,500.00	90.00	3,150.00	2,890.00	260.00

**Total Fee** **260.00**

**Total this Task** **\$260.00**

Task 002 Project Context  
 Fee

Fee	Percent Complete	Earned to Date	Previous Fee Billing	Current Fee Billing
15,000.00	90.00	13,500.00	7,295.00	6,205.00

**Total Fee** **6,205.00**

**Total this Task** **\$6,205.00**

Task 003 Signage and Wayfinding Framework  
 Fee

Fee	Percent Complete	Earned to Date	Previous Fee Billing	Current Fee Billing
30,000.00	60.00	18,000.00	12,795.00	5,205.00

**Total Fee** **5,205.00**

**Total this Task** **\$5,205.00**

**DESIGNWORKSHOP**

Aspen • Austin • Chicago • Denver • Houston • Lake Tahoe • Los Angeles • Shanghai  
 1390 Lawrence Street, Suite 100, Denver, Colorado 80204 • 303.623.5186 • 303.623.2260 (fax)

Project	006515.00	La Vista Wayfinding	Invoice	0067217
Task Fee	004	Signage and Wayfinding Plan		
		Fee	Percent Complete	Earned to Date Previous Fee Billing Current Fee Billing
		5,500.00	0.00	0.00 0.00 0.00
			<b>Total Fee</b>	<b>0.00</b>
			<b>Total this Task</b>	<b>0.00</b>
Task Fee	099	Reimbursable Expenses		
		Fee	Percent Complete	Earned to Date Previous Fee Billing Current Fee Billing
		2,500.00	0.00	0.00 0.00 0.00
			<b>Total Fee</b>	<b>0.00</b>
			<b>Total this Task</b>	<b>0.00</b>
			<b>Total this Invoice</b>	<b><u>\$11,670.00</u></b>

#### Outstanding Invoices

Number	Date	Balance	
0066877	4/5/2021	11,020.00	
<b>Total</b>		<b>11,020.00</b>	
			<b>Total Now Due</b> <b>\$22,690.00</b>

Please include invoice number on remittance to:

1390 Lawrence Street, Suite 100, Denver, CO 80204

**DESIGNWORKSHOP**

Aspen • Austin • Chicago • Denver • Houston • Lake Tahoe • Los Angeles • Shanghai  
1390 Lawrence Street, Suite 100, Denver, Colorado 80204 • 303.623.5186 • 303.623.2260 (fax)



Thompson, Dreessen & Dorner, Inc.  
Consulting Engineers & Land Surveyors

INVOICE

Please remit to:  
TD2 Nebraska Office  
10836 Old Mill Road; Omaha, NE 68154  
Office: 402/330-8860 Fax: 402/330-5866

TD2 South Dakota Office  
5000 S. Minnesota Ave., Ste. 300; Sioux Falls, SD 57108  
Office: 605/951-0886

CITY OF LA VISTA  
PAT DOWSE  
9900 PORTAL ROAD  
LA VISTA, NE 68128

Invoice number 143355  
Date 04/27/2021

Project 0171-400 CITY OF LA VISTA -  
MISCELLANEOUS SERVICES 2012-  
CURRENT, CIVIL

Professional Services from March 8, 2021 through April 11, 2021

Description	Current Billed
<b>Civil Engineering Services</b>	4,837.50
On Call-PW, West Papio Siphon meetings, minutes & communications.	262.50
On Call-PW, SID 237 Drainage-communications with E&A and Schemmers for drainage study reviews.	600.00
On Call-CD, CMR Interface Coordination Team-meetings, minutes, grading plan coordination, consultant task lists, and RFLI documents.	3,562.50
On Call-CD, Prepare and attend monthly virtual Community Development staff meeting.	262.50
On Call-PW, Misc Info Requests-Edmar subdivision info (66th & Harrison) and CIP project info.	150.00
<b>Construction Materials Testing and Special Inspections</b>	0.00
	<b>Total 4,837.50</b>

Invoice total 4,837.50

**Aging Summary**

Invoice Number	Invoice Date	Outstanding	Current	Over 30	Over 60	Over 90	Over 120
143355	04/27/2021	4,837.50	4,837.50				
	Total	4,837.50	4,837.50	0.00	0.00	0.00	0.00

Terms Net 30 Days. A Finance Charge of 1 1/2% Per Month (18% per Annum) Will Be Charged on Past Due Accounts. Also Liable for all Legal and Collection Fees. Invoices not paid within 90 days of the invoice date will be subject to possible lien filings.

*City PD  
5/11/21 PMD  
1,19,030.00*



Thompson, Dreessen & Dorner, Inc.  
Consulting Engineers & Land Surveyors

INVOICE

Please remit to:  
TD2 Nebraska Office  
10836 Old Mill Road; Omaha, NE 68154  
Office: 402/330-8860 Fax: 402/330-5866

TD2 South Dakota Office  
5000 S. Minnesota Ave., Ste. 300; Sioux Falls, SD 57108  
Office: 605/951-0886

CITY OF LA VISTA  
PAT DOWSE  
9900 PORTAL ROAD  
LA VISTA, NE 68128

Invoice number 143356  
Date 04/27/2021

Project 0171-422 CENTRAL PARK  
IMPROVEMENTS

Professional Services from December 28, 2020 through April 11, 2021

Description	Contract Amount	Prior Billed	Remaining	Current Billed
Task 1 - Topographic Survey	3,500.00	3,500.00	0.00	0.00
Task 2 thru 4-Design Work except Task 2.4	39,500.00	9,173.75	29,606.25	720.00
<i>Fee maximum not to be exceeded due to extra work until an amendment is approved at a future date.</i>				
Reimbursables	20,000.00	10,691.86	8,145.64	1,162.50
Subconsultant Services - Felsburg, Holt and Ullevig				
Additional Services	0.00	640.00	-1,400.00	760.00
Exhibits and estimates for March 27 Council Workshop.				
Total	63,000.00	24,005.61	36,351.89	2,642.50

Invoice total 2,642.50

Aging Summary

Invoice Number	Invoice Date	Outstanding	Current	Over 30	Over 60	Over 90	Over 120
143356	04/27/2021	2,642.50	2,642.50				
	Total	2,642.50	2,642.50	0.00	0.00	0.00	0.00

*Terms Net 30 Days. A Finance Charge of 1 1/2% Per Month (18% per Annum) Will Be Charged on Past Due Accounts. Also Liable for all Legal and Collection Fees. Invoices not paid within 90 days of the invoice date will be subject to possible lien filings.*

CTC PA  
 PMD 5/11/21  
 16,71,0917.00 -  
 PARK 2022

# INVOICE

April 30, 2021

No. 1 City of La Vista

Mr. Patrick Dowse  
City of La Vista  
9900 Portal Road  
La Vista, Nebraska 68128

RE: Appraisal:

- Appraisal Report  
Vacant Tract  
SWC Giles Road & 120<sup>th</sup> Street  
La Vista, Nebraska

Service -	\$1,900
Additional -	\$ <u>      </u> 0
Total -	<b>\$1,900</b>

Invoices Due Upon Receipt

Marc Woodle  
Certified General Appraiser  
1002 Limerick Road  
Papillion, NE 68046  
(402)968-9940

Ok to Pay  
DMD 5/11/21

---

## APPRAISAL PROPOSAL

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**DATE** : January 26, 2021

**TO** : Patrick Dowse – City Engineer  
City of La Vista  
9900 Portal Road  
La Vista, Nebraska 68128

**FROM** : Marc Woodle – Certified General Appraiser  
1002 Limerick Road  
Papillion, Nebraska 68046

**SUBJECT** : Appraisal Report  
Vacant Tract – 1.41 Acres  
SWC 120<sup>th</sup> Street & Giles Road  
La Vista, Nebraska

### APPRAISAL REPORT PROPOSAL

As requested, in regard to the aforementioned subject property, I propose an appraisal report that meets the requirements of the Uniform Standards of Professional Appraisal Practice (USPAP). The purpose of the appraisal is to estimate the market value of the property to be used for sale negotiation purposes.

The fee for appraisal product is \$1,900 with a completion date three weeks from formal engagement.

Respectfully submitted,

Marc V. Woodle

---

Marc V. Woodle  
Certified General Appraiser,  
State of Nebraska (CG250088)



February 22, 2021

Mr. Marc Woodle  
Certified General Appraiser  
1002 Limerick Road  
Papillion, NE 68046

SENT VIA EMAIL

RE: Appraisal Proposal  
Vacant Tract – 1.41 Acres  
SWC 120<sup>th</sup> Street & Old Giles Road  
La Vista, Nebraska

Mr. Woodle,

This letter is to hereby notify you to proceed with your proposal to provide an appraisal report as described within said proposal dated January 26, 2021.

Please feel free to let me know if you have any questions. Thank you in advance for your efforts on this project.

Sincerely,

Patrick M. Dowse  
City Engineer

**City Hall**  
8116 Park View Blvd.  
La Vista, NE 68128-2198  
402.331.4343 P  
402.331.4375 F

**Community Development**  
8116 Park View Blvd.  
402.593.6400 P  
402.593.6445 F

**Library**  
9110 Giles Rd.  
402.537.3900 P  
402.537.3902 F

**Police**  
7701 S. 96th St.  
402.331.1582 P  
402.331.7210 F

**Public Works**  
9900 Portal Rd.  
402.331.8927 P  
402.331.1051 F

**Recreation**  
8116 Park View Blvd.  
402.331.3455 P  
402.331.0299 F

User: mgustafson

DB: La Vista

Check #

Check #	Check Date	Vendor Name	Amount	Voided
134635	05/05/2021	ALFRED BENESCH & COMPANY	14,991.86	N
134636	05/05/2021	CITY OF OMAHA	8,138.72	N
134637	05/05/2021	COMMERCIAL SEEDING CONTRACTOR	3,597.00	N
134638	05/05/2021	FELSBURG HOLT & ULLEVIG INC	262.50	N
134639	05/05/2021	HANNAH CARDEN	294.25	N
134640	05/05/2021	OLSSON, INC.	2,162.25	N
134641	05/05/2021	RDG PLANNING & DESIGN	7,478.56	N
134642	05/05/2021	SWAIN CONSTRUCTION INC	390,980.36	N
134643	05/05/2021	UNITED STATES POSTAL SERVICE	1,373.50	N
134644	05/18/2021	1-800 RADIATOR	1,103.00	N
134645	05/18/2021	A-1 BODY, INC.	332.40	N
134646	05/18/2021	A-RELIEF SERVICES INC	141.00	N
134647	05/18/2021	AA WHEEL & TRUCK SUPPLY INC	179.74	N
134648	05/18/2021	ACCURATE TESTING INC	579.15	N
134649	05/18/2021	ACTION BATTERIES UNLTD INC	229.39	N
134650	05/18/2021	AED ZONE	300.00	N
134651	05/18/2021	AKRS EQUIPMENT SOLUTIONS, INC.	133.32	N
134652	05/18/2021	ALldata LLC	1,500.00	N
134653	05/18/2021	AMAZON CAPITAL SERVICES, INC.	565.18	N
134654	05/18/2021	ASPEN EQUIPMENT COMPANY	1,297.00	N
134655	05/18/2021	BARCAL, ROSE	74.37	N
134656	05/18/2021	BAUER BUILT INC	1,041.88	N
134657	05/18/2021	CENTER POINT, INC.	364.32	N
134658	05/18/2021	CINTAS CORPORATION NO. 2	407.90	N
134659	05/18/2021	CORNHUSKER INTL TRUCKS INC	18.36	N
134660	05/18/2021	COX COMMUNICATIONS, INC.	280.55	N
134661	05/18/2021	CULLIGAN OF OMAHA	9.50	N
134662	05/18/2021	CUMMINS CENTRAL POWER LLC	255.32	N
134663	05/18/2021	D & K PRODUCTS	3,424.00	N
134664	05/18/2021	DELL MARKETING L.P.	4,632.96	N
134665	05/18/2021	DILLON BROS HARLEY DAVIDSON	313.48	N
134666	05/18/2021	DXP ENTERPRISES INC	119.50	N
134667	05/18/2021	FIRST WIRELESS INC	560.00	N
134668	05/18/2021	GENUINE PARTS COMPANY-OMAHA	58.74	N
134669	05/18/2021	GILMORE & BELL PC	2,500.00	N
134670	05/18/2021	GRAINGER	68.31	N
134671	05/18/2021	GRAYBAR ELECTRIC COMPANY INC	46.53	N
134672	05/18/2021	GT DISTRIBUTORS, INC.	7,105.00	N
134673	05/18/2021	HANNAH CARDEN	363.00	N
134674	05/18/2021	HANNAH CARDEN	266.75	N
134675	05/18/2021	HEARTLAND TIRES AND TREADS	53.49	N
134676	05/18/2021	HEARTLAND WOOD FLOORS CO	2,448.50	N
134677	05/18/2021	HURST, JEAN	74.03	N
134678	05/18/2021	INGRAM LIBRARY SERVICES	1,992.17	N
134679	05/18/2021	IVERSEN, BEN	1,500.00	N
134680	05/18/2021	J RETZ LANDSCAPE, INC	531.00	N
134681	05/18/2021	KANOPLY, INC.	106.00	N
134682	05/18/2021	KEVIN JONES	350.00	N
134683	05/18/2021	KEYMASTERS LOCKSMITH	386.98	N
134684	05/18/2021	KRIHA FLUID POWER CO INC	34.89	N
134685	05/18/2021	LARSEN SUPPLY COMPANY	890.72	N
134686	05/18/2021	LIBRA INDUSTRIES INC	152.00	N
134687	05/18/2021	LIBRARY ADVANTAGE	615.00	N
134688	05/18/2021	LIBRARY IDEAS LLC	9.50	N
134689	05/18/2021	LOGAN CONTRACTORS SUPPLY	397.75	N
134690	05/18/2021	LOVELAND GRASS PAD	7.98	N
134691	05/18/2021	MARCO INCORPORATED	456.89	N
134692	05/18/2021	MENARDS-RALSTON	641.46	N
134693	05/18/2021	MIDWEST TAPE	185.05	N
134694	05/18/2021	MIDWEST TURF & IRRIGATION	336.27	N

User: mgustafson

DB: La Vista

Check #

Check #	Check Date	Vendor Name	Amount	Voided
134695	05/18/2021	MOTOROLA SOLUTIONS INC	20,913.60	N
134696	05/18/2021	MUNICIPAL PIPE TOOL CO LLC	2,500.00	N
134697	05/18/2021	NATIONAL LEAGUE OF CITIES	1,563.00	N
134698	05/18/2021	NEBRASKA LAW ENFORCEMENT	150.00	N
134699	05/18/2021	NEBRASKA LIBRARY COMMISSION	2,566.56	N
134700	05/18/2021	NEBRASKA NOTARY ASSOCIATION	76.18	N
134701	05/18/2021	O'REILLY AUTO PARTS	1,266.94	N
134702	05/18/2021	OCLC INC	161.21	N
134703	05/18/2021	OFFICE DEPOT INC	237.48	N
134704	05/18/2021	OMAHA SLINGS INCORPORATED	152.77	N
134705	05/18/2021	OMNI ENGINEERING	84.00	N
134706	05/18/2021	ONE CALL CONCEPTS INC	359.19	N
134707	05/18/2021	ORIENTAL TRADING COMPANY	1,447.05	N
134708	05/18/2021	PAPILLION SANITATION	275.70	N
134709	05/18/2021	PER MAR SECURITY SERVICES	126.63	N
134710	05/18/2021	PETTY CASH-PAM BUETHE	300.00	N
134711	05/18/2021	RAKA, NMC GROUP INC	438.97	N
134712	05/18/2021	RED WING BUSINESS ADVANTAGE ACC	150.00	N
134713	05/18/2021	SARPY COUNTY COURTHOUSE	4,313.96	N
134714	05/18/2021	SARPY COUNTY FISCAL ADMINSTRTN	1,941.91	N
134715	05/18/2021	SCHAEFFER MANUFACTURING COMPA	974.65	N
134716	05/18/2021	SCHOLASTIC LIBRARY PUBLISHING	72.80	N
134717	05/18/2021	SECRETARY OF STATE	30.00	N
134718	05/18/2021	SIGN IT	108.00	N
134719	05/18/2021	SIGN-O-VATION, INC.	427.33	N
134720	05/18/2021	SWAN ENGINEERING LLC	10.40	N
134721	05/18/2021	TED'S MOWER SALES & SERVICE INC	223.28	N
134722	05/18/2021	THAI ORCHIDS RESTAURANT	9.00	N
134723	05/18/2021	THE SCHEMMER ASSOCIATES INC	632.50	N
134724	05/18/2021	TORNADO WASH LLC	175.00	N
134725	05/18/2021	TRAFFIC AND PARKING CONTROL CO, I	29.75	N
134726	05/18/2021	TRANS UNION RISK AND ALT. DATA S	75.00	N
134727	05/18/2021	TRUCK CENTER COMPANIES	477.19	N
134728	05/18/2021	TURFWERKS	118.21	N
134729	05/18/2021	U.S. CELLULAR	1,822.08	N
134730	05/18/2021	UNITED PARCEL SERVICE	19.49	N
134731	05/18/2021	USBORNE BOOKS & MORE ED. SVCS.	337.76	N
134732	05/18/2021	USIQ INC	1,227.90	N
134733	05/18/2021	UTILITY EQUIPMENT COMPANY	15.92	N
134734	05/18/2021	VERIZON CONNECT NWF, INC.	631.41	N
134735	05/18/2021	VERIZON WIRELESS	344.06	N
134736	05/18/2021	WAGNER, SCOTT	86.97	N
134737	05/18/2021	WALMART COMMUNITY BRC	574.34	N
134738	05/18/2021	WELLINGTON, AN AUGEO COMPANY	2,125.00	N
134739	05/18/2021	WESTLAKE HARDWARE INC NE-022	1,590.32	N
134740	05/18/2021	WOODHOUSE CBP	69.84	N

TOTAL:

519,952.68

APPROVED BY COUNCIL MEMBERS ON: 05/18/2021

COUNCIL MEMBER

COUNCIL MEMBER

User: mgustafson

DB: La Vista

Check #

Check Date

Vendor Name

Amount

Voided

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

User: mgustafson

DB: La Vista

Check #

Check Date

Vendor Name

Amount

Voided

1336(E)	04/02/2021	FIRST BANKCARD	10,281.45	N
1357(E)	04/02/2021	BLACK HILLS ENERGY	8,252.84	N
1390(E)	04/13/2021	BLACK HILLS ENERGY	5,066.52	N
1386(E)	04/26/2021	OMAHA PUBLIC POWER DISTRICT	48,076.47	N
1391(E)	04/26/2021	FIRST BANKCARD	2,196.48	N
1392(E)	04/26/2021	FIRST BANKCARD	734.90	N
1393(E)	04/26/2021	FIRST BANKCARD	905.65	N
1394(E)	04/26/2021	FIRST BANKCARD	1,193.27	N
1395(E)	04/26/2021	FIRST BANKCARD	394.99	N
1387(E)	04/30/2021	CENTURY LINK/LUMEN	969.10	N
1388(E)	04/30/2021	CENTURY LINK/LUMEN	74.64	N
1389(E)	04/30/2021	THE HARRY A KOCH COMPANY	219,394.75	N
1396(E)	04/30/2021	ABM INDUSTRIES, INC	12,181.00	N
1397(E)	04/30/2021	AMERICAN HERITAGE LIFE INSURANCE	1,173.35	N
1398(E)	04/30/2021	CCAP AUTO LEASE LTD	449.00	N
1399(E)	04/30/2021	CCAP AUTO LEASE LTD	391.12	N
1400(E)	04/30/2021	DEARBORN NATIONAL LIFE INSURANCE	1,240.00	N
1401(E)	04/30/2021	DEARBORN NATIONAL LIFE INSURANCE	7,203.97	N
1402(E)	04/30/2021	ESSENTIAL SCREENS	349.30	N
1403(E)	04/30/2021	FIRST STATE BANK	4,399.70	N
1404(E)	04/30/2021	FIRST STATE BANK	5,668.85	N
1405(E)	04/30/2021	FIRST STATE BANK	2,137.23	N
1406(E)	04/30/2021	GREATAMERICA FINANCIAL SERVICES	1,127.00	N
1407(E)	04/30/2021	LINCOLN NATIONAL LIFE INS CO	6,513.82	N
1408(E)	04/30/2021	MEDICA INSURANCE COMPANY	111,530.15	N
1409(E)	04/30/2021	MID-AMERICAN BENEFITS INC	630.50	N
1410(E)	04/30/2021	MID-AMERICAN BENEFITS INC	11,939.87	N
1411(E)	04/30/2021	NE DEPT OF REVENUE-LOTT/51	86,801.00	N
1412(E)	04/30/2021	NE DEPT OF REVENUE-SALES TAX	65.38	N
1413(E)	04/30/2021	NEBRASKA STATE TREASURER	33.99	N
1414(E)	04/30/2021	PITNEY BOWES-EFT POSTAGE	1,500.00	N
1415(E)	04/30/2021	QUESTICA LTD.	19,750.00	N
1416(E)	04/30/2021	TOSHIBA FINANCIAL SERVICES	127.40	N
1417(E)	04/30/2021	TOSHIBA FINANCIAL SERVICES	138.00	N
1418(E)	04/30/2021	UNITED HEALTHCARE INSURANCE CO	1,028.71	N

TOTAL: 573,920.40

APPROVED BY COUNCIL MEMBERS ON: 05/18/2021

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

**CITY OF LA VISTA**  
**MAYOR AND CITY COUNCIL REPORT**  
**MAY 18, 2021 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
ZONING TEXT AMENDMENT — SECTION 7.11 – WIRELESS TELECOMMUNICATION FACILITIES	RESOLUTION ◆ ORDINANCES (2) RECEIVE/FILE	CALE BRODERSEN ASSISTANT PLANNER

**SYNOPSIS**

A public hearing has been scheduled and ordinances prepared to amend Section 7.11 of the La Vista Zoning Ordinance and to establish the associated permit fee category for “Eligible Facilities”.

**FISCAL IMPACT**

N/A.

**RECOMMENDATION**

Approval.

**BACKGROUND**

Staff is proposing amendments to Section 7.11 of the La Vista Zoning Ordinance to address “eligible facilities”, a category of wireless communications facilities for which changes in Federal regulations have warranted an amendment to bring La Vista’s permitting and review process into compliance.

On January 9, 2015, the Federal Communications Commission (“FCC”) issued new regulations in response to the interpretation of certain provisions of Section 6409(a) of the federal Middle Class Tax Relief and Job Creation Act of 2012 (“Section 6409”) related to processing applications for wireless communications facilities. Section 6409 requires local jurisdictions to approve certain eligible collocations and modifications to existing wireless communications facilities (“Eligible Facilities”). The FCC’s regulations, in turn, define Section 6409’s key terms to implement Congress’s broader mandate to meet the demand for more wireless services and network infrastructure.

The FCC mandates that a local government must act on Section 6409 requests within 60 days from the date of the application submittal (not including the timeframe for the applicant to respond to completeness items/issues, identified in writing by the City). If the local government fails to take any action during that period, the request is deemed approved at the time the applicant notifies the local government of the deemed approval in writing. La Vista’s current review process for requests for collocation of eligible facilities requires a conditional use permit and public hearings before both the Planning Commission and City Council. It is very challenging to conduct the conditional use permit review and approval process within the required 60 day timeframe due to the statutory public hearing notice requirements.

In order to adhere to the FCC mandates, amendments are proposed to Section 7.11 of the Zoning Ordinance. The proposed amendments separate eligible facilities requests from other wireless facilities and provides for an administrative review process with detailed application requirements to allow for the review process to be completed within the required 60 day window. The new proposed review process for eligible facilities requests will be similar to the review process for small wireless facilities requests which was implemented by La Vista Ordinance No. 1393 on June 16, 2020.

An ordinance has also been prepared to amend La Vista's Master Fee Ordinance to introduce a new fee type for permit requests for "Eligible Facilities" under the "Building & Use Fees" category. The proposed fee of \$250 (or actual fee incurred) is consistent with the fee rate adopted by surrounding communities for similar requests.

The Planning Commission held a public hearing on April 15, 2021 and voted unanimously to recommend approval of the proposed amendments.

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE TO AMEND SECTION 7.11 OF ORDINANCE NO. 848 (ZONING ORDINANCE); TO REPEAL SECTION 7.11 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 1. Amendment of Section 7.11. Section 7.11 of the Ordinance No. 848 is hereby amended to read as follows:

**Section 7.11 Wireless Telecommunications Facilities**

**7.11.01 Purpose and Legislative Intent.**

The Telecommunications Act of 1996 affirmed the City of La Vista's authority concerning the placement, construction, and modification of wireless telecommunications facilities. The City of La Vista finds that wireless telecommunications facilities may pose significant concerns to the health, safety, public welfare, character, and environment of the City and its inhabitants. The City also recognizes that facilitating the development of wireless service technology can be an economic development asset to the City and of significant benefit to the City and its residents. In order to ensure that the placement, construction, or modification of wireless telecommunications facilities is consistent with the City's land use policies, the City is adopting a single, comprehensive, wireless telecommunications facilities application and permit process. The intent of this section is to minimize potentially negative impacts of wireless telecommunications facilities, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of the residents of the City of La Vista.

**7.11.02 Definitions.**

For purposes of this section, and where not inconsistent with the context of a particular subsection, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given here. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word "shall" is always mandatory, and not merely directory.

- 7.11.02.01     "Accessory Facility or Structure" means an accessory facility or structure serving or being used in conjunction with wireless telecommunications facilities and located on the same property or lot as the wireless telecommunications facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.
- 7.11.02.02     "Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals used in providing wireless services.

7.11.02.03     “Applicant” means any person submitting an application for a permit pursuant to this Section 7.11.

7.11.02.04     “Co-location” means the use of an existing tower or structure to support antennas for the provision of wireless services. A replacement tower that is constructed on the same site as an existing tower will be considered a co-location as long as the new tower is no taller than the old tower and that the old tower is removed in a reasonable short time frame after the new tower is constructed.

7.11.02.05     “Commercial Impracticability” or “Commercially Impracticable” means the inability to perform an act on terms that are reasonable in commerce; the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be “commercial impracticable” and shall not render an act or the terms of an agreement “commercially impracticable”.

7.11.02.06     “Completed Application” means an application that contains all information and/or data necessary to enable an informed decision to be made with respect to an application.

7.11.02.07     “Distributed Antenna System or DAS” means a network of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area or structure, and generally serves multiple carriers. For the purposes of this Article, a distributed antenna system is considered a small wireless facility.

7.11.02.08     “Eligible Facilities Request” has the meaning provided in FCC 14-153.

7.11.02.09     “Eligible Facilities Permit” means the official zoning permit approved and issued by the Community Development Director pursuant to section 7.11.07 below in response to an application constituting an Eligible Facilities Request that does not propose a Substantial Change.

7.11.02.10     “FAA” means the Federal Aviation Administration, or its duly designated and authorized successor agency.

7.11.02.11     “FCC” means the Federal Communications Commission, or its duly designated and authorized successor agency.

7.11.02.12     “Height” means, when referring to a tower or structure, the distance measured from the pre-existing grade level to the highest point on the tower or structure, including antennas or lightening protection devices.

7.11.02.13     “Macro Tower” means a guyed or self-supported pole or monopole greater than the height parameters prescribed that supports or is capable of supporting antennas.

7.11.02.14     “Modification” or “Modify” means, the addition, removal or change of any of the physical and visually discernible components or aspects of a wireless telecommunications facility, such as antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernible components, vehicular access, parking and/or an upgrade or change out of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to a telecommunications tower or telecommunications Site as a co-location is a modification. A Modification shall not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything.

7.11.02.15     “NIER” means Non-Ionizing Electromagnetic Radiation.

7.11.02.16     “Person” means any individual, corporation, estate, trust, partnership, joint stock company, association of two (2) or more persons having a joint common interest, or any other entity.

7.11.02.17     “Personal Wireless Facility” See definition for ‘Wireless Telecommunications Facilities.’

7.11.02.18     “Personal Wireless Services” or “PWS” or “Personal Telecommunications Service” or “PCS” shall have the same meaning as defined and used in the 1996 Telecommunications Act.

7.11.02.19     “Pole” means a service pole, municipally-owned utility pole, small wireless facility support pole, or other utility pole.

7.11.02.20     “Repairs and Maintenance” means the replacement of any components of a wireless telecommunications facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of such a facility without the addition, removal or change of any of the physical or visually discernible components or aspects of the facility that will add to the visible appearance of the facility as originally permitted.

7.11.02.21     “Small Wireless Facility” means any wireless facility that meets each of the following conditions: (1) the facilities (a) are mounted on structures fifty feet or less in height including the antennas or (b) are mounted on structures no more than ten percent taller than other adjacent structures; (2) each antenna associated with the deployment is no more than three cubic feet in volume; (3) all other equipment associated with the structure, whether ground-mounted or pole-mounted, is no more than twenty-eight cubic feet in volume; (4) the facilities do not require antenna structure registration under 47 C.F.R. part 17, as such regulation existed on January 1, 2019; (5) the facilities are not located on tribal lands, as defined in 36 C.F.R. 800.16(x), as such regulation existed on January 1, 2019; and (6) the facilities do not result in human exposure to radio frequency radiation in

excess of the applicable safety standards specified in 47 C.F.R. 1.1307(b), as such regulation existed on January 1, 2019.

7.11.02.22      Small wireless facility(s) are governed and regulated by the La Vista Municipal Code Chapter 120 and La Vista Ordinance No. 1393.  
“Small Wireless Facility Support Poles” means a pole installed by a network provider for the primary purpose of supporting a small wireless facility.

7.11.02.23      “Specialized Mobile Radio” or “SMR” means an analogue or digital trunked two-way radio system, operated by a service in the VHF, 220, UHF, 700,800 or 900 MHz bands.

7.11.02.24      “State” means the State of Nebraska.

7.11.02.25      “Stealth” or “Stealth Technology” means to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless Telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

7.11.02.26      “Substantial Change” has the meaning provided in FCC Rule 14-153.

7.11.02.27      “Telecommunications” means the transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

7.11.02.28      “Telecommunication Site” See definition for Wireless Telecommunications Facilities.

7.11.02.29      “Telecommunications Structure” means a structure used in the provision of services described in the definition of ‘Wireless Telecommunications Facilities.’

7.11.02.30      “Temporary” means, in relation to all aspects and components of this section, something intended to, or that does not exist for more than ninety (90) days.

7.11.02.31      “Tower” means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers, and that is not a utility pole, an alternative antenna telecommunications structure, or City-owned infrastructure, pole, or other property, or located within, on, over, under, or across City right-of-way.

7.11.02.32      “Utility Pole” means an upright pole designed and used to support electric cables, telephone cables, telecommunications cables, cable service cables, which are used to provide lighting, traffic control, signage, or a similar function.

7.11.02.33 "Wireless Telecommunications Facilities" means and includes a "Telecommunications Site" and "Personal Wireless Facility". It means a structure, facility or location designed, or intended to be used as, or used to support antennas or other transmitting or receiving devices. This includes without limit, towers of all types and kinds and structures, including, but not limited to buildings, church steeples, silos, water towers, signs or other structures that can be used as a support structure for antennas or the functional equivalent of such. It further includes all related facilities and equipment such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, SMR, paging, 911, Personal Communications Services (PCS), commercial satellite services, microwave services and any commercial wireless telecommunication service not licensed by the FCC.

7.11.03 Overall Policy and Desired Goals for Eligible Facilities and Conditional Use Permits for Wireless Telecommunications Facilities.

In order to ensure that the placement, construction, and modification of wireless telecommunications facilities does not negatively impact the health and safety of the public, environmental features, the nature and character of the community and neighborhood, and other aspects of the quality of life specifically listed elsewhere in this section, the City hereby adopts an overall policy with respect to an Eligible Facilities Permit or Conditional Use Permit for wireless telecommunications facilities for the express purpose of achieving the following goals:

- 7.11.03.01 Requiring an Eligible Facilities Permit or Conditional Use Permit for any new, co-location or modification of a wireless telecommunications facility.
- 7.11.03.02 Implementing an application process for person(s) seeking an Eligible Facilities Permit or Conditional Use Permit for wireless telecommunications facilities.
- 7.11.03.03 Establishing a policy for examining an application for and issuing an Eligible Facilities Permit or Conditional Use Permit for wireless telecommunications facilities that is both fair and consistent.
- 7.11.03.04 Establishing a policy for examining an application for and issuing an Eligible Facilities Permit or Conditional Use Permit for wireless telecommunications facilities that is both fair and consistent.
- 7.11.03.05 Promoting and encouraging, wherever possible, the sharing and/or co-location of wireless telecommunications facilities among service providers.
- 7.11.03.06 Promoting and encouraging, wherever possible, the placement, height and quantity of wireless telecommunications facilities in such a manner, including but not limited to the use of stealth technology, to minimize adverse health, safety, aesthetic or visual impacts on the persons, land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities, which shall include without limitation using

the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

7.11.03.07 That in granting an Eligible Facilities Permit or Conditional Use Permit for wireless telecommunications facilities, the City has found that the facility shall be the most appropriate site insofar as it is the least visually intrusive among those available in the City.

7.11.04 Exceptions from application requirements for Wireless Telecommunications Facilities.

Exceptions from Conditional Use Permit requirement. Except as otherwise provided by this ordinance no person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of, wireless telecommunications facilities as of the effective date of this ordinance without having first applied for and obtained a Conditional Use Permit for wireless telecommunications facilities. Such requirements shall not apply if the proposed wireless telecommunications facilities are classified by the Community Development Director, or his or her designee, as:

- 1) An Eligible Facilities request that does not propose a Substantial Change in which case the application and permitting requirements of Section 7.11.07 shall apply; or
- 2) A request for proposed installations or collocations of Small Wireless Facility(s) and/or Small Wireless Facility Support Poles as defined in Section 7.11.02. Small Wireless Facility(s) are, however, governed and regulated by the La Vista Municipal Code Chapter 120 and La Vista Ordinance No. 1393; or
- 3) One of the non-commercial exclusions delineated in 7.11.05; or
- 4) Repair and maintenance as defined in Section 7.11.02.

7.11.05 Non-Commercial Exclusions.

The following shall be exempt from Section 7.11:

7.11.05.01 The City's fire, police, public works or other public service facilities owned and operated by the local government and/or public entities in partnership with the local government.

7.11.05.02 Over-the-Air Reception Devices including the reception antennas for direct broadcast satellites (DBS), multichannel multipoint distribution (wireless cable) providers (MMDS), television broadcast stations (TVBS) and other customer-end antennas that receive and transmit fixed wireless signals that are primarily used for reception.

7.11.05.03 Facilities exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar non-commercial telecommunications.

7.11.05.04 Facilities used exclusively for providing unlicensed spread spectrum technology i.e. Bluetooth or a 'Hot Spot', where the facility does not require a new tower, where the service is not to be used for commercial purposes, where there is no fee or charge for the use of the service and where the service is intended to be useable for less than a distance of 200 feet.

## 7.11.06 Conditional Use Permit Application and Other Requirements

7.11.06.01 All applicants for a Conditional Use Permit for Wireless Telecommunications Facilities shall comply with the requirements set forth in this ordinance. Applications for a Conditional Use Permit for Wireless Telecommunications Facilities must be made pursuant to Article 6 and this Article 7 of the Zoning Ordinance. Upon recommendation of the Planning Commission, the City Council is authorized to review, analyze, evaluate, and make decisions with respect to granting or not granting or revoking Conditional Use Permits for Wireless Telecommunications Facilities. The City may at its discretion delegate or designate officials or employees of the City, or other persons, to review, analyze, evaluate, and make recommendations to the Planning Commission or the City Council concerning matters involving Conditional Use Permits for Wireless Telecommunications Facilities.

7.11.06.02 All applications for a Conditional Use Permit for Wireless Telecommunications Facilities shall be filed with the Community Development Director's office pursuant to this section of the Zoning Ordinance.

7.11.06.03 The City may reject applications that are incomplete or otherwise do not meet the requirements stated herein or other applicable laws or regulations.

7.11.06.04 No wireless telecommunications facilities shall be installed, constructed or modified until the application is reviewed and approved by the City, and the Conditional Use Permit for Wireless Telecommunications Facilities has been issued.

7.11.06.05 Any and all representations made by the applicant to the City during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the City.

7.11.06.06 An application for a Conditional Use Permit for Wireless Telecommunications Facilities shall be signed on behalf of the Applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information.

7.11.06.07 The Applicant must provide documentation to verify it has the right to proceed as proposed on the site. This would require an executed copy of a lease or other documentation satisfactory to the City providing the Applicant a legally binding right to use the Site for the proposed purpose. If the Applicant owns the site, evidence of ownership is required.

7.11.06.08 The Applicant shall include a statement in writing:

1. That the applicant's proposed Wireless Telecommunications Facilities shall be maintained in a safe manner, and in compliance with all conditions of the Conditional Use Permit for Wireless Telecommunications Facilities, without exception, unless

specifically granted relief by the City in writing, as well as all applicable codes, ordinances, and other applicable City, State and Federal laws, rules, and regulations;

2. That the construction of the wireless telecommunications facilities is legally permissible, including, but not limited to the fact that the applicant is authorized to do business in the State.

7.11.06.09 Where professional certifications are required in this Ordinance, such certification shall bear the signature and seal of a registered professional engineer licensed in the State.

7.11.06.10 In addition to all other required information as stated in this Section 7.11 or in Article 6 of this ordinance, all applications for the construction or installation of new wireless telecommunications facilities or modification of an existing facility shall contain the information hereinafter set forth.

1. A completed City of La Vista Planning and Zoning Application Form;
2. A descriptive statement of the objective(s) for the new facility or modification including and expanding on a need such as coverage and/or capacity requirements;
3. Documentation that demonstrates and proves the need for the wireless telecommunications facility to provide service primarily and essentially within the City. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites that demonstrate a significant gap in coverage and/or if a capacity need, including an analysis of current and projected usage;
4. The location of nearest residential structure;
5. The location, size and height of all existing and proposed structures on the property which is the subject of the application;
6. The azimuth, size and center-line height location of all proposed and existing antenna(s) on the supporting structure;
7. The number, type and model of the antenna(s) proposed with a copy of the specification sheet;
8. The make, model, type and manufacturer of the tower and design plan stating the tower's capacity to accommodate multiple users
9. A site plan describing the proposed tower and antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
10. The frequency, modulation and class of service of radio or other transmitting equipment;
11. The actual intended transmission power stated as the maximum effective radiated power (ERP) in watts;
12. Signed documentation such as the "Checklist to Determine Whether a Facility is Categorically Excluded" to verify that the Wireless Telecommunication Facility with the proposed installation will be in full compliance with the current FCC RF Emissions guidelines (NIER). If not categorically excluded, a complete RF Emissions study is required to provide verification;
13. A signed statement that the proposed installation will not cause physical or RF interference with other telecommunications devices;

14. A copy of the FCC license applicable for the intended use of the wireless telecommunications facilities;
15. A copy of the geotechnical sub-surface soils investigation, evaluation report and foundation recommendation for a proposed or existing tower site and if existing tower or water tank site, a copy of the installed foundation design.

7.11.06.11 The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the proposed new tower or existing structure intended to support wireless facilities is in compliance with Federal Aviation Administration Regulation Part 77 and if it requires lighting. This requirement shall also be for any existing structure or building where the application increases the height of the structure or building. If this analysis determines that an FAA determination is required, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided with the application.

7.11.06.12 Additional requirements for an application for a New Tower

1. In the case of a new tower, the applicant shall be required to submit a written report demonstrating its meaningful efforts to secure shared use of existing tower(s) or the use of alternative buildings or other structures within the City. Copies of written requests and responses for shared use shall be provided to the City in the application, along with any letters of rejection stating the reason for rejection.
2. In order to better inform the public, in the case of a new Telecommunication tower, the applicant shall, prior to the public hearing on the application, hold a "balloon test". The applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three (3) foot in diameter brightly colored balloon at the maximum height of the proposed new tower. The dates, (including a second date, in case of poor visibility on the initial date) times and location of this balloon test shall be advertised by the applicant seven (7) and fourteen (14) days in advance of the first test date in a newspaper with a general circulation in the City. The applicant shall inform the City, in writing, of the dates and times of the test, at least fourteen (14) days in advance. The balloon shall be flown for at least four consecutive hours sometime between 7:00 am and 4:00 pm on the dates chosen. The primary date shall be on a weekend, but in case of poor weather on the initial date, the secondary date may be on a weekday. A report with pictures from various locations of the balloon shall be provided with the application.
3. The applicant shall examine the feasibility of designing the proposed tower to accommodate future demand for at least four (4) additional commercial applications, for example, future co-locations. The tower shall be structurally designed to accommodate at least four (4) additional antenna arrays equal to those of the applicant and located as close to the applicant's antenna as possible without causing interference. This requirement may be

waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the tower is not technologically feasible, is commercially impracticable or creates an unnecessary and unreasonable burden, based upon:

- a) The foreseeable number of FCC licenses available for the area;
- b) The kind of wireless telecommunications facilities site and structure proposed;
- c) The number of existing and potential licenses without wireless telecommunications facilities spaces/sites;
- d) Available space on existing and approved towers.

7.11.06.13 Upon completing construction and before the issuance of the Certificate of Compliance, to ensure the tower was constructed as permitted, the Applicant is to provide signed documentation of the Tower condition per the requirements of ANS/TIA/EIA-222 (adopted by reference in the building code) Annex for Tower Maintenance, Condition Assessment, and Inspection Procedures. The inspection report must be performed every three (3) years for a guyed tower and five (5) years for monopoles and self-supporting towers.

7.11.06.14 The owner of a proposed new tower, and his/her successors in interest, shall negotiate in good faith for the shared use of the proposed tower by other Wireless service providers in the future, and shall:

1. Respond within 60 days to a request for information from a potential shared-use applicant;
2. Negotiate in good faith concerning future requests for shared use of the new tower by other Telecommunications providers;
3. Allow shared use of the new tower if another Telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.
4. Failure to abide by the conditions outlined above may be grounds for revocation of the Conditional Use Permit.

7.11.06.15 The Applicant shall provide certification with documentation (structural analysis) including calculations that the Telecommunication Facility tower and foundation and attachments, rooftop support structure, water tank structure, and any other supporting structure as proposed to be utilized are designed and will be constructed to meet all local, City, State and Federal structural requirements for loads, including wind and ice loads.

7.11.06.16 If the application is for a co-location or modification of an existing Tower, the Applicant is to provide signed documentation of the Tower condition per the requirements of ANS/TIA/EIA-222 (adopted by reference in the building code) Annex for Tower Maintenance, Condition Assessment and Inspection Procedures. The inspection report must be performed every

three (3) years for a guyed tower and five (5) years for monopoles and self-supporting towers.

7.11.06.17 All proposed wireless telecommunications facilities shall contain a demonstration that the Facility will be sited so as to minimize visual intrusion as much as possible, given the facts and circumstances involved and will thereby have the least adverse visual effect on the environment and its character and on the residences in the area of the wireless telecommunications facility.

7.11.06.18 If the application is for a new tower, an antenna attachment to an existing structure, or modification adding to a visual impact, the applicant shall furnish a Visual Impact Assessment, which shall include:

1. If a new tower or increasing the height of an existing structure is proposed, a computer generated "Zone of Visibility Map" at a minimum of one mile radius from the proposed structure, with and without foliage shall be provided to illustrate locations from which the proposed installation may be seen.
2. Pictorial representations of "before and after" (photo simulations) views from key viewpoints both inside and outside of the City as may be appropriate, including but not limited to State highways and other major roads; parks; other public lands; and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided, concerning the appropriate key sites at the pre-application meeting. Provide a map showing the locations of where the pictures were taken and distance from the proposed structure.
3. A written description of the visual impact of the proposed facility including; and as applicable the tower base, guy wires, fencing and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening.

7.11.06.19 The Applicant shall demonstrate and provide in writing and/or by drawing how it shall effectively screen from view the base and all related equipment and structures of the proposed wireless telecommunications facility.

7.11.06.20 The wireless telecommunications facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings, this shall include the utilization of stealth or concealment technology as may be required by the City.

7.11.06.21 All utilities at a wireless telecommunications facilities site shall be installed underground whenever possible and in compliance with all laws, ordinances, rules and regulations of the City, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.

7.11.06.22 At a Telecommunications Site, an access road, turn-around space and parking shall be provided to assure adequate emergency and service

access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.

7.11.06.23 All wireless telecommunications facilities shall be constructed, operated, maintained, repaired, provided for removal of, modified or restored in strict compliance with all current applicable technical, safety and safety-related codes adopted by the City, State, or United States, including but not limited to the most recent editions of the ANSI Code, National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.

7.11.06.24 A holder of an Eligible Facilities Permit or Conditional Use Permit for a Wireless Communications Facility granted under this ordinance shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the City or other governmental entity or agency having jurisdiction over the applicant.

7.11.06.25 There shall be a pre-application meeting. The purpose of the pre-application meeting will be to address issues that will help to expedite the review and permitting process. A pre-application meeting shall also include a site visit if there has not been a prior site visit for the requested site.

7.11.06.26 An applicant shall submit to the City the number of completed applications determined to be needed at the pre-application meeting. Written notification of the application shall be provided to the legislative body of all adjacent municipalities as applicable and/or requested.

7.11.06.27 The holder of an Eligible Facilities Permit or Conditional Use Permit for Wireless Telecommunications Facilities shall notify the City of any intended modification of a Wireless Telecommunication Facility and shall apply to the City to modify, relocate or rebuild a Wireless Telecommunications Facility.

7.11.07 Permit application and other requirements for Eligible Facilities Requests that do not propose Substantial Changes.

7.11.07.01. Compliance with application requirements. All applicants for an Eligible Facilities Permit shall comply with the requirements set forth in this Section 7.11.07.

7.11.07.02. Eligible Facilities Permit required. No Wireless Telecommunications Facilities that require an Eligible Facilities Permit shall be installed, constructed or modified until the Eligible Facilities Permit has been

approved by the Community Development Director, and all applicable building permits have been obtained in accordance with Section 9.04.

- 7.11.07.03. Representations by applicant. Any and all representations made by the applicant to the City or its consultants or experts during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the City.
- 7.11.07.04. Application requirements for Eligible Facilities Permits. An Eligible Facilities Permit application shall include the following information:
  1. Name and address, and phone number of the applicant to include the legal name of the applicant.
  2. The name, address, and phone number of the property owner. If the site is a tower and the tower owner is not the applicant, provide name and address of the tower owner.
  3. The address and legal description of the property.
  4. A signed statement demonstrating that the modification qualifies as an Eligible Facilities request that does not propose a Substantial Change.
  5. A lease or other satisfactory documentation demonstrating that applicant has the legally binding right to proceed as proposed on the site. If the applicant owns the site, a statement is not required.
  6. A lease or other satisfactory documentation demonstrating that construction of the proposed Wireless Telecommunications Facility shall be legally permissible upon the City's approval of the corresponding eligible facilities permit and upon the issuance of all applicable building permits to be obtained in accordance with Section 9.04. Such statement shall include, but not limited to, confirmation of the fact that the applicant is authorized to do business in the State.
  7. Satisfactory documentation demonstrating that the application complies with federal guidelines regarding interference and ANSI standards as adopted by the FCC including but not limited to NIER standards.
  8. Satisfactory documentation demonstrating that the proposed installation or work will not cause physical or RF interference with telecommunications or other facilities or devices.
  9. A site plan that complies with Section 5.15.05.02, which also includes:
    - a) The location, size and height of all existing and proposed structures on the property which is the subject of the application; and
    - b) The type, locations and dimensions of all proposed and existing landscaping, screening, and fencing.

10. A description of the proposed antenna(s), and all related fixtures, structures, appurtenances, and apparatus, including height above pre-existing grade, materials, color, and lighting. This shall include:
  - a) The azimuth, size and center-line height location of all proposed and existing antenna(s) on the supporting structure; and
  - b) The number, type and model of the antenna(s) and equipment proposed with a copy of the specification sheet; and
  - c) The make, model, type and manufacturer of the tower; and
  - d) The frequency, modulation, and class of service of radio or other transmitting equipment; and
  - e) The actual intended transmission power stated as the maximum effective radiated power (ERP) in watts.
11. A structural analysis report that includes calculations that the Wireless Telecommunication Facility tower and foundation and attachments, rooftop support structure, water tank structure, and any other supporting structure as proposed to be utilized are designed and will be constructed to meet all City, State and Federal structural requirements for loads, including wind and ice loads. Such structural analysis shall bear the signature and seal of a registered professional structural engineer licensed in the State.

- 7.11.07.05. Utility installation. All utilities at a Wireless Telecommunications Facilities site shall be installed underground whenever possible and in compliance with all laws, ordinances, rules and regulations of the City, including specifically, but not limited to, the National Electrical Code where appropriate.
- 7.11.07.06. Compliance with technical, safety, and safety-related codes. All Wireless Telecommunications Facilities shall be constructed, operated, maintained, repaired, provided for removal of, modified, or restored in strict compliance with all current applicable technical, safety, and safety-related codes adopted by the City, State, or United States, including but not limited to the most recent editions of the ANSI Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding codes, the more stringent shall apply.
- 7.11.07.07. Responsibility for permits and licenses. A holder of an Eligible Facilities Permit granted under this Article shall obtain, at its own expense, all permits and licenses required by applicable laws, rules, or regulations, and must maintain the same, in full force and effect, for as long as required by the City or other governmental entity or agency having jurisdiction over the applicant.

#### 7.11.08 Location of Wireless Telecommunications Facilities

- 7.11.08.01 Applicants for wireless telecommunications facilities shall locate, site and erect said wireless telecommunications facilities in accordance with the

following priorities, one (1) being the highest priority and six (6) being the lowest priority.

1. On existing towers or other structures on city owned properties, including the right-of-way.
2. On existing towers or other structures on other property in the City.
3. A new tower on City-owned properties.
4. A new tower on properties in areas zoned for Heavy Industrial use.
5. A new tower on properties in areas zoned for Light Industrial use.
6. A new tower on properties in areas zoned for Transitional Agricultural use.

7.11.08.02 If the proposed site is not proposed for the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site.

7.11.08.03 An applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected. An application shall address co-location as an option. If such option is not proposed, the applicant must explain to the reasonable satisfaction of the City why co-location is commercially or otherwise impracticable. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of commercial impracticability or hardship.

7.11.08.04 Notwithstanding the above, the City may approve any site located within an area in the above list of priorities, provided that the City finds that the proposed site is in the best interest of the health, safety and welfare of the City and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood.

7.11.08.05 The Applicant shall submit a written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the application.

7.11.08.06 Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the City may disapprove an application for any of the following reasons.

1. Conflict with safety and safety-related codes and requirements;
2. Conflict with the nature or character of a neighborhood or district;
3. The use or construction of wireless telecommunications facilities which is contrary to an already stated purpose of a specific zoning or land use designation;
4. The placement and location of wireless telecommunications facilities which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the City, or employees of the service provider or other service providers;

5. Conflicts with the provisions of this ordinance.

7.11.09 Shared Use of Wireless Telecommunications Facilities and Other Structures

- 7.11.09.01 The City, as opposed to the construction of a new tower, shall prefer locating on existing towers or other structures without increasing the height. The applicant shall submit a comprehensive report inventorying existing towers and other suitable structures within two (2) miles of the location of any proposed new tower, unless the applicant can show that some other distance is more reasonable and demonstrate conclusively why an existing tower or other suitable structure cannot be used.
- 7.11.09.02 An Applicant intending to locate on an existing tower or other suitable structure shall be required to document the intent of the existing owner to permit its use by the applicant.
- 7.11.09.03 Such shared use shall consist only of the minimum antenna array technologically required to provide service primarily and essentially within the City, to the extent practicable, unless good cause is shown.

7.11.10 Height of Telecommunications Tower(s)

- 7.11.10.01 The Applicant shall submit documentation justifying the total height of any tower, facility and/or antenna requested and the basis therefore. Documentation in the form of propagation studies must include all backup data used to perform at requested height and a minimum of ten (10') feet lower height to allow verification of this height need. Such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the City, to the extent practicable, unless good cause is shown.
- 7.11.10.02 No tower constructed after the effective date of this section, including allowing for all attachments, shall exceed that height which shall permit operation without required artificial lighting of any kind in accordance with City, State, and/or any Federal statute, law, local law, city ordinance, code, rule or regulation. The height limitations in this section shall supersede the height limitations set forth in Section 4.15.

7.11.11 Visibility of Wireless Telecommunications Facilities.

- 7.11.11.01 Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by law.
- 7.11.11.02 Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this ordinance.
- 7.11.11.03 If lighting is required, applicant shall provide a plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations.

#### 7.11.12 Security of Wireless Telecommunications Facilities.

7.11.12.01 All wireless telecommunications facilities and antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

1. All antennas, towers and other supporting structures, including guy anchor points and wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and
2. Transmitters and telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

#### 7.11.13 Signage

7.11.13.01 Wireless telecommunications facilities shall contain a sign no larger than four (4) square feet in order to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area. A sign of the same size is also to be installed to contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. On tower sites, an FCC registration site as applicable is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted.

#### 7.11.14 Lot Size and Setbacks

7.11.14.01 All proposed towers and any other proposed wireless telecommunications facility structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: A distance equal to the height of the proposed tower or wireless telecommunications Facility structure plus ten percent (10%) of the height of the tower or structure, or the existing setback requirement of the underlying zoning district, whichever is greater. Any accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated.

#### 7.11.15 Retention of Expert Assistance and Reimbursement by Applicant

7.11.15.01 The City may hire any consultant and/or expert necessary to assist the City in reviewing and evaluating the application, including the construction and modification of the site, once permitted, and any site inspections.

#### 7.11.16 Application Fee

At the time that a person submits an application for a Conditional Use Permit for a new tower, such person shall pay a non-refundable fee as established in the Master Fee Schedule.

#### 7.11.17 Performance Security

The applicant and the owner of record of any proposed wireless telecommunications facilities property site shall, at its cost and expense, be jointly required to execute and file with the City a bond, or other form of security acceptable to the City as to type of security and the form and manner of execution, in an amount of at least \$75,000.00 for a tower facility and \$25,000 for a co-location on an existing tower or other structure and with such sureties as are deemed sufficient by the City to assure the faithful performance of the terms and conditions of this ordinance and conditions of any Eligible Facilities Permit or Conditional Use Permit issued pursuant to this ordinance. The full amount of the bond or security shall remain in full force and effect throughout the term of the Conditional Use Permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that, which existed prior to the issuance of the original Eligible Facilities Permit or Conditional Use Permit.

#### 7.11.18 Reservation of Authority to Inspect Wireless Telecommunications Facilities

In order to verify that the holder of a Conditional Use Permit for wireless telecommunications facilities and any and all lessees, renters, and/or licensees of wireless telecommunications facilities, place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, ordinances and regulations and other applicable requirements, the City may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, towers, antennas and buildings or other structures constructed or located on the permitted site.

#### 7.11.19 Liability Insurance

7.11.19.01 A holder of an Eligible Facilities Permit or Conditional Use Permit for wireless telecommunications facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the Eligible Facilities Permit or Conditional Use Permit in amounts as set forth below

1. Commercial General Liability covering personal injuries, death and property damage: \$1,000,000 per occurrence/\$2,000,000 aggregate;
2. Automobile Coverage: \$1,000,000 per each accident;
3. Workers Compensation and Disability: Statutory amounts

7.11.19.02 For a wireless telecommunications facility on City property, the Commercial General Liability insurance policy shall specifically include the City and its officers, Councils, employees, committee members, attorneys, agents and consultants as additional insureds.

7.11.19.03 The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with a Best's rating of at least A.

7.11.19.04 The insurance policies shall contain an endorsement obligating the insurance company to furnish the City with at least ten (10) days prior written notice in advance of the cancellation of the insurance for non-payment or 60 days for all other reasons.

7.11.19.05      Renewal or replacement policies or certificates shall be delivered to the City at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.

7.11.19.06      Before construction of a permitted wireless telecommunications facilities is initiated, but in no case later than fifteen (15) days after the granting of the Eligible Facilities Permit or Conditional Use Permit, the holder of the Eligible Facilities Permit or Conditional Use Permit shall deliver to the City a copy of each of the policies or certificates representing the insurance in the required amounts.

#### 7.11.20 Indemnification

7.11.20.01      Any application for wireless telecommunication facilities that is proposed for City property, pursuant to this ordinance, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by the law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the City, and its officers, Councils, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said Facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the City, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the City.

7.11.20.02      Notwithstanding the requirements noted in Section 7.11.20.01, an indemnification provision will not be required in those instances where the City itself applies for and secures an Eligible Facilities Permit or Conditional Use Permit for wireless telecommunications facilities.

#### 7.11.21 Default and/or Revocation.

If a Wireless Telecommunications Facility is repaired, rebuilt, placed, moved, re-located, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this ordinance or of the Eligible Facilities Permit or Conditional Use Permit, then the City shall notify the holder of the Eligible Facilities Permit or Conditional Use Permit in writing of such violation. A permit holder in violation may be considered in default and subject to fines as in Section 25 and if a violation is not corrected to the satisfaction of the City in a reasonable period of time the Eligible Facilities Permit or Conditional Use Permit is subject to revocation.

#### 7.11.22 Removal of Wireless Telecommunications Facilities.

7.11.22.01 Under the following circumstances, the City may determine that the health, safety, and welfare interests of the City warrant and require the removal of wireless telecommunications facilities.

1. Wireless Telecommunications Facilities or Small Wireless Facilities with a permit have been abandoned (i.e. not used as wireless telecommunications facilities) for a period exceeding ninety consecutive (90) days or a total of one hundred-eighty (180) days in any three hundred-sixty five (365) day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall commence within 90 days;
2. Permitted Wireless Telecommunications Facilities or Small Wireless Facilities fall into such a state of disrepair that it creates a health or safety hazard;
3. Wireless Telecommunications Facilities or Small Wireless Facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required Eligible Facilities Permit, Conditional Use Permit, or any other necessary authorization;
4. The Eligible Facilities Permit or Conditional Use Permit may be revoked by City Council as authorized within the conditions set forth within the approved Eligible Facilities Permit or Conditional Use Permit.

7.11.22.02 If the City makes such a determination as noted in Section 7.11.22.01, then the City shall notify the holder of the Eligible Facilities Permit or Conditional Use Permit for the facilities within forty-eight (48) hours that said facilities are to be removed, the City may approve an interim temporary use agreement/permit, such as to enable the sale of the wireless facilities.

7.11.22.03 The holder of the Eligible Facilities Permit or Conditional Use Permit, or its successors or assigns, shall dismantle and remove such wireless telecommunications facilities or wireless facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or Commercial Impracticability, within ninety (90) days of receipt of written notice from the City. However, if the owner of the property upon which the facilities are located wishes to retain any access roadway to the facilities, the owner may do so with the approval of the City.

7.11.22.04 If wireless telecommunications facilities or wireless facilities are not removed or substantial progress has not been made to remove the facilities within ninety (90) days after the permit holder has received notice, then the City may order officials or representatives of the City to remove the wireless telecommunications facilities or wireless facilities at the sole expense of the owner or Eligible Facilities Permit or Conditional Use Permit holder.

7.11.22.05 If, the City removes, or causes to be removed, wireless telecommunications facilities or wireless facilities, and the owner of the facilities does not claim and remove it from the site to a lawful location within ten (10) days, then the City may take steps to declare the wireless

telecommunications facilities or wireless facilities abandoned and sell them and their components.

7.11.22.06 Notwithstanding anything in this Section to the contrary, the City may approve a temporary use permit/agreement for the wireless telecommunications facilities or wireless facilities, for no more ninety (90) days, during which time a suitable plan for removal, conversion, or relocation of the affected facilities shall be developed by the holder of the Eligible Facilities Permit or Conditional Use Permit, subject to the approval of the City, and an agreement to such plan shall be executed by the holder of the Eligible Facilities Permit or Conditional Use Permit and the City. If such a plan is not developed, approved and executed within the ninety (90) day time period, then the City may take possession of and dispose of the affected facilities in the manner provided in this Section.

#### 7.11.23 Relief

Any applicant desiring relief, waiver or exemption from any aspect or requirement of this ordinance may request such, provided that the relief or exemption is contained in the submitted application for either an Eligible Facilities Permit or Conditional Use Permit, or in the case of an existing or previously granted Eligible Facilities Permit or Conditional Use Permit a request for modification of its tower and/or facilities. Such relief may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested relief, waiver or exemption is solely on the applicant to prove. The applicant shall bear all costs of the City in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that, if granted the relief, waiver or exemption will have no significant affect on the health, safety and welfare of the City, its residents and other service providers.

#### 7.11.24 Periodic Regulatory Review by the City

7.11.24.01 The City may at any time conduct a review and examination of this entire ordinance.

7.11.24.02 If after such a periodic review and examination of this ordinance, the City determines that one or more provisions of this ordinance should be amended, repealed, revised, clarified, or deleted, then the City may take whatever measures are necessary in accordance with applicable law in order to accomplish the same. It is noted that where warranted, and in the best interests of the City, the City may repeal this entire ordinance at any time.

7.11.24.03 Notwithstanding the provisions of Sections 7.11.24.01 and 7.11.24.02, the City may at any time and in any manner (to the extent permitted by Federal, State, or local law), amend, add, repeal, and/or delete one or more provisions of this ordinance.

#### 7.11.25 Adherence to State and/or Federal Rules and Regulations

7.11.25.01 To the extent that the holder of an Eligible Facilities Permit or Conditional Use Permit pursuant to this Section 7.11 has not received relief, or is otherwise exempt, from appropriate State and/or Federal agency rules or regulations, then the holder of such an Eligible Facilities Permit or Conditional Use Permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.

7.11.25.02 To the extent that applicable rules, regulations, standards, and provisions of any State or Federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of an Eligible Facilities Permit or Conditional Use Permit pursuant to this Section 7.11, then the holder of such an Eligible Facilities Permit or Conditional Use Permit shall conform the permitted facilities to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of twenty-four (24) months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

**SECTION 2. Repeal of Section 7.11 as Previously Enacted.** Section 7.11 of Ordinance No. 848 as previously enacted is hereby repealed.

**SECTION 3. 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 4. Effective Date.** This ordinance shall be in full force and effect from and after passage, approval and publication as provided by law.

**SECTION 5.** This ordinance shall be published in pamphlet form and take effect as provided by law.

PASSED AND APPROVED THIS 18<sup>th</sup> DAY OF MAY, 2021.

CITY OF LA VISTA

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Douglas Kindig, Mayor

ATTEST:

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Patricia Anderson

## Deputy City Clerk

K:\APPS\City Hall\ORDINANCES\1419 Amend Zoning Text Amendment Section  
7.11 05.18.2021.Docx

## **Section 7.11 Wireless Communication Telecommunications TowersFacilities**

### **7.11.01 Purpose and Legislative Intent.**

The Telecommunications Act of 1996 affirmed the City of La Vista's authority concerning the placement, construction, and modification of wireless telecommunications facilities. The City of La Vista finds that wireless telecommunications facilities may pose significant concerns to the health, safety, public welfare, character, and environment of the City and its inhabitants. The City also recognizes that facilitating the development of wireless service technology can be an economic development asset to the City and of significant benefit to the City and its residents. In order to ensure that the placement, construction, or modification of wireless telecommunications facilities is consistent with the City's land use policies, the City is adopting a single, comprehensive, wireless telecommunications facilities application and permit process. The intent of this section is to minimize impact of wireless telecommunications facilities, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of the residents of the City of La Vista.

### **7.11.02 Definitions.**

For purposes of this section, and where not inconsistent with the context of a particular subsection, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given here. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word "shall" is always mandatory, and not merely directory.

**7.11.02.01** "Accessory Facility or Structure" means an accessory facility or structure serving or being used in conjunction with wireless telecommunications facilities, and located on the same property or lot as the wireless telecommunications facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.

**7.11.02.02** "Applicant" means any wireless service provider submitting an application for a conditional use permit or eligible facilities permit for wireless telecommunications facilities.

**7.11.02.03** "Antenna" means a system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals, communications equipment that transmits or receives electromagnetic radio frequency signals used in providing wireless services.

**7.11.02.04** "Co-location" means the use of an existing tower or structure to support antennae for the provision of wireless services. A replacement tower that is constructed on the same site as an existing tower will be considered a co-location as long as the new tower is no taller than the old tower and that the old tower is removed in a reasonable short time frame after the new tower is constructed.

**7.11.02.05** "Commercial Impracticability" or "Commercially Impracticable" means the inability to perform an act on terms that are reasonable in commerce; the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be "commercially impracticable" and shall not render an act or the terms of an agreement "commercially impracticable".

**7.11.02.06** "Completed Application" means an application that contains all information and/or data necessary to enable an informed decision to be made with respect to an application.

**7.11.02.07** "Distributed Antenna System or DAS" means a network of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area or structure, and generally serves multiple carriers. For the purposes of this Article, a distributed antenna system is considered a small wireless facility.

<u>7.11.02.08</u>	<u>“Eligible Facility” means a facility as defined in FCC 14-153.</u>
7.11.02.09	<u>“Eligible Facilities Permit” means the official zoning permit approved and issued by the Community Development Director for application which meets the definition of an eligible facility.</u>
7.11.02.10	“FAA” means the Federal Aviation Administration, or its duly designated and authorized successor agency.
7.11.02.11	“FCC” means the Federal Communications Commission, or its duly designated and authorized successor agency.
7.11.02.12	“Height” means, when referring to a tower or structure, the distance measured from the pre-existing grade level to the highest point on the tower or structure, including antennas or lightening protection devices.
<u>7.11.02.13</u>	<u>“Macro Tower” means a guyed or self-supported pole or monopole greater than the height parameters prescribed that supports or is capable of supporting antennas.</u>
7.11.02.14	“Modification” or “Modify” means, the addition, removal or change of any of the physical and visually discernible components or aspects of a wireless facility, such as antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernible components, vehicular access, parking and/or an upgrade or change out of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to a telecommunications tower or telecommunications Site as a co-location is a modification. A Modification shall not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything.
<u>7.11.02.15</u>	<u>“NIER” means Non-Ionizing Electromagnetic Radiation.</u>
7.11.02.16	<u>“Person” means any individual, corporation, estate, trust, partnership, joint stock company, association of two (2) or more persons having a joint common interest, or any other entity.</u>
7.11.02.17	“Personal Wireless Facility” See definition for ‘Wireless Telecommunications Facilities.’
7.11.02.18	“Personal Wireless Services” or “PWS” or “Personal Telecommunications Service” or “PCS” shall have the same meaning as defined and used in the 1996 Telecommunications Act.
<u>7.11.02.19</u>	<u>“Pole” means a service pole, municipally-owned utility pole, small wireless facility support pole, or other utility pole.</u>
<u>7.11.02.20</u>	“Repairs and Maintenance” means the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without the addition, removal or change of any of the physical or visually discernible components or aspects of a wireless facility that will add to the visible appearance of the facility as originally permitted.
	<u>“Small Wireless Facility” means low powered wireless base stations (nodes) consisting of an antenna and related equipment either installed singly or as part of a network to provide coverage or enhance capacity in a limited defined area. Small Wireless Facilities are usually operator managed and support only a single wireless service provider. The term:</u>

— Includes:

- Equipment associated with wireless communications;
- A radio transceiver, an antenna, a battery only backup power supply, and comparable equipment, regardless of technological configuration; and
- Coaxial or fiber optic cable that is immediately adjacent to and directly associated with a particular collocation; and

— Does not include:

- An electric generator;
- A pole; or

7.11.02.21 A macro tower, any wireless facility that meets each of the following conditions: (1) the facilities (a) are mounted on structures fifty feet or less in height including the antennas or (b) are mounted on structures no more than ten percent taller than other adjacent structures; (2) each antenna associated with the deployment is no more than three cubic feet in volume; (3) all other equipment associated with the structure, whether ground-mounted or pole-mounted, is no more than twenty-eight cubic feet in volume; (4) the facilities do not require antenna structure registration under 47 C.F.R. part 17, as such regulation existed on January 1, 2019; (5) the facilities are not located on tribal lands, as defined in 36 C.F.R. 800.16(x), as such regulation existed on January 1, 2019; and (6) the facilities do not result in human exposure to radio frequency radiation in excess of the applicable safety standards specified in 47 C.F.R. 1.1307(b), as such regulation existed on January 1, 2019.

Small wireless facility(s) are governed and regulated by the City of La Vista's "Design Guidelines for the Installation of Wireless Facilities in Public Right-of-Way". Small wireless facility attachments located in the public right of way require an additional Master Lease Agreement with the City. La Vista Municipal Code Chapter 120 and La Vista Ordinance No. 1393.

7.11.02.22 "Small Wireless Facility Support Poles" means a pole installed by a network provider for the primary purpose of supporting a small wireless facility.

7.11.02.027.11.02.23 "Specialized Mobile Radio" or "SMR" means an analogue or digital trunked two-way radio system, operated by a service in the VHF, 220, UHF, 700.800 or 900 MHz bands.

7.11.02.24 "State" means the State of Nebraska.

7.11.02.25 "Stealth" or "Stealth Technology" means to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless Telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

7.11.02.26 "Telecommunications" means the transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

7.11.02.27 "Telecommunication Site" See definition for Wireless Telecommunications Facilities.

7.11.02.28 "Telecommunications Structure" means a structure used in the provision of services described in the definition of 'Wireless Telecommunications Facilities.'

7.11.02.29 "Temporary" means, in relation to all aspects and components of this section, something intended to, or that does not exist for more than ninety (90) days.

7.11.02.30 “Tower” means any structure designed primarily to support an antenna for receiving and/or transmitting a wireless signal, any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers, and that is not a utility pole, an alternative antenna telecommunications structure, or City-owned infrastructure.

7.11.02.31 “Utility Pole” means an upright pole designed and used to support electric cables, telephone cables, telecommunications cables, cable service cables, which are used to provide lighting, traffic control, signage, or a similar function.

7.11.02.32 “Wireless Telecommunications Facilities” means and includes a “Telecommunications Site” and “Personal Wireless Facility”. It means a structure, facility or location designed, or intended to be used as, or used to support antennas or other transmitting or receiving devices. This includes without limit, towers of all types and kinds and structures, including, but not limited to buildings, church steeples, silos, water towers, signs or other structures that can be used as a support structure for antennas or the functional equivalent of such. It further includes all related facilities and equipment such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, SMR, paging, 911, Personal Communications Services (PCS), commercial satellite services, microwave services and any commercial wireless telecommunication service not licensed by the FCC.

7.11.03 Overall Policy and Desired Goals for Conditional Use PermitsEligible Facilities and Conditional Use Permits for Wireless Telecommunications Facilities.

In order to ensure that the placement, construction, and modification of wireless telecommunications facilities does not negatively impact the health and safety of the public, environmental features, the nature and character of the community and neighborhood, and other aspects of the quality of life specifically listed elsewhere in this section, the City hereby adopts an overall policy with respect to an conditional use permitEligible Facilities Permit or Conditional Use Permit for wireless telecommunications facilities for the express purpose of achieving the following goals:

7.11.03.01 Requiring an conditional use permitEligible Facilities Permit or Conditional Use Permit for any new, co-location or modification of a wireless telecommunications Facility.

7.11.03.02 Implementing an application process for person(s) seeking a Conditional Use Permit for wireless telecommunications facilities.

7.11.03.03 Establishing a policy for examining an application for and issuing an conditional use permitEligible Facilities Permit or Conditional Use Permit for wireless telecommunications facilities that is both fair and consistent.

7.11.03.04 Establishing a policy for examining an application for and issuing an Eligible Facilities Permit or Conditional Use Permit for wireless telecommunications facilities that is both fair and consistent.

7.11.03.05 Promoting and encouraging, wherever possible, the sharing and/or co-location of wireless telecommunications facilities among service providers.

7.11.03.06 Promoting and encouraging, wherever possible, the placement, height and quantity of wireless telecommunications facilities in such a manner, including but not limited to the use of stealth technology, to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

7.11.03.07 That in granting an ~~conditional use permit~~Eligible Facilities Permit or Conditional Use Permit for wireless telecommunications facilities, the City has found that the facility shall be the most appropriate site insofar as it is the least visually intrusive among those available in the City.

7.11.04 Exceptions from application requirements for Wireless Telecommunications Facilities.

— Exceptions from Conditional Use Permit requirement. Except as otherwise provided by this ordinance no person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of, wireless telecommunications facilities as of the effective date of this ordinance without having first obtained a ~~conditional use permit~~Conditional Use Permit for wireless telecommunications facilities ~~unless such corresponding wireless telecommunications facility is classified by the Community Development Director, or his or her designee, as: Notwithstanding anything to the contrary in this section, no Conditional Use Permit shall be required for those non-commercial exclusions noted in Section 7.11.05.~~

— ~~All legally permitted wireless telecommunications facilities, constructed as permitted, existing on or before the effective date of this section shall be allowed to continue as they presently exist, provided however, that any visible modification of an existing Wireless Telecommunications Facility will require the complete facility and any new installation to comply with this ordinance.~~

- 1) An Eligible Facilities request, which is subject to the permitting requirements of Section 7.11.07; or
- 2) A request for the installation of new or collocations of Small Wireless Facility(s) and/or Small Wireless Facility Support Poles as defined in Section 7.11.02. Small Wireless Facility(s) are, however, governed and regulated by the La Vista Municipal Code Chapter 120 and La Vista Ordinance No. 1393, the “City of La Vista Design Manual for Installation of Small Wireless Facilities and Small Wireless Facility Support Poles”. Small Wireless Facility attachments located in the public right of way require an additional Master Lease Agreement with the City; or
- 3) One of the non-commercial exclusions delineated in 7.11.05; or
- 4) Repair and maintenance as defined in Section 7.11.02.

~~Repair and Maintenance of a Wireless Facility does not require an application for an conditional use permit~~Eligible Facility Permit or Conditional Use Permit.

7.11.05 Non-Commercial Exclusions.

The following shall be exempt from Section 7.11:

7.11.05.01 The City's fire, police, public works or other public service facilities owned and operated by the local government and/or public entities in partnership with the local government.

7.11.05.02 Over-the-Air ~~reception~~Reception Devices including the reception antennas for direct broadcast satellites (DBS), multichannel multipoint distribution (wireless cable) providers (MMDS), television broadcast stations (TVBS) and other customer-end antennas that receive and transmit fixed wireless signals that are primarily used for reception.

7.11.05.03 Facilities exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar non-commercial telecommunications.

7.11.05.04 Facilities used exclusively for providing unlicensed spread spectrum technology i.e. Bluetooth or a 'Hot Spot', where the facility does not require a new tower, where the service is not to be used for commercial purposes, where there is no fee or charge for the

use of the service and where the service is intended to be useable for less than a distance of 200 feet.

#### 7.11.06 Conditional Use Permit Application and Other Requirements

7.11.06.01 ~~Unless noted elsewhere in this section, all tower Development permits are governed by the regulations in Article 6: conditional use permits. All applicants for a Conditional Use Permit for Telecommunications Facilities shall comply with the requirements set forth in this ordinance. Applications for a Conditional Use Permit for Wireless Telecommunications Facilities must be made pursuant to Article 6 and this Article 7 of the Zoning Ordinance. Upon recommendation of the Planning Commission, the City Council is authorized to review, analyze, evaluate, and make decisions with respect to granting or not granting or revoking Conditional Use Permits for Wireless Telecommunications Facilities. The City may at its discretion delegate or designate other official agencies or officials of the City to review, analyze, evaluate, and make recommendations to the Planning Commission and the City Council concerning matters involving Conditional Use Permits for Wireless Telecommunications Facilities.~~

7.11.06.02 ~~All applications for an Conditional Use Permit for Wireless Telecommunications Facilities shall be filed with the Community Development Director's office pursuant to this section of the Zoning Ordinance.~~

7.11.06.03 ~~The City may reject applications not meeting the requirements stated herein or which are otherwise incomplete.~~

7.11.06.04 No wireless telecommunications facilities shall be installed, constructed or modified until the application is reviewed and approved by the City, and the ~~conditional use permit~~ Conditional Use Permit for Wireless Telecommunications Facilities has been issued.

7.11.06.05 Any and all representations made by the applicant to the City on the record during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the City.

7.11.06.06 ~~An application for an Conditional Use Permit for Wireless Telecommunications Facilities shall be singed on behalf of the Applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information.~~

7.11.06.07 ~~The Applicant must provide documentation to verify it has the right to proceed as proposed on the site. This would require an executed copy of the lease with the landowner or landlord or a signed letter acknowledging authorization. If the Applicant owns the site, a copy of the ownership record is required.~~

7.11.06.08 The ~~applicant~~ Applicant shall include a statement in writing:

1. That the applicant's proposed ~~wireless~~ Wireless telecommunications Telecommunications facilities Facilities shall be maintained in a safe manner, and in compliance with all conditions of the ~~conditional use permit~~ Conditional Use Permit for Wireless Telecommunications Facilities, without exception, unless specifically granted relief by the City in writing, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable City, State and Federal laws, rules, and regulations;
2. That the construction of the wireless telecommunications facilities is legally permissible, including, but not limited to the fact that the applicant is authorized to do business in the State.

7.11.06.09 ~~Where a certification is called for in this Ordinance, such certification shall bear the signature and seal of a registered professional engineer licensed in the State.~~

7.11.06.10	<p>In addition to all other required information as stated in Section 6 of this ordinance, all applications for the construction or installation of new wireless telecommunications facilities or modification of an existing facility shall contain the information hereinafter set forth.</p> <ol style="list-style-type: none"> <li>1. A completed City of La Vista Planning and Zoning Application Form;</li> <li>2. A descriptive statement of the objective(s) for the new facility or modification including and expanding on a need such as coverage and/or capacity requirements;</li> <li>3. Documentation that demonstrates and proves the need for the wireless telecommunications facility to provide service primarily and essentially within the City. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites that demonstrate a significant gap in coverage and/or if a capacity need, including an analysis of current and projected usage;</li> <li>4. The location of nearest residential structure;</li> <li>5. The location, size and height of all existing and proposed structures on the property which is the subject of the application;</li> <li>6. The azimuth, size and center-line height location of all proposed and existing antennae on the supporting structure;</li> <li>7. The number, type and model of the antenna(s) proposed with a copy of the specification sheet;</li> <li>8. The make, model, type and manufacturer of the tower and design plan stating the tower's capacity to accommodate multiple users</li> <li>9. A site plan describing the proposed tower and antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;</li> <li>10. The frequency, modulation and class of service of radio or other transmitting equipment;</li> <li>11. The actual intended transmission power stated as the maximum effective radiated power (ERP) in watts;</li> <li>12. Signed documentation such as the "Checklist to Determine Whether a Facility is Categorically Excluded" to verify that the Wireless Telecommunication Facility with the proposed installation will be in full compliance with the current FCC RF Emissions guidelines (NIER). If not categorically excluded, a complete RF Emissions study is required to provide verification;</li> <li>13. A signed statement that the proposed installation will not cause physical or RF interference with other telecommunications devices;</li> <li>14. A copy of the FCC license applicable for the intended use of the wireless telecommunications facilities;</li> <li>15. A copy of the geotechnical sub-surface soils investigation, evaluation report and foundation recommendation for a proposed or existing tower site and if existing tower or water tank site, a copy of the installed foundation design.</li> </ol>
7.11.06.11	<p>The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the proposed new tower or existing structure intended to support wireless facilities is in compliance with Federal Aviation Administration Regulation Part 77 and if it requires lighting. This requirement shall also be for any existing structure or building where the application increases the height of the structure or building. If this analysis determines that an FAA determination is required, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided with the application.</p>
7.11.06.12	<p><u><a href="#">Additional requirements for an application for a New Tower</a></u></p> <ol style="list-style-type: none"> <li>1. In the case of a new tower, the applicant shall be required to submit a written report demonstrating its meaningful efforts to secure shared use of existing tower(s) or the use of alternative buildings or other structures within the City. Copies of written requests and responses for shared use shall be provided to the</li> </ol>

City in the application, along with any letters of rejection stating the reason for rejection.

2. In order to better inform the public, in the case of a new Telecommunication tower, the applicant shall, prior to the public hearing on the application, hold a "balloon test". The applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three (3) foot in diameter brightly colored balloon at the maximum height of the proposed new tower. The dates, (including a second date, in case of poor visibility on the initial date) times and location of this balloon test shall be advertised by the applicant seven (7) and fourteen (14) days in advance of the first test date in a newspaper with a general circulation in the City. The applicant shall inform the City, in writing, of the dates and times of the test, at least fourteen (14) days in advance. The balloon shall be flown for at least four consecutive hours sometime between 7:00 am and 4:00 pm on the dates chosen. The primary date shall be on a weekend, but in case of poor weather on the initial date, the secondary date may be on a weekday. A report with pictures from various locations of the balloon shall be provided with the application.
3. The applicant shall examine the feasibility of designing the proposed tower to accommodate future demand for at least four (4) additional commercial applications, for example, future co-locations. The tower shall be structurally designed to accommodate at least four (4) additional antenna arrays equal to those of the applicant, and located as close to the applicant's antenna as possible without causing interference. This requirement may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the tower is not technologically feasible, is commercially impracticable or creates an unnecessary and unreasonable burden, based upon:
  - a) The foreseeable number of FCC licenses available for the area;
  - b) The kind of wireless telecommunications facilities site and structure proposed;
  - c) The number of existing and potential licenses without wireless telecommunications facilities spaces/sites;
  - d) Available space on existing and approved towers.

7.11.06.13 Upon completing construction and before the issuance of the Certificate of Compliance, to ensure the tower was constructed as permitted, the Applicant is to provide signed documentation of the Tower condition per the requirements of ANS/TIA/EIA-222 (adopted by reference in the building code) Annex for Tower Maintenance, Condition Assessment, and Inspection Procedures. The inspection report must be performed every three (3) years for a guyed tower and five (5) years for monopoles and self-supporting towers.

7.11.06.14 The owner of a proposed new tower, and his/her successors in interest, shall negotiate in good faith for the shared use of the proposed tower by other Wireless service providers in the future, and shall:

1. Respond within 60 days to a request for information from a potential shared-use applicant;
2. Negotiate in good faith concerning future requests for shared use of the new tower by other Telecommunications providers;
3. Allow shared use of the new tower if another Telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.
4. Failure to abide by the conditions outlined above may be grounds for revocation of the Conditional Use Permit.

7.11.06.15 The Applicant shall provide certification with documentation (structural analysis) including calculations that the Telecommunication Facility tower and foundation and attachments, rooftop support structure, water tank structure, and any other supporting structure as proposed to be utilized are designed and will be constructed to meet all local, City, State and Federal structural requirements for loads, including wind and ice loads.

7.11.06.16 ~~If the proposal is for a co-location or modification on an existing tower, the applicant is to provide signed documentation of the tower condition such as an ANSI report as per Annex E, tower Maintenance and Inspection Procedures, ANSI/TIA/EIA 222F or most recent version. The inspection report must be performed every three (3) years for a guyed tower and five (5) years for monopoles and self supporting towers. If the application is for a co-location or modification of an existing Tower, the Applicant is to provide signed documentation of the Tower condition per the requirements of ANS/TIA/EIA-222 (adopted by reference in the building code) Annex for Tower Maintenance, Condition Assessment and Inspection Procedures. The inspection report must be performed every three (3) years for a guyed tower and five (5) years for monopoles and self-supporting towers.~~

7.11.06.17 All proposed wireless telecommunications facilities shall contain a demonstration that the Facility will be sited so as to minimize visual intrusion as much as possible, given the facts and circumstances involved and will thereby have the least adverse visual effect on the environment and its character and on the residences in the area of the wireless telecommunications facility.

7.11.06.18 If the proposal application is for a new tower, an antenna attachment to an existing structure, or modification adding to a visual impact, the applicant shall furnish a Visual Impact Assessment, which shall include:

1. If a new tower or increasing the height of an existing structure is proposed, a computer generated “Zone of Visibility Map” at a minimum of one mile radius from the proposed structure, with and without foliage shall be provided to illustrate locations from which the proposed installation may be seen.
2. Pictorial representations of “before and after” (photo simulations) views from key viewpoints both inside and outside of the City as may be appropriate, including but not limited to State highways and other major roads; parks; other public lands; and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided, concerning the appropriate key sites at the pre-application meeting. Provide a map showing the locations of where the pictures were taken and distance from the proposed structure.
3. A written description of the visual impact of the proposed facility including; and as applicable the tower base, guy wires, fencing and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening.

7.11.06.19 The Applicant shall demonstrate and provide in writing and/or by drawing how it shall effectively screen from view the base and all related equipment and structures of the proposed wireless telecommunications facility.

7.11.06.20 The wireless telecommunications facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings, this shall include the utilization of stealth or concealment technology as may be required by the City.

7.11.06.21 All utilities at a wireless telecommunications facilities site shall be installed underground whenever possible and in compliance with all laws, ordinances, rules and regulations of the City, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.

7.11.06.22 At a Telecommunications Site, an access road, turn-around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.

7.11.06.23 All wireless telecommunications facilities shall be constructed, operated, maintained, repaired, provided for removal of, modified or restored in strict compliance with all current applicable technical, safety and safety-related codes adopted by the City, State, or United States, including but not limited to the most recent editions of the ANSI Code, National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.

7.11.06.24 A holder of an conditional use permitEligible Facilities Permit or Conditional Use Permit for a Wireless Communications Facility granted under this ordinance shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the City or other governmental entity or agency having jurisdiction over the applicant.

7.11.06.25 There shall be a pre-application meeting. The purpose of the pre-application meeting will be to address issues that will help to expedite the review and permitting process. A pre-application meeting shall also include a site visit if there has not been a prior site visit for the requested site.

7.11.06.26 An applicant shall submit to the City the number of completed applications determined to be needed at the pre-application meeting. Written notification of the application shall be provided to the legislative body of all adjacent municipalities as applicable and/or requested.

7.11.05.017.11.06.27 The holder of an conditional use permitEligible Facilities Permit or Conditional Use Permit for Wireless Telecommunications Facilities shall notify the City of any intended modification of a wirelessWireless telecommunicationTelecommunication facility and shall apply to the City to modify, relocate or rebuild a wirelessWireless telecommunicationsTelecommunications facilityFacility.

#### 7.11.07 Eligible facilities permit application and other requirements.

7.11.07.01. Compliance with application requirements. All applicants for an Eligible Facilities Permit shall comply with the requirements set forth in this Article.

7.11.07.02. Eligible Facilities Permit required. No Wireless Telecommunications Facilities that requires an Eligible Facilities Permit shall be installed, constructed or modified until the Eligible Facilities Permit has been approved by the Community Development Director, and all applicable building permits have been obtained in accordance with Section 9.04.

7.11.07.03. Representations by applicant. Any and all representations made by the applicant to the City or its consultants or experts during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the City.

7.11.07.04. Application requirements for Eligible Facilities Permits. An Eligible Facilities Permit application shall include the following information:

1. Name and address, and phone number of the applicant to include the legal name of the applicant.

2. The name, address, and phone number of the property owner. If the site is a tower and the tower owner is not the applicant, provide name and address of the tower owner.
3. The address and legal description of the property.
4. A signed statement that the modification qualifies as an Eligible Facilities request.
5. A signed statement that verifies the applicant has the right to proceed as proposed on the site. If the applicant owns the site, a statement is not required.
6. A signed statement that verifies that the construction of the proposed Wireless Telecommunications Facility shall be legally permissible upon the City's approval of the corresponding eligible permit and upon the issuance of all applicable building permits to be obtained in accordance with Section 9.04. Such statement shall include, but not limited to, confirmation of the fact that the applicant is authorized to do business in the State.
7. A signed statement that the application complies with federal guidelines regarding interference and ANSI standards as adopted by the FCC including but not limited to NIER standards.
8. A signed statement that the proposed installation will not cause physical or RF interference with other telecommunications devices.
9. A site plan that complies with Section 5.15.05.02, which also includes:
  - a) The location, size and height of all existing and proposed structures on the property which is the subject of the application; and
  - b) The type, locations and dimensions of all proposed and existing landscaping, screening, and fencing.
10. A description of the proposed antenna(s), and all related fixtures, structures, appurtenances, and apparatus, including height above pre-existing grade, materials, color, and lighting. This shall include:
  - a) The azimuth, size and center-line height location of all proposed and existing antennae on the supporting structure; and
  - b) The number, type and model of the antenna(s) and equipment proposed with a copy of the specification sheet; and
  - c) The make, model, type and manufacturer of the tower; and
  - d) The frequency, modulation, and class of service of radio or other transmitting equipment; and
  - e) The actual intended transmission power stated as the maximum effective radiated power (ERP) in watts.
11. A structural analysis report that includes calculations that the Wireless Telecommunication Facility tower and foundation and attachments, rooftop support structure, water tank structure, and any other supporting structure as proposed to be utilized are designed and will be constructed to meet all City, State and Federal structural requirements for loads, including wind and ice loads. Such structural analysis shall bear the signature and seal of a registered professional structural engineer licensed in the State.

7.11.07.05. Utility installation. All utilities at a Wireless Telecommunications Facilities site shall be installed underground whenever possible and in compliance with all laws, ordinances, rules and regulations of the City, including specifically, but not limited to, the National Electrical Code where appropriate.

7.11.07.06. Compliance with technical, safety, and safety-related codes. All Wireless Telecommunications Facilities shall be constructed, operated, maintained, repaired,

provided for removal of, modified, or restored in strict compliance with all current applicable technical, safety, and safety-related codes adopted by the City, State, or United States, including but not limited to the most recent editions of the ANSI Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding codes, the more stringent shall apply.

7.11.07.07. Responsibility for permits and licenses. A holder of an Eligible Facilities Permit granted under this Article shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the City or other governmental entity or agency having jurisdiction over the applicant.

#### 7.11.08 Location of Wireless Telecommunications Facilities

7.11.08.01 Applicants for wireless telecommunications facilities shall locate, site and erect said wireless telecommunications facilities in accordance with the following priorities, one (1) being the highest priority and six-ten (10) being the lowest priority.

1. On existing towers or other structures on city owned properties, including the right-of-way.
2. On existing towers or other structures on other property in the City.
3. A new tower on City-owned properties.
4. A new tower on properties in areas zoned for Heavy Industrial use.
5. A new tower on properties in areas zoned for Light Industrial use.
6. A new tower on properties in areas zoned for Transitional Agricultural use.
7. New Small Wireless Facilities in the right-of-way.

7.11.08.02 If the proposed site is not proposed for the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site.

7.11.08.03 An applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected. An application shall address co-location as an option. If such option is not proposed, the applicant must explain to the reasonable satisfaction of the City why co-location is commercially or otherwise impracticable. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of commercial impracticability or hardship.

7.11.08.04 Notwithstanding the above, the City may approve any site located within an area in the above list of priorities, provided that the City finds that the proposed site is in the best interest of the health, safety and welfare of the City and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood.

7.11.08.05 The Applicant shall submit a written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the application.

7.11.08.06 Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the City may disapprove an application for any of the following reasons.

1. Conflict with safety and safety-related codes and requirements;
2. Conflict with the nature or character of a neighborhood or district;
3. The use or construction of wireless telecommunications facilities which is contrary to an already stated purpose of a specific zoning or land use designation;
4. The placement and location of wireless telecommunications facilities which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the City, or employees of the service provider or other service providers;
5. Conflicts with the provisions of this ordinance.

#### 7.11.09 Shared Use of Wireless Telecommunications Facilities and Other Structures

7.11.09.01 The City, as opposed to the construction of a new tower, shall prefer locating on existing towers or other structures without increasing the height. The applicant shall submit a comprehensive report inventorying existing towers and other suitable structures within two (2) miles of the location of any proposed new tower, unless the applicant can show that some other distance is more reasonable and demonstrate conclusively why an existing tower or other suitable structure cannot be used.

7.11.09.02 An ~~A~~ applicant intending to locate on an existing tower or other suitable structure shall be required to document the intent of the existing owner to permit its use by the applicant.

7.11.09.03 Such shared use shall consist only of the minimum antenna array technologically required to provide service primarily and essentially within the City, to the extent practicable, unless good cause is shown.

#### 7.11.10 Height of Telecommunications Tower(s)

7.11.10.01 The ~~A~~ applicant shall submit documentation justifying the total height of any tower, facility and/or antenna requested and the basis therefore. Documentation in the form of propagation studies must include all backup data used to perform at requested height and a minimum of ten (10') feet lower height to allow verification of this height need. Such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the City, to the extent practicable, unless good cause is shown.

7.11.10.02 No tower constructed after the effective date of this section, including allowing for all attachments, shall exceed that height which shall permit operation without required artificial lighting of any kind in accordance with City, State, and/or any Federal statute, law, local law, city ordinance, code, rule or regulation. The height limitations in this section shall supersede the height limitations set forth in Section 4.15.

#### 7.11.11 Visibility of Wireless Telecommunications Facilities.

7.11.11.01 Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by law.

7.11.11.02 Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this ordinance.

7.11.11.03 If lighting is required, applicant shall provide a plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations.

#### 7.11.12 Security of Wireless Telecommunications Facilities.

7.11.12.01 All wireless telecommunications facilities and antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

1. All antennas, towers and other supporting structures, including guy anchor points and wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and
2. Transmitters and telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

#### 7.11.13 Signage

##### 7.11.13.01

Wireless telecommunications facilities shall contain a sign no larger than four (4) square feet in order to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area. A sign of the same size is also to be installed to contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. On tower sites, an FCC registration site as applicable is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted.

#### 7.11.14 Lot Size and Setbacks

##### 7.11.14.01

All proposed towers and any other proposed wireless telecommunications facility structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: A distance equal to the height of the proposed tower or wireless telecommunications Facility structure plus ten percent (10%) of the height of the tower or structure, or the existing setback requirement of the underlying zoning district, whichever is greater. Any accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated.

#### 7.11.15 Retention of Expert Assistance and Reimbursement by Applicant

##### 7.11.15.01

The City may hire any consultant and/or expert necessary to assist the City in reviewing and evaluating the application, including the construction and modification of the site, once permitted, and any site inspections.

#### 7.11.16 Application and Permit Fees

Application and permit fees for At the time that a person submits an application for a Ceonditional Use Permit for a new tower or for an Eligible Facilities Permit, such person shall pay a non-refundable fee as are established in the Master Fee Schedule. Application fees are non-refundable and shall be submitted at the time that a person submits an application.

#### 7.11.17 Performance Security

The applicant and the owner of record of any proposed wireless telecommunications facilities property site shall, at its cost and expense, be jointly required to execute and file with the City a bond, or other form of security acceptable to the City as to type of security and the form and manner of execution, in an amount of at least \$75,000.00 for a tower facility and \$25,000 for a co-location on an existing tower or other structure and with such sureties as are deemed sufficient by the City to assure the faithful performance of the terms and conditions of this ordinance and conditions of any Eligible Facilities Permit or Ceonditional Use Permit issued pursuant to this ordinance. The full amount of the bond or security shall remain in full force and effect throughout the term of the Ceonditional Use Permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that, which existed prior to the issuance of the original Eligible Facilities Permit or Ceonditional Use Permit.

#### 7.11.18 Reservation of Authority to Inspect Wireless Telecommunications Facilities

In order to verify that the holder of a Coconditional Use Permit for wireless telecommunications facilities and any and all lessees, renters, and/or licensees of wireless telecommunications facilities, place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, ordinances and regulations and other applicable requirements, the City may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, towers, antennas and buildings or other structures constructed or located on the permitted site.

#### 7.11.19 Liability Insurance

7.11.19.01 A holder of an Eligible Facilities Permit or Coconditional Use Permit for wireless telecommunications facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the Coconditional Use Permit in amounts as set forth below

1. Commercial General Liability covering personal injuries, death and property damage: \$1,000,000 per occurrence/\$2,000,000 aggregate;
2. Automobile Coverage: \$1,000,000 per each accident;
3. Workers Compensation and Disability: Statutory amounts

7.11.19.02 For a wireless telecommunications facility on City property, the Commercial General Liability insurance policy shall specifically include the City and its officers, Councils, employees, committee members, attorneys, agents and consultants as additional insureds.

7.11.19.03 The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with a Best's rating of at least A.

7.11.19.04 The insurance policies shall contain an endorsement obligating the insurance company to furnish the City with at least ten (10) days prior written notice in advance of the cancellation of the insurance for non-payment or 60 days for all other reasons.

7.11.19.05 Renewal or replacement policies or certificates shall be delivered to the City at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.

7.11.19.06 Before construction of a permitted wireless telecommunications facilities is initiated, but in no case later than fifteen (15) days after the granting of the Eligible Facilities Permit or Coconditional Use Permit, the holder of the Eligible Facilities Permit or Coconditional Use Permit shall deliver to the City a copy of each of the policies or certificates representing the insurance in the required amounts.

#### 7.11.20 Indemnification

7.11.20.01 Any application for wireless telecommunication facilities that is proposed for City property, pursuant to this ordinance, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by the law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the City, and its officers, Councils, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said Facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the City, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the City.

7.11.20.02 Notwithstanding the requirements noted in Section 7.11.19.01, an indemnification provision will not be required in those instances where the City itself applies for and secures an Eligible Facilities Permit conditional or Conditional Use Permit for wireless telecommunications facilities.

7.11.21 Default and/or Revocation.

If a Wireless Telecommunications Facility is repaired, rebuilt, placed, moved, re-located, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this ordinance or of the Eligible Facilities Permit or Conditional Use Permit, then the City shall notify the holder of the Eligible Facilities Permit conditional or Conditional Use Permit in writing of such violation. A permit holder in violation may be considered in default and subject to fines as in Section 25 and if a violation is not corrected to the satisfaction of the City in a reasonable period of time the Eligible Facilities Permit or Conditional Use Permit is subject to revocation.

7.11.22 Removal of Wireless Telecommunications Facilities.

7.11.22.01 Under the following circumstances, the City may determine that the health, safety, and welfare interests of the City warrant and require the removal of wireless telecommunications facilities.

1. Wireless telecommunications Telecommunications facilities Facilities or Small Cell Wireless Facilities with a permit have been abandoned (i.e. not used as wireless telecommunications facilities) for a period exceeding ninety consecutive (90) days or a total of one hundred-eighty (180) days in any three hundred-sixty five (365) day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall commence within 90 days;
2. Permitted wireless Wireless telecommunications Telecommunications facilities Facilities or Small Cell Wireless Facilities fall into such a state of disrepair that it creates a health or safety hazard;
3. Wireless telecommunications Telecommunications facilities Facilities or Small Cell Wireless Facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required Eligible Facilities Permit or, Conditional Use Permit, or any other necessary authorization; and the
4. The Conditional Use Permit may be revoked by City Council as authorized within the conditions set forth within the approved Conditional Use Permit.

7.11.22.02 If the City makes such a determination as noted in Section 7.11.21.01, then the City shall notify the holder of the Eligible Facilities Permit or Conditional Use Permit for the wireless telecommunications facilities within forty-eight (48) hours that said wireless telecommunications facilities are to be removed, the City may approve an interim temporary use agreement/permit, such as to enable the sale of the wireless telecommunications facilities.

7.11.22.03 The holder of the Eligible Facilities Permit or Conditional Use Permit, or its successors or assigns, shall dismantle and remove such wireless telecommunications facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or Commercial Impracticability, within ninety (90) days of receipt of written notice from the City. However, if the owner of the property upon which the wireless telecommunications facilities are located wishes to retain any access roadway to the wireless telecommunications facilities, the owner may do so with the approval of the City.

7.11.22.04 If wireless telecommunications facilities are not removed or substantial progress has not been made to remove the wireless telecommunications facilities within ninety (90) days after the permit holder has received notice, then the City may order officials or

representatives of the City to remove the wireless telecommunications facilities at the sole expense of the owner or Eligible Facilities Permit or Ceonditional Use Permit holder.

- 7.11.22.05 If, the City removes, or causes to be removed, wireless telecommunications facilities, and the owner of the wireless telecommunications facilities does not claim and remove it from the site to a lawful location within ten (10) days, then the City may take steps to declare the wireless telecommunications facilities abandoned, and sell them and their components.
- 7.11.22.06 Notwithstanding anything in this Section to the contrary, the City may approve a temporary use permit/agreement for the wireless telecommunications facilities, for no more than ninety (90) days, during which time a suitable plan for removal, conversion, or re-location of the affected wireless telecommunications facilities shall be developed by the holder of the Eligible Facilities Permit or Ceonditional Use Permit, subject to the approval of the City, and an agreement to such plan shall be executed by the holder of the Eligible Facilities Permit or Ceonditional Use Permit and the City. If such a plan is not developed, approved and executed within the ninety (90) day time period, then the City may take possession of and dispose of the affected wireless telecommunications facilities in the manner provided in this Section.

#### 7.11.23 Relief

Any applicant desiring relief, waiver or exemption from any aspect or requirement of this ordinance may request such, provided that the relief or exemption is contained in the submitted application for either an Eligible Facilities Permit or Ceonditional Use Permit, or in the case of an existing or previously granted Eligible Facilities Permit or Ceonditional Use Permit a request for modification of its tower and/or facilities. Such relief may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested relief, waiver or exemption is solely on the applicant to prove. The applicant shall bear all costs of the City in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that, if granted the relief, waiver or exemption will have no significant affect on the health, safety and welfare of the City, its residents and other service providers.

#### 7.11.24 Periodic Regulatory Review by the City

- 7.11.24.01 The City may at any time conduct a review and examination of this entire ordinance.
- 7.11.24.02 If after such a periodic review and examination of this ordinance, the City determines that one or more provisions of this ordinance should be amended, repealed, revised, clarified, or deleted, then the City may take whatever measures are necessary in accordance with applicable law in order to accomplish the same. It is noted that where warranted, and in the best interests of the City, the City may repeal this entire ordinance at any time.
- 7.11.24.03 Notwithstanding the provisions of Sections 7.11.23.01 and 7.11.23.02, the City may at any time and in any manner (to the extent permitted by Federal, State, or local law), amend, add, repeal, and/or delete one or more provisions of this ordinance.

#### 7.11.25 Adherence to State and/or Federal Rules and Regulations

- 7.11.25.01 To the extent that the holder of an Eligible Facilities Permit or Ceonditional Use Permit for wireless telecommunications facilities has not received relief, or is otherwise exempt, from appropriate State and/or Federal agency rules or regulations, then the holder of such Eligible Facilities Permit or Ceonditional Use Permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.

7.11.25.02 To the extent that applicable rules, regulations, standards, and provisions of any State or Federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of an Eligible Facilities Permit or Ceonditional Use Permit for wireless telecommunications facilities, then the holder of such an Eligible Facilities Permit or Ceonditional Use Permit shall conform the permitted wireless telecommunications facilities to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of twenty-four (24) months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND ORDINANCE NO.1415, AN ORDINANCE TO ESTABLISH THE AMOUNT OF CERTAIN FEES AND TAXES CHARGED BY THE CITY OF LA VISTA FOR VARIOUS SERVICES INCLUDING BUT NOT LIMITED TO BUILDING AND USE, ZONING, OCCUPATION, PUBLIC RECORDS, ALARMS, EMERGENCY SERVICES, RECREATION, LIBRARY, AND PET LICENSING; SEWER AND DRAINAGE SYSTEMS AND FACILITIES OF THE CITY FOR RESIDENTIAL USERS AND COMMERCIAL USERS (INCLUDING INDUSTRIAL USERS) OF THE CITY OF LA VISTA AND TO GRANDFATHER EXISTING STRUCTURES AND TO PROVIDE FOR TRACT PRECONNECTION PAYMENTS AND CREDITS; REGULATING THE MUNICIPAL SEWER DEPARTMENT AND RATES OF SEWER SERVICE CHARGES; TO PROVIDE FOR SEVERABILITY; 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. General Fee Schedule.** The fees and taxes charged by the City of La Vista for various services, facilities, and occupations shall be, and the same hereby are, fixed in accordance with the following schedule, no modifier shall be used, and such fees and taxes charged shall be in accordance with such rules as the City Council may establish:

**BUILDING & USE FEES**

**(Apply inside City limits and within the Extra-territorial zoning jurisdiction)**

**Building Permit**

(Building valuation is determined by the most current issue of the ICC Building Valuation Data)

General	\$30 Base fee + see building fee schedule
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Commercial/Industrial	\$30 Base fee + see building fee schedule
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**Plan Review Fee**

Commercial (non-refundable)	\$100 or 10% of building permit fee (whichever is greater)
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**Design Review (non-refundable)**

Small Projects (As Defined by Guidelines)	\$100 (min. fee or actual fee incurred)
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Tenant Bay Façade Renovation	\$500 (min. fee or actual fee incurred)
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Bldgs. 24,999 sq. ft. or less	\$1,500 (min. fee) (or actual fee Incurred)
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Bldgs. 25,000 – 49,999 sq. ft.	\$2,000 (min. fee) (or actual fee Incurred)
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Bldgs. 50,000 -99,999 sq. ft.	\$3,000 (min. fee) (or actual fee Incurred)
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Bldgs. 100,000 + sq. ft.	\$4,000 (min. fee) (or actual fee Incurred)
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**Replacement Plan Review Fee**

	\$100 + Request for records fees
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**Engineer's Review**

	\$500
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**Rental Inspection Program**

**License Fees:**

Multi-family Dwellings	\$6.00 per unit
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Single-family Dwellings	\$50.00 per property
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Duplex Dwellings	\$50.00 per unit
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Additional Administrative Processing Fee (late fee)	\$100.00
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**Inspection Fees:**

Primary Inspection	No charge
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Class B Property Inspection (after primary inspection):	
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Violation corrected	No charge
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Violation not corrected	See Re-inspection Fee below
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Re-inspection Fee (no show or follow up inspection) See Re-inspection Fee below	
Re-inspection Fee	\$100.00
Vacant Property Registration Fee	\$250 Original Registration Fee \$500 First Renewal \$1,000 Second Renewal \$2,000 Third Renewal \$2,500 Fourth Renewal \$2,500 Fifth and Subsequent Renewals
Penalty Fee Refund Policy	3x Regular permit fee 75% will be refunded when the project is cancelled or not complete within one year. No refund will be given after one year. (Sewer Hook-up Fee is 100% refunded)
Certificate of Occupancy	\$ 50
Temporary Certificate of Occupancy	\$750
Pre-occupancy fee (Occupancy without C.O.)	\$750
Temporary Use Permit (includes tents, greenhouses, event structures)	\$ 50 plus \$10/day
Sign Permit	\$150/sign
Identification Sign, Incidental Sign	\$75/sign
Master Sign Plan (more than 1 sign)	\$150
Common Sign Plan	\$150
Temporary Sign Permit: Non-profit or tax exempt organization	\$0
All other temporary signs	\$ 30/year
Tower Development Permit	\$8,500(min fee) (or actual fee incurred)
Co-locates – Towers	\$5,000(min fee) (or actual fee incurred)
Small Wireless Facilities	\$500 per application for up to five small wireless facilities
Support Structure for Small Wireless Facilities	\$250 per structure
<u>Eligible Facilities Permit</u>	<u>\$250 per application (or actual fee incurred)</u>
Tarp Permit (valid for 6 months)	\$ 30
Solar Panel Permit	\$ 30
Satellite Dish Permit	\$ 30
Wading/Swimming Pools at residence	\$ 30
Dedicated Electrical circuit for pumps	\$ 30
Mechanical Permits	\$30 Base fee + See mechanical fee schedule
Plumbing Permits	\$30 Base fee + See plumbing fee schedule
Sewer Repair Permit	\$30
Backflow protector permit	\$ 30 (\$22 permit & \$8 backflow)
Underground Sprinklers	\$ 30 (\$22 issue fee & \$8 fixture)
Electrical Permits	\$30 Base Fee + See electrical fee
City Professional License (Plumbers; Mech. Contractors)	\$ 15 and a \$1,000,000
Liability, and a \$500,000 bodily injury insurance Certificate per each occurrence	
Also a \$5,000 Bond is required, naming the City as the recipient.	
Demolition of building	\$250 plus Insurance Certificate

Moving Permit (buildings 120 square feet or greater)	\$250 plus Insurance Certificate
Sheds and Fences	\$ 30.00
Sidewalks	\$ 30.00
Driveway Replacement	\$ 30.00
Driveway Approach w/o curb cut or grinding	\$ 30.00
With curb requiring cut plus the 4' apron on each side)	
Contractor (Contractor performs curb cut or grind)	\$ 30.00 plus \$1.00/ft.
City Charge (if City performs curb cuts)	\$50 + \$5/ft. (\$40 set up fee; \$10 permit fee)
City charge (if City performs curb grinds)	\$50 + \$6/ft. (\$40 set up fee; \$10 permit fee)
Utility Cut Permit	\$30.00
Appeal Fee Regarding Issuance or Denial of Curb Cut/Driveway	
Approach Construction Permit	\$250
Street Paving, Surfacing, Resurfacing, Repairing, Sealing or Resealing Permit	\$ 30.00/Yearly
Appeal Fee Regarding Issuance or Denial of Street Paving, Resurfacing, etc. Permit	\$250

#### **RIGHT-OF-WAY PERMIT FEES**

The following are one-time permit fees for structures occupying the public right-of-way:

Canopy or Awning	\$50 for the first 25 ft. + \$10 each additional foot
Balcony	\$75 each
Bicycle Rack	\$50
Light Fixture	\$75 for the first + \$10 each additional light fixture
Marquee	\$50 for the first 25 ft. + \$10 each additional ft.
Sidewalk Café	\$100
Sign	\$100 each (if less than 25 sq. ft.) \$300 each (if 25 sq. ft. or larger)
Windscreen	\$400 each
Planter	\$50
Combination of Awning/Canopy/Sign /Light	\$500
Skywalk	\$500
String Lights	\$150
Other structures as approved by the City Administrator	\$300

Provided, however, notwithstanding anything in this Ordinance to the contrary, all property, or parts thereof or improvements thereon, with respect to which legal title is or will be held by or for the benefit of the City of La Vista, La Vista Community Development Agency, City of La Vista Facilities Corporation, La Vista/Metropolitan Community College Condominium Owners Association, Inc., or any other entity directly or indirectly controlled by the City of La Vista as determined by the City Administrator, for a public purpose, and all owners of such property, parts, or improvements, shall be exempt from the Building and Use Fees and/or any other fees in this ordinance. The City of La Vista pursuant to a policy of the City Council also may provide for waiver of any or all such Building and Use Fees, or any other fees under this Ordinance that are payable to the City, with respect any political subdivisions that levy property taxes within the corporate limits of the City, or any entity controlled by any such political subdivision.

#### **FIRE INSPECTION FEES**

Plan Review Fees

Commercial Building	10% of building permit fee with a maximum of \$1,000
Fire Sprinkler Plan Review	
1-20 devices	\$100
21-50 devices	\$200
51-100 devices	\$300
101-200 devices	\$400
201-500 devices	\$500
Over 500 devices	\$500 plus \$1.00 per device over 500
Fire Alarm Plan Review	\$50.00
<u>Child Care Facilities:</u>	
0 – 8 Children	\$50.00
9 – 12 Children	\$55.00
13 or more children	\$60.00
<u>Foster Care Homes:</u>	
Inspection	\$25.00
<u>Liquor Establishments:</u>	
Non-consumption establishments	\$60.00
Consumption establishments	\$85.00
<u>Nursing Homes:</u>	
50 beds or less	\$55.00
51 to 100 beds	\$110.00
101 or more beds	\$160.00
<u>Fire Alarm Inspection:</u>	
Four year license (Test)	\$100.00
NICET	\$25.00 per year NICET certification last
Annual test (witnessed)	\$30.00
<u>Sprinkler Contractor Certificate:</u>	
Annual	\$100.00
<u>Fuels Division:</u>	
Above ground Hazardous Substance Storage Tanks (Title 158)	
Registration	\$25.00 per tank
Re-registration	\$25.00 per tank (Required whenever change is made to tank or contents)
Above ground Petroleum Storage Tanks (Title 153, Chapter 17)	
Inspection Fee	\$50.00 (Per installation regardless of the number of tanks)
Underground Storage Tanks (Title 159, Chapter 2)	
Farm, residential and heating oil tanks	
(tanks with a capacity of 1100 gallons or less)	\$10.00 one-time registration fee
All other tanks	\$30.00 per tank, annually
Petroleum Release Remedial Action Fund	\$90.00 per tank, annually
Tank installation	\$60.00 per tank
Piping only installation	\$60.00

GRADING PERMIT FEES

5 acres or less	\$ 500
More than 5 acres	\$1,000

TAX INCREMENT FINANCING (TIF) APPLICATION FEES

Application Fee	\$3,000
Administrative Fee	1.5% on TIF Principal up to \$2,000,000

Bond Related Fee	1% on TIF Principal amount above \$2,000,000 thru \$4,000,000 No additional administrative fee for TIF Principal above \$4,000,000 Actual Fees, Costs & Expenses Incurred by the City
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#### PACE PROGRAM

Application Fee	\$1,000
Administrative Fee	1% of loan amount maximum \$40,000 subject to 50% reduction if a TIF project
Annual Fee	\$500

#### ZONING FEES

Comprehensive Plan Amendment	\$500
Zoning Map Amendment (rezoning)	\$500
Zoning Text Amendment	\$500
Zoning Verification Letter	\$50
Subdivision Text Amendment	\$500
Conditional Use Permit (1 acre or less)	\$300
Conditional Use Permit (more than 1 acre)	\$500
Conditional Use Permit Amendment	\$200
Flood Plain Development Permit	\$500
Administrative Plat – Lot Split, Lot Consolidation or Boundary Adjustment	\$750+ additional fee of \$250 for review of revised drawings
Preliminary Platting	\$1,000 +additional fee of \$250 for review of revised drawings
Final Platting	\$1000+additional fee of \$250 for review of revised drawings
Subdivision Agreement	\$500 (min. fee) or actual fee incurred
Revised Preliminary Plat	\$500+additional fee of \$250 for review of revised drawings
Replat	\$1500 +additional fee of \$250 for review of revised drawings
P.U.D.	\$1,000+additional fee of \$250 for review of revised drawings
P.U.D. Amendment	\$500 (min. fee) or actual fee incurred
Vacation of Plat and Right of Way Vacation	\$150
Variance, Appeals, Map Interpretation (B.O.A.)	\$250

Watershed Fees –apply to all new development or significant redevelopment as specified in Exhibit "G" to the interlocal agreement for the Papillion Creek

Watershed Partnership: (fees are remitted to Papillion Creek Watershed Partnership)

### **OCCUPATION TAXES**

Publication fees	\$Actual cost
Class A Liquor License Holder	\$200
Class B Liquor License Holder	\$200
Class C Liquor License Holder	\$600
Class D Liquor License Holder	\$400
Class I Liquor License Holder	\$500
Class L Liquor License Holder	\$500
Class Z Liquor License Holder	\$500
Class AB Liquor License Holder	\$400
Class AD Liquor License Holder	\$600
Class ADK Liquor License Holder	\$800
Class AK Liquor License Holder	\$400
Class ABK Liquor License Holder	\$600
Class BK Liquor License Holder	\$400
Class CK Liquor License Holder	\$800
Class DK Liquor License Holder	\$600
Class IB Liquor License Holder	\$700
Class IBK Liquor License Holder	\$900
Class ID Liquor License Holder	\$900
Class IDK Liquor License Holder	\$1100
Class IK Liquor License Holder	\$700
Special Designated Permit – Liquor Control	\$ 50/day except non-profits
Transfer of Liquor License from One Location to Another (These fees are in addition to the State Fee Requirement)	\$ 25
Amusement Concessions (i.e. Carnivals) (This would include any vendors set up for special functions at the La Vista Sports Complex)	\$ 10/concession/day
Auto dealers - new and used - \$250 plus \$.01 per sq. ft. of inside area, and \$.005 per sq. ft. of outside area used for display, sales or storage.	
Auto repair	\$100
Banks, small loan and finance companies	\$250 plus \$75/each detached facility.
Barber shops, beauty salons, tanning & nail salons	\$ 75 plus \$10 per operator over one.
Bowling Alleys or Billiard/Pool Halls	\$ 50/year + \$10/table or alley (Additional fees for Restaurants or Drinking Places if applicable)
Car washes	\$100 (includes all vacuum & supply vending machines)
Circus, Menagerie or Stage Show	\$ 50/day
Collecting agents, detective agents or agencies and bail bondsmen	\$ 75
Construction/Tradesmen	\$ 75 and a \$1,000,000
Liability, \$500,000 bodily injury insurance certificate	
Convenience stores	\$ 75 (Additional fees for Restaurants or Drinking Places if applicable)
Convenience store with car wash	\$120 (Includes all vacuum & supply vending machines)
Dry cleaning or laundry and tailoring	\$ 50
Funeral homes	\$150
Gaming Device Distributors	5% of gross receipts (non-profits exempt)
Games of Chance/Lotteries	5% of gross receipts (non-profits exempt)
Games of Chance/Lottery License Fee	\$ 50/1st location - \$10/ea additional

Gas Companies	5% of gross receipts
Hawkers/Peddlers	\$ 75/day or \$500/year
Home Occupations (not specified elsewhere)	
Home Occupation Permit Application Fee	\$30
Home Occupation 1 and Child Care Home	\$50
Home Occupation Conditional Use Permit – see Zoning Fees	
Hotels/motels – Any hotel or motel in the City shall pay to the City monthly an Occupation Tax equal to 5% of gross receipts from room rentals. Any shops restaurants, and/or drinking places which are part of, associated with, or located in or with a hotel or motel facility will be considered a separate classification of business and taxed in accordance with the provisions of this Ordinance and the applicable classification(s) of the shops, restaurants, and/or drinking places hereunder. The Occupation Taxes with Respect to any banquet and/or ballroom facilities of, or associated with, or located in or with, any such hotel or motel shall be determined in accordance with the square footage schedule above, based on the actual square footage of said facilities, which occupation taxes shall be additional to any other applicable occupation taxes such as restaurants or drinking places occupation taxes.	
Mobile Food Vendors	\$100/year
Movie theatres	\$150/complex and \$75/viewing room (Additional fees for Restaurants or Drinking Places if applicable)
Music, Vending, & Pinball Machines Provider Fee of &75.00 for business outside the City that provides machines for local businesses	\$ 20/year/machine +Service
Nurseries, greenhouses, landscaping businesses, and tree trimmers	\$ 75
Nursing homes, assisted living, hospitals and retirement homes	\$ 5 per bed
Pawnbrokers transaction evidenced by a pawnbroker card or ledger entry per Neb. Rev. Stat. Section 69-204. Minimum of \$30/year	\$ 1.00/pawnbroker
Professional services - engineers, architects, physicians, dentists, chiropractors, osteopaths, accountants, photographers, auctioneers, veterinarians, attorneys, real estate offices and insurance agents or brokers - \$75 plus \$10 per agent or professional over one (1)	
Recreation businesses - indoor and outdoor	\$100
Restaurants, Drinking Places, and drive-in eating establishments	\$ 50 (5 employees or less) \$100 (more than 5 employees) Effective 10/1/19 – Fee of 1.5% of gross receipts pursuant to Municipal Code Section 113.10
Retail, Manufacturing, Wholesale, Warehousing and Other - Any person or entity engaged primarily in a manufacturing, wholesale, and/or warehousing business shall pay an Occupation Tax based on the schedule below and the actual interior or enclosed square footage of facilities in the City used by said person or entity in the conduct of such business; and any person or entity engaged in a business of making retail sales of groceries, clothing, hardware, notions, furniture, home furnishings, services, paint, drugs, or recreational equipment, and any other person or entity engaged in a business for which an Occupation Tax is not specifically provided elsewhere in this Ordinance, shall pay an Occupation Tax based on the schedule below and actual interior or enclosed square footage of facilities in the City used by said person or entity in the	

conduct of such business; provided, however, that persons or entities that use a basement or one or more additional floors in addition to the main floor (the main floor being the floor with the greatest total square footage) in the conduct of one or more specified businesses of sales at retail shall determine square footage for purposes of the Occupation Tax imposed hereunder based on the square footage of the entire main floor plus one-half (1/2) of the square footage of all such basement and additional floors.

0	999 sq. ft.	\$ 50
1,000	2,999 sq. ft.	\$ 65
3,000	4,999 sq. ft.	\$ 80
5,000	7,999 sq. ft.	\$ 120
8,000	9,999 sq. ft.	\$ 150
10,000	14,999 sq. ft.	\$ 200
15,000	24,999 sq. ft.	\$ 225
25,000	39,999 sq. ft.	\$ 300
40,000	59,999 sq. ft.	\$ 400
60,000	99,999 sq. ft.	\$ 500
100,000	and greater	\$ 750

Schools - trade schools, dance schools, music schools, nursery school or any type of school operated for profit	\$ 50
Service providers, such as persons, firms partnerships or corporations delivering any product, good or service whatsoever in nature within the City	\$ 75
Service stations selling oils, supplies, accessories for service at retail	\$ 75 + \$25.00 for attached car wash
Telephone Companies (includes land lines, wireless, cellular, and mobile)	5% of gross receipts
Telephone Surcharge - 911	\$1.00 per line per month
Tobacco License	\$ 15 (based on State Statute)
Tow Truck Companies	\$ 75
Late Fee (Up to 60 days)	\$ 35
Late Fee (60-90 days)	\$ 75
Late Fee (over 90 days)	Double Occupation tax or \$100, whichever is greater

### **CONVENIENCE FEES**

Restaurant & Drinking Places Occupation Tax, Hotel Occupation Tax, and General Business Occupation Tax Payments through online portal Credit Cards, Debit Cards, & Digital Wallet	2.5% of transaction + \$0.30
E-Checks	\$1.50 for transactions $\leq$ \$60,000

### All Other Payments

Credit Cards	3% of transaction with \$2 minimum transaction
E-Checks	\$3 for transactions $\leq$ \$10,000 \$10 for transactions $>$ \$10,000

### **OTHER FEES**

Barricades	
Deposit Fee (returnable)	\$ 60/barricade
Block Parties/Special Event	\$ 5/barricade per day
Construction Use	\$30 ea. (7 days maximum)
Blasting Permit	\$1,000

Bucket Truck Rental w/operator	\$150 per hour
Community Garden Plot Rental	\$20 annually
Conflict Monitor Testing	\$200
Cat License Fee (per cat – limit 3)	\$ 5 each if spayed/neutered \$ 15 each if not spayed/neutered \$ 10 each (delinquent) if spayed/neutered \$ 30 each (delinquent) if not spayed/neutered
Senior Citizen Discount (Age 65+)	Free if spayed/neutered
Dog License Fee (per dog – limit 3)	\$ 5 each if spayed/neutered \$ 15 each if not spayed/neutered \$ 10 each (delinquent) if spayed/neutered \$ 30 each (delinquent) if not spayed/neutered
Senior Citizen Discount (Age 65+)	Free if spayed/neutered
Dog/Cat License Handling Fee (in addition to above fees)	\$5
Dog or Cat License Replacement if Lost	\$1
Dog or Cat Capture and Confinement Fee	\$10 + Boarding Costs
MAXIMUM OF 4 DOGS AND/OR CATS WITH NO MORE THAN 3 OF EITHER SPECIES	
Election Filing Fee	1% of Annual Position Salary
Fireworks Sales Permit (Non-Profits)	\$2,000
Handicap Parking Permit Application Fee State	\$ Currently Not Charging Per
Natural Gas Franchisee Rate Filing Fee (For rate changes not associated w/the cost of purchased gas.)	Per Agreement
Open Burning Permit	\$ 10
Parking Permit Fees:	
Monthly Parking – Covered Stall	\$50/Month per permit
Monthly Parking – Uncovered Stall	\$25/Month per permit
Off-Street Parking – 3 hours free (\$0), after which (Parking Day runs 6a.m. – 6a.m.)	\$1.00/hr. up to \$10/day
On-Street Parking – free (\$0) with three (3) hour limit	
Parking Ticket Fees	
If paid within 7 days of violation date	\$ 20 (\$5 + \$15 admin fee)
If paid after 7 days of violation date but within 30 days	\$ 25 (\$10 + \$15 admin fee)
If paid after 30 days of violation date	\$ 35 (\$20 + \$15 admin fee)
Pawnbroker Permit Fees:	
Initial	\$ 150
Annual Renewal	\$ 100
Pet Store License	\$ 50 (In addition to Occ. License)
Police Officer Application Fee	\$ 20

Public Assembly Permit (requires application and approval)	\$ 00
Returned Check Fee (NSF)	\$ 35
Storage of Explosive Materials Permit	\$ 100
Towing/Impound Fee	\$ 30
Trash Hauling Permit Performance Bond	\$ 25/yr./truck + \$25,000

### **PUBLIC RECORDS**

Request for Records	\$15.00/Half Hour + Copy Costs* (May be subject to deposit)
Audio Tapes	\$5.00 per tape
Video Tapes or CD/DVD	\$10.00 per tape/CD

\*Copy costs shall be established by the Finance Director

Unified Development Ordinance	\$100
Comprehensive Plan	\$ 50
Zoning Map	\$5 11"x17" \$10 12"x36" \$30 36"x120"
Zoning Ordinance w/Map	\$ 30
Subdivision Regulations	\$ 30
Future Land Use Map	\$5 11"x17" \$10 12"x36" \$30 36"x120"
Ward Map	\$ 2
Fire Report	\$ 5
Police Report	\$ 5
Police Photos (5x7)	\$ 5/ea. for 1-15 \$ 3/ea. for additional
Police Photos (8x10)	\$10/ea. for 1-15 \$ 5/ea. for additional
Police Photos (Digital)	\$10/ea. CD
Criminal history	\$10

### **FALSE AND NUISANCE ALARMS**

Registration Fee for Alarm System (not to include single family or duplexes)	\$25
Renewal Fee for Alarm System (not to include single family or duplexes)	\$25
Late Registration Charge	\$35

False Alarm Fee for any false alarm generated by the registrant's alarm system, a fee in accordance with the following schedule (from 1 January through 31 December of each year) shall be charged:

Number of False/Nuisance Alarms	False/Nuisance Alarm Charge
1	No Charge
2	No Charge
3	\$100.00

4 or more	\$250.00
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False Alarm Fee for Alarm Systems without Registration - \$250 per alarm after 1<sup>st</sup> alarm  
(not to include single family or duplexes)

#### **RESPONSE TO LARGE HAZARDOUS MATERIALS INCIDENTS**

A Dispatch and mobilization charge of \$300 + mileage shall be charged for response to any incident where no action is taken. If services are provided, the following rates shall apply:

Response Vehicles: One-hour minimum charge. All charges will be made to the closest 1/4 hour. Mileage will be charged at \$8.00 per mile per vehicle.

Pumper/Tanker Truck	\$500/hour
Weed Truck	\$150/hour
Aerial Ladder Truck	\$750/hour
Utility Vehicle	\$200
Command Vehicle	\$100

Equipment Charges:

Jaws of Life	\$250
Power Saw	\$75
Hydraulic jack/chisels	\$75
Cribbing Blocks	\$10
Winches	\$10

Air Bags	\$50
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High Lift Jack	\$20
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Supplies: The actual City cost of the supplies plus 25% shall be charged for all supplies including but not limited to safety flares, Class A foam, Class B foam, absorbent pads, absorbent material, salvage covers, and floor dry.

#### **RESCUE SQUAD FEES**

Basic Life Support Emergency	\$650
Basic Life Support Non-Emergency	\$450
Advanced Life Support Emergency 1	\$750
Advanced Life Support Emergency 2	\$950
Advanced Life Support Non-Emergency	\$550
Mileage - per loaded mile	\$ 15

#### **LIBRARY FEES**

Membership (Non-Resident Family)	6 month	\$ 35.00
	1 year	\$ 60.00
	1 month	\$ 7.00
Fax		\$2.00 up to 5 pages
Fines		
Books		\$ .05/day
Audio Books/Board Games/CDs		\$ .10/day
DVDs/		\$ 1.00/day
Playaway device		\$ 1.00/day
Board Game not returned to Circulation Desk		\$5.00
Damaged & Lost Books		\$5.00 processing fee + actual cost
Videos /DVDs/CDs		\$5.00 processing fee + actual cost
Color Copies		\$ .50

Copies	\$ .10
Inter-Library Loan	\$3.00/transaction
Lamination – 18" Machine	\$2.00 per foot
Lamination – 40" Machine	\$6.00 per foot
Children's Mini-Camp	-\$15.00
Seasonal/Special Workshops	\$15.00

**RECREATION FEES**

Refund Policy (posted at the Community Center)	\$10.00 administrative fee on all approved refunds
Late Registration Fee <u>Community Center</u>	\$10.00

	<u>Resident</u>	<u>Non-Resident</u>	<u>Business Groups</u>
Facility Rental			
Gym (1/2 Gym)	\$ 38/Hour	\$ 75/Hour	\$ 75/Hour
Gym (Full)	\$ 75/Hour	\$150/Hour	\$150/Hour
Gym/Stage (Rental)	\$400/Day	\$500/Day	\$500/Day
Whole Community Center	\$600/Day	\$800/Day	\$800/Day
Game Room	\$ 22/Hour	\$ 44/Hour	\$ 44/Hour
Meeting Rooms (Rental)	\$ 12/Hour/Room	\$ 22/Hour/Room	\$ 27/Hour
Kitchen (Rental)	\$ 19/Hour	\$ 27/Hour	\$ 33/Hour
Racquetball Court	\$ 7/Hour	\$ 14/Hour	\$ 14/Hour
Stage (Rental)	\$ 12/Hour	\$ 22/Hour	\$ 27/Hour
Facility Usage	<u>Resident</u>	<u>Non-Resident</u>	
Daily Visit (19 and up)	\$ 3.00	\$ 4.00	
Daily Visit (Seniors 55+)	\$ -0-	\$ 2.00	
Fitness Room (19 and up)			
Membership Card	\$27.00/month		
(Exercise Room, Gym, Racquetball/Wallyball Courts)			
(Mon - Fri 8:00 -5:00 pm)	\$3.00	\$ 4.00/Visit	
Gym (19 and up)			
(Mon - Fri 8:00 -5:00 pm)	\$3.00	\$ 4.00/Visit	
Resident Punch Card	\$50.00		
(20 punches)			
Non-resident Punch Card		\$35.00	
(10 punches)			
Senior (Resident)	\$-0-		
Non-resident Sr. Punch Card		\$20.00	
(10 punches)			

Variety of programs as determined by the Recreation Director

Fees determined by cost of program

Classes

<u>Contractor</u>	<u>City</u>
75%	25%

Contract Instructor Does Registration and Collects Fees

Fields:

Tournament Fees	\$ 30/Team/Tournament
Tournament Field Fees	\$ 40/Field/Day
Field Rentals (Resident and Non Resident)	\$ 40 / 2 Hours
Gate/Admission Fee	10% of Gross

<u>Resident</u>	<u>Non Resident</u>
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<b>Model Airplane Flying</b>		
Field Pass	\$30*	\$40*
* includes \$10 club membership 1 – year license		
<b>Park Shelters</b>	\$15/3 hours	\$25/3 hours
<b>Swimming Pool</b>		
	<u>Resident</u>	<u>Non-Resident</u>
Youth Daily	\$ 2	\$ 4
Adult Daily	\$ 3	\$ 4
Resident Tag	\$ 2	
Family Season Pass	\$105	\$165
Youth Season Pass	\$ 65	\$ 95
Adult Season Pass	\$ 75	\$105
30-Day Pass	\$ 55	\$ 85
Season Pass (Day Care)	\$275	\$275
Swim Lessons	\$ 30	\$ 55
*Swimming Pool memberships and specials prices shall be established by the Finance Director		
<b>Youth Recreation Programs</b>		
	<u>Resident</u>	<u>Non-Resident</u>
Coed T-Ball Ages 5-6	\$ 45/55	\$60/70
Softball/Baseball Ages 7-8	\$ 50/60	\$65/75
Softball/Baseball Ages 9-10	\$ 65/75	\$85/95
Softball/Baseball Ages 11-12	\$ 75/85	\$105/115
Softball/Baseball Ages 13-14	\$ 85/95	\$105/115
Softball/Baseball Age 15-18	\$110/120	\$140/150
Basketball Clinic	\$ 17/27	\$22/32
Basketball Grades 3-8	\$ 55/65	\$65/75
Soccer Academy	\$ 33/43	\$53/63
Flag Football	\$ 33/43	\$53/63
Volleyball	\$ 55/65	\$65/75
3 yr. old Soccer Clinic	\$17/27	\$22/33
<b>Programs</b>		
Adult Volleyball– Spring	\$ 55	\$ 55
Adult Spring Softball – Single	\$215	\$215
Adult Spring Softball – Double	\$420	\$420
Adult Volleyball – Fall/Winter	\$110	\$110
Adult Fall Softball – Single	\$120	\$120
Adult Fall Softball – Double	\$235	\$235
Senior Spring Softball	\$15 per game per team	
Senior Fall Softball	\$17 per game per team	

### Special Services Van Fees

Zone 1 Trip within city limits (La Vista & Ralston)	\$1.00 one way
Includes trips to grocery stores and senior center	
Zone 2 Trip outside city limits	\$3.00 one way
Zone 3 Trip outside city limits	\$10.00 one way
Bus pass (each punch is worth \$1.00)	\$30.00

## Section 2. Sewer Fee Schedule.

### §3-103 Municipal Sewer Department; Rates.

A. Levy of Sewer Service Charges. The following sewer service charges shall be levied against the user of premises, property or structures of every kind, nature and description, which has water service from any supply source and are located within the wastewater service area of the City of La Vista.

B. Computation of Sewer Service Charges. For the months of December, January, February and March, the monthly charge for residential sewer services will be computed on the actual water used for these months. The monthly charge for residential sewer service in the months of April, May, June, July, August, September, October and November will be computed on the average water usage of the four (4) preceding winter months of December, January, February and March or for such portion of said consumption, whichever is the lesser. At the option of the City of La Vista, water used from private wells shall be either metered or estimated for billing purposes.

C. Amount of Sewer Service Charges. The total sewer service charge for each sewer service user will be the sum of three (3) charges: (1) customer charge, (2) flow charge, and (3) abnormal charge.

1. The customer charge is as follows
  - a. For sewer service users classified as Residential, the same being sewer service to a single family dwelling, or a duplex, apartment, or other multi-family dwelling (e.g. apartments) wherein each dwelling unit has a separate water meter that is read and charged for water and sewer use by the Metropolitan Utilities District - \$12.47 per month.
  - b. For sewer service users classified as Residential-Multi-Family, the same being sewer service to Multi-Family dwellings (e.g. apartments) wherein there is only a separate water meter to each building or complex that is read and charged for water and sewer use by the Metropolitan Utilities District - \$13.37 per month.
  - c. For sewer service users classified as General Commercial: Customers who normally use less than 100,000 cubic feet of water per month and who are not Residential users or Residential-Multi-Family users - \$13.37 per month. For sewer service users in this category that require manual billing, add \$10.00 for a total of \$23.37. The manual billing of the customer charge will come from the City of La Vista instead of the Metropolitan Utilities District.
2. The flow charge for all sewer service users shall be \$3.93 per hundred cubic feet (ccf).
3. If users have abnormal strength sewage as determined by the terms of the Wastewater Service Agreement between the City of La Vista and the City of Omaha, then additional charges will be billed to the user at the applicable rates as determined by said Agreement.
4. If users other than those classified herein are connected to the wastewater collection system, the Customer Charges, the Flow Charges and Other Charges will be determined by the City Council in accordance with rules and regulations of the EPA and the Agreement between the City of La Vista and the City of Omaha.

Section 3. Sewer/Drainage Connection Fee Schedule. A fee shall be paid to the City Treasurer as set forth in this section for each structure or tract to be connected to the sewer system of the City. No connection permit or building permit shall be issued until the following connection fees have been paid.

	Effective 1/1/2020	Effective 1/1/2021
Residential		
Single Family Dwelling	\$1,364	\$1,364
Duplex	\$1,364/unit	\$1,364/unit
Multiple Family	\$1,064/unit	\$1,064/unit
Commercial/Industrial	\$7,407/acre of land as platted	\$7,407/acre of land as platted

The fee for commercial (including industrial) shall be computed on the number of acres within each platted lot or tract, irrespective of the number of structures to be constructed thereon.

The applicable fee shall be paid in respect to each lot or building site as a condition of City's issuance of any building or sewer connection permit.

- A. Changes in Use. If the use of a lot changes subsequent to payment of the fee, which different use would require payment of a fee greater than that payable in respect to the use for which the fee was originally paid, the difference in fee shall be paid to the City at time of such change in use.
- B. Existing Structures. Structures for which sewer connection and building permits have been issued, and all permit fees in respect thereto paid, prior to the effective date hereof shall be exempt from the fees herein imposed.
- C. Preconnection Payments. Where preconnection payment charges for a subdivision or portion thereof have been paid to City at time of subdivision of a tract pursuant to agreement between the City and the developer and the sanitary and improvement district, if any, financing improvements of the subdivision, the preconnection payment so made shall be credited by City to the sewer/drainage fees payable at time of connection of the individual properties to the sewer/drainage systems of the City.
- D. Sewer Tap and Inspection and Sewer Service Fees. The fees imposed by Section 3 hereof are in addition to and not in lieu of (1) sewer tap and inspection fees payable pursuant to Section 3-122 of the La Vista Municipal Code and listed herein and (2) sewer service charges imposed by Section 2 hereof.

Section 4. Sewer Inspection Charges Established for Installation. Inspection charges for nonresidential property sewer installation shall be:

Sewer Tap Fee (Inspection Fee)	
Service Line w/inside diameter of 4"	\$400
Service Line w/inside diameter of 6"	\$600
Service Line w/inside diameter of 8"	\$700
Service Line w/inside diameter over 8"	Special permission/set by Council

Section 5. Miscellaneous Sewer Related Fees: Miscellaneous sewer related fees shall be:

Private Sewage Disposal System Const. Permit	\$	1,500
Appeal Fee Re: Issuance or Denial of Sewer Permits	\$	1,500

Section 6. Repeal of Ordinance No.1415. Ordinance No. 1415 as originally approved on March 2<sup>nd</sup>, 2021 and all ordinances in conflict herewith are hereby repealed.

Section 7. 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 8. Effective Date. This Ordinance shall take effect from and after its passage, approval and publication in pamphlet form as provided by law; provided, however, that:

(1) Pawnbroker occupation taxes of Section 1 shall be effective April 1, 2003. Pawnbroker occupations taxes shall be payable on a monthly basis no later than the last day of the calendar month immediately following the month in which the subject pawnbroker transactions occur. For example, the occupation tax on pawnbroker transactions for the month of April 2003 shall be due and payable on or before May 31, 2003.

(2) Pawnbroker permit fees shall be effective January 1, 2004. Annual pawnbroker permit fees shall be due and payable annually on or before January 1. Initial pawnbroker permit fees shall be due and payable on or before the date that the pawnbroker license is issued. Issuance of renewal of pawnbroker permits shall be subject to payment of applicable permit fees.

Ordinance No. \_\_\_\_\_

(3) Rental Inspection Program License fees shall be effective January 1, 2011  
(4) The remaining provisions of this Ordinance other than those specified in Sections 8(1), 8(2) and 8(3) shall take effect upon publication, unless a different effective date is otherwise expressly provided in this Ordinance.

PASSED AND APPROVED THIS 18TH DAY OF MAY 2021.

CITY OF LA VISTA

---

Douglas Kindig, Mayor

ATTEST:

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Pamela A. Buethe, CMCPatricia Anderson  
Deputy City Clerk

K:\APPS\City Hall\ORDINANCES\1421 Master Fee Ordinance - Eligible Facilities.Docx

**CITY OF LA VISTA**  
**MAYOR AND CITY COUNCIL REPORT**  
**MAY 18, 2021 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
CONDITIONAL USE PERMIT AMERICAN HERITAGE FIREARMS, LLC	◆ RESOLUTION ORDINANCE RECEIVE/FILE	CALE BRODERSEN ASSISTANT PLANNER

**SYNOPSIS**

A public hearing has been scheduled and resolution prepared for the consideration of a Conditional Use Permit for American Heritage Firearms, LLC to operate a home occupation gunsmithing business on Lot 492 Millard Highlands South Replat, located at 12806 Emiline Street.

**FISCAL IMPACT**

N/A.

**RECOMMENDATION**

Approval

**BACKGROUND**

The applicant intends to sell firearms on a limited basis utilizing approximately 55 square feet of the garage. The applicant must maintain a Federal Firearms License (FFL) at all times and adhere to the rules and regulations of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The process to obtain an FFL includes a background check, interview, and home inspection. The Conditional Use Permit includes conditions that ensure that firearms and materials are handled and stored safely and securely. A detailed staff report, including the draft Conditional Use Permit, is attached.

The Planning Commission held a public hearing on April 15, 2021 and voted unanimously to recommend approval of the Conditional Use Permit, subject to any revisions deemed necessary by the City Attorney, as the request is consistent with La Vista's Comprehensive Plan and Zoning Ordinance.

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE EXECUTION OF A CONDITIONAL USE PERMIT FOR AMERICAN HERITAGE FIREARMS, LLC TO OPERATE A HOME OCCUPATION GUNSMITHING BUSINESS ON LOT 492 MILLARD HIGHLANDS SOUTH REPLAT.

WHEREAS, American Heritage Firearms, LLC has applied for approval of a conditional use permit for a home occupation gunsmithing business on Lot 492 Millard Highlands South Replat, located at 12806 Emilie Street; and

WHEREAS, the La Vista Planning Commission reviewed the application on April 15, 2021 and recommends approval; and

WHEREAS, the Mayor and City Council of the City of La Vista are agreeable to the issuance of a conditional use permit for such purposes.

NOW THEREFORE, BE IT RESOLVED, that the Mayor and City Council of the City of La Vista hereby authorize the execution of a Conditional Use Permit in form and content submitted at this meeting, with such modifications that the City Administrator or City Attorney may determine necessary or advisable, for American Heritage Firearms, LLC to allow for a home occupation gunsmithing business on Lot 492 Millard Highlands South Replat.

PASSED AND APPROVED THIS 18<sup>TH</sup> DAY OF MAY 2021.

CITY OF LA VISTA

ATTEST:

---

Douglas Kindig, Mayor

---

Patricia Anderson  
Deputy City Clerk



**CITY OF LA VISTA  
PLANNING DIVISION  
RECOMMENDATION REPORT**

CASE NUMBERS: PCUP21-0002;

FOR HEARING OF: MAY 18, 2021  
REPORT PREPARED ON: APRIL 27, 2021

**I. GENERAL INFORMATION**

**A. APPLICANT:**

American Heritage Firearms, LLC  
Attn: Brian Licher  
12806 Emilie Street  
Omaha, NE 68138

**B. PROPERTY OWNER:**

Brian & Jennifer Licher  
12806 Emilie Street  
Omaha, NE 68138

**C. LOCATION:** 12806 Emilie Street, Omaha, NE 68138.

**D. LEGAL DESCRIPTION:** Lot 492 Millard Highlands South Replat.

**E. REQUESTED ACTION(S):** Approval of a Conditional Use Permit  
for a gunsmithing home occupation.

**F. EXISTING ZONING AND LAND USE:** R-1 Single-Family  
Residential.

**G. PURPOSE OF REQUEST:** Allow for the operation of a  
gunsmithing business in a portion of the garage in the single-family  
home located at 12806 Emilie Street.

**H. SIZE OF SITE:** Approximately .25 acres.

## **II. BACKGROUND INFORMATION**

### **A. GENERAL NEIGHBORHOOD/AREA LAND USES AND ZONING:**

<u>Direction</u> <u>From</u> <u>Subject</u> <u>Property</u>	<u>Future Land Use</u> <u>Designation</u>	<u>Current Zoning</u> <u>Designation</u>	<u>Surrounding</u> <u>Development</u>
North	Low-Density Residential (Omaha)	R-2 Single-Family Residential District (Low Density) (Omaha)	Residential neighborhood in the City of Omaha/Douglas County
East	Medium-Density Residential	R-1 Single-Family Residential	Single-family homes; Millard Highlands South Neighborhood
South	Medium-Density Residential; Parks & Recreation	R-1 Single-Family Residential	Single-family homes; Millard Highlands South Neighborhood
West	Medium-Density Residential	R-1 Single-Family Residential	Single-family homes; Millard Highlands South Neighborhood

### **B. RELEVANT CASE HISTORY: N/A**

### **C. APPLICABLE REGULATIONS:**

1. Section 5.06 of the Zoning Regulations – R-1 Single-Family Residential
2. Article 6 of the Zoning Regulations – Conditional Use Permits
3. Section 7.10 of the Zoning Regulations – Home Occupations
4. Regulations of the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and the requirements of the Federal Firearms License (FFL)

## **III. ANALYSIS**

### **A. COMPREHENSIVE PLAN: N/A**

### **B. OTHER PLANS: N/A.**

### **C. TRAFFIC AND ACCESS:**

1. The property has driveway access to Emiline Street on the southern edge of the property.

### **D. UTILITIES: N/A**

### **E. PARKING REQUIREMENTS:**

1. Client parking will be limited to the driveway on the property.

**IV. REVIEW COMMENTS:**

- A.** In order to operate a gunsmithing business and sell firearms, the applicant must maintain a Federal Firearms License (FFL) at all times and adhere to the rules and regulations of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The process to obtain an FFL includes a background check, interview, and inspection. If the applicant's FFL lapses, expires, or terminates, the Conditional Use Permit authorizing the gunsmithing Home Occupation will also terminate. Confirmation of local zoning approval (a valid conditional use permit) is part of the process for the applicant to obtain his FFL. Any inspection reports issued by the ATF to the applicant shall be submitted to the La Vista Community Development Department immediately upon receipt.
- B.** The Fire Marshal reviewed the application and has no objections with the Conditional Use Permit request considering the following conditions are included in the draft CUP attached as Exhibit "D":

  - 1. Owner shall comply with all sections of the International Fire Code, and NFPA 495 (2010) Sections 14.3-14.5 regarding the storage of small arms ammunition and its components in an R occupancy.
  - 2. Owner shall comply (and shall ensure that all, invitees, suppliers, structures, appurtenances and improvements, and all activities occurring or conducted, on the premises at any time comply) with any applicable federal, state and/or local laws, regulations, or other requirements, as amended or in effect from time to time, including, but not limited to, applicable environmental or safety laws, rules or regulations.
  - 3. Fire escape routes shall be properly designated.
  - 4. There will be no test firing or discharge of the firearms on the premises.
- C.** As the proposed home-occupation would result in customers coming to the home, it is considered a "Major Home Occupation" per the La Vista Zoning Ordinance. One requirement of Major Home Occupations is that a minimum of seventy-five percent (75%) of the households within two hundred feet (200') of the proposed home occupation shall indicate no objections, in writing, to the operation of such home occupation. The applicant has provided the City with a "no objections form" that includes signatures from 75% of the required surrounding properties. This "No Objections Form" satisfies the City's requirement.

- D. Waste materials from activities shall be properly disposed of as per Nebraska Department of Environmental Quality (NDEQ) guidelines.
- E. All firearms on the premises shall be stored in acceptable safes while they are not being worked on or looked at by a prospective buyer.
- F. Additional information about the proposed use is included in the "Operating Statement" as an attachment to the Draft Conditional Use Permit attached to this staff report as Exhibit "E".

**V. STAFF RECOMMENDATION – CONDITIONAL USE PERMIT:**

Staff recommends approval of the Conditional Use Permit for Lot 492 Millard Highlands South Replat, with the requirements outlined in this staff report, as the request is consistent with La Vista's Comprehensive Plan and Zoning Ordinance.

**VI. PLANNING COMMISSION RECOMMENDATION – CONDITIONAL USE PERMIT:**

The Planning Commission held a public hearing on April 15, 2021 and voted unanimously to recommend approval of the Conditional Use Permit for Lot 492 Millard Highlands South Replat, with the requirements outlined in this staff report, as the request is consistent with La Vista's Comprehensive Plan and Zoning Ordinance.

**VII. ATTACHMENTS TO REPORT:**

- A. Vicinity Map
- B. Review Letters
- C. Letter of Good Standing – Nebraska Secretary of State
- D. Draft Conditional Use Permit

**VIII. COPIES OF REPORT SENT TO:**

- A. Brian Lichter, American Heritage Firearms, LLC
- B. Pat Lichter, American Heritage Firearms, LLC
- C. Public Upon Request

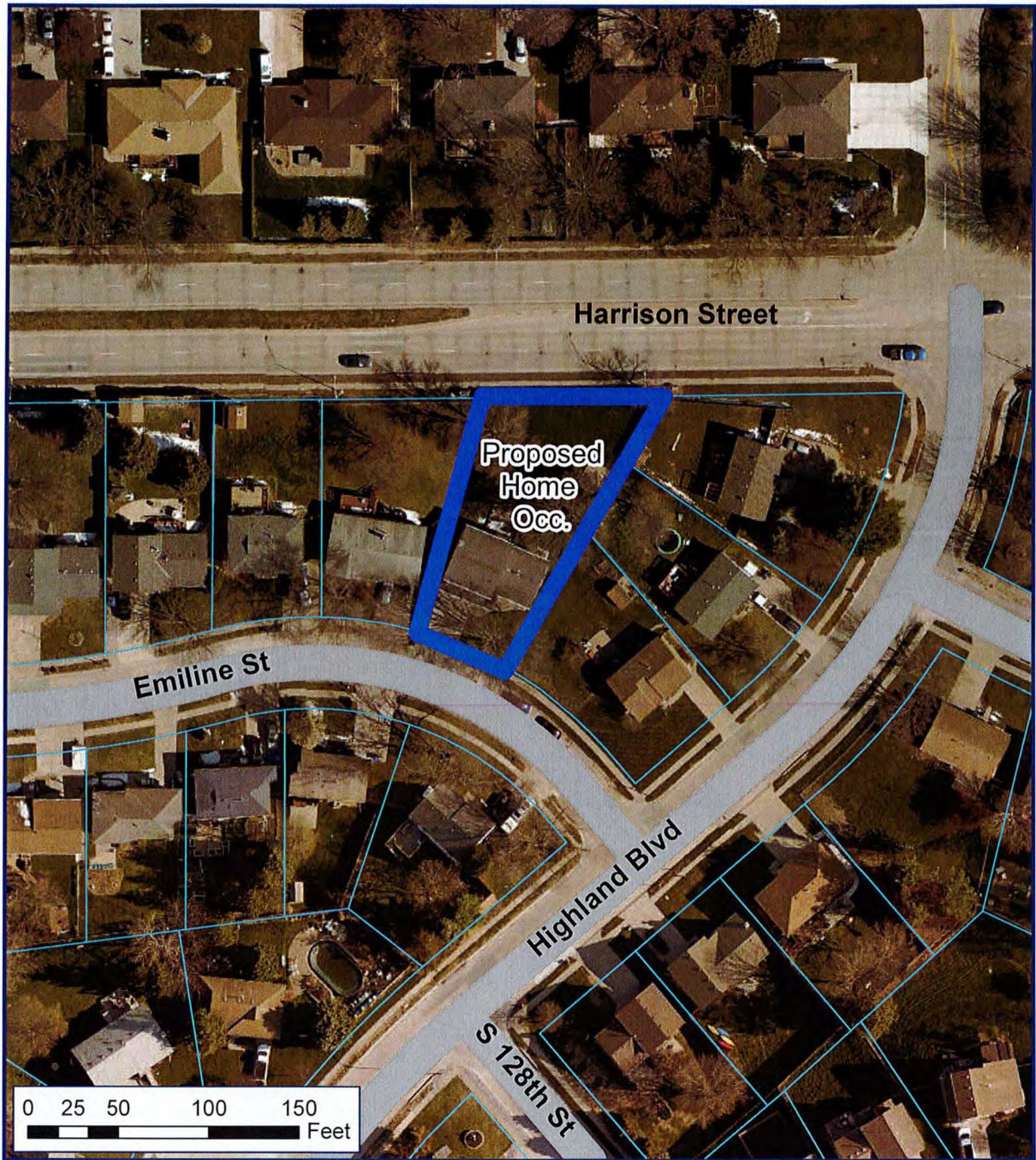


Prepared by: Assistant Planner

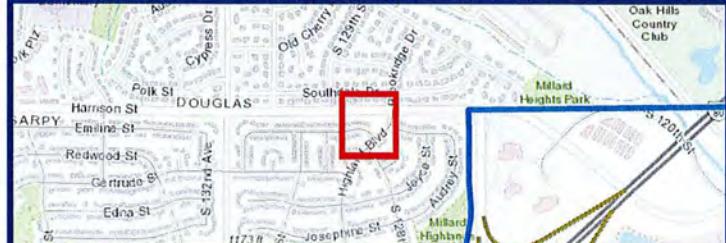


Community Development Director

5/10/21  
Date



### Conditional Use Permit Vicinity Map



**American Heritage Firearms, LLC**  
**12806 Emilie Street**

2/16/2021 CB





March 2, 2021

American Heritage Firearms, LLC

Attn: Brian Lichter  
12806 Emiline Street  
Omaha, NE 68138

RE: Conditional Use Permit – Initial Review  
Lot 492 Millard Highlands South Replat  
Home Occupation – Gunsmithing

Dear Mr. Lichter,

Thank you for your submittal of the above referenced Conditional Use Permit (CUP) application. Staff has reviewed the initial submittal and has provided the following initial comments:

**Section 6.05.10:**

1. Parking related to the proposed use, including parking for customers and deliveries, shall be confined to the driveway. Appointments should be limited in size and schedule as to contain parking to the driveway.

**Section 7.10:**

1. The proposed use shall remain in compliance with Section 7.10 of the La Vista Zoning Ordinance, attached to this letter for your reference. Please confirm that the operation will conform to each of the listed requirements.

**General Comments:**

1. Owner shall forward any and all inspection reports received of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) per the requirements of the Federal Firearms License to the City of La Vista Community Development Department immediately upon receipt.

**City Hall**  
8116 Park View Blvd.  
La Vista, NE 68128-2198  
402.331.4343 P  
402.331.4375 F

**Community Development**  
8116 Park View Blvd.  
402.593.6400 P  
402.593.6445 F

**Library**  
9110 Giles Rd.  
402.537.3900 P  
402.537.3902 F

**Police**  
7701 S. 96th St.  
402.331.1582 P  
402.331.7210 F

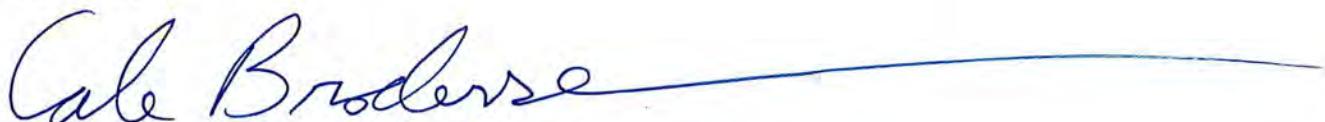
**Public Works**  
9900 Portal Rd.  
402.331.8927 P  
402.331.1051 F

**Recreation**  
8116 Park View Blvd.  
402.331.3455 P  
402.331.0299 F

2. Waste material from activities shall be properly disposed of as per all Nebraska Department of Environmental Quality (NDEQ) guidelines and other applicable laws, regulations and requirements as in effect or amended from time to time.
3. Fires escape routes shall be properly designated.
4. Please provide evidence that the owner of the home is also listed as an owner or partner in the business (American Heritage Firearms, LLC) registered with the State of Nebraska.
5. Can you please confirm that you will not be storing or dealing ammunition in relation to the proposed gunsmithing business, as referenced in your operating statement?
6. How many square feet of the garage will be dedicated to the gunsmithing home occupation?
7. A draft Conditional Use Permit is attached to this letter for your reference.

Please submit a response to this letter and to any questions that are posed above. If you are able to address these questions by Thursday, March 11<sup>th</sup>, this request can be reviewed by the Planning Commission on April 1, 2021, and by the City Council on May 4, 2021, pending no delays or obstructions. Please let me know if you have any questions.

Sincerely,



Cale Brodersen  
Assistant Planner  
City of La Vista  
(402) 593-6400  
[cbrodersen@cityoflavista.org](mailto:cbrodersen@cityoflavista.org)

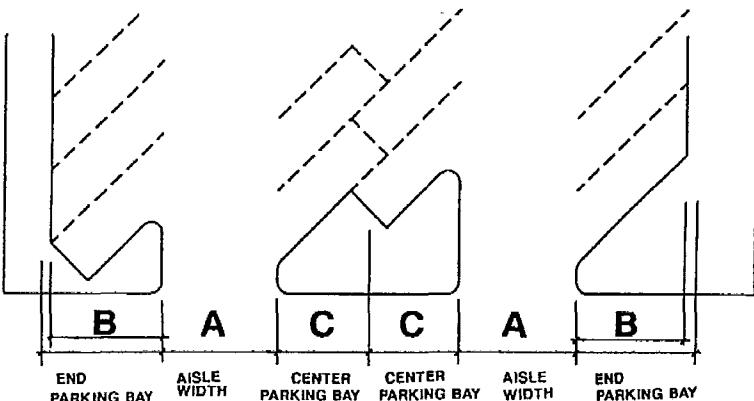
Cc:     Bruce Fountain, Community Development Director  
          Chris Solberg, Deputy Community Development Director

Enclosures

## Section 7.09 Off-Street Parking Design Criteria

7.09.01 Standard parking stall dimensions shall not be less than nine (9) feet by eighteen (18) feet, plus the necessary space for maneuvering into and out of the space. Where the end of the parking space abuts a curbed area at least five (5) feet in width (with landscaping or sidewalk), an overhang may be permitted which would reduce the length of the parking space by two (2) feet. Such overhang shall be measured from the face of the curb. For standard parking lots, minimum dimensions shall be as follows:

Parking Configuration			
	90-degree	60-degree	45-degree
<b>Aisle Width (A)</b>			
One-way traffic	-----	18 feet	14 feet
Two-way traffic	24 feet	20 feet	20 feet
<b>End Parking Bay Width (B)</b>			
Without overhang	18 feet	20 feet	19 feet
With overhang	16 feet	18 feet	17 feet
<b>Center Parking Bay Width (C)</b>	18 feet	18 feet	16 feet



7.09.02 Minimum dimensions for a parallel parking space shall be nine (9) feet by twenty-three (23) feet.

7.09.03 Minimum parking dimensions for other configurations or for parking lots with compact car spaces shall be determined by the Planning Commission and City Council upon recommendation of the City Engineer.

## Section 7.10 Home Occupations

The following are the minimum standards required for a Home Occupation:

7.10.01 *No external evidence of the home occupation with the exception of one unlighted nameplate of not more than two (2) square foot in area attached flat against the building located on local or collector streets. However, four (4) square feet in area attached flat against the building located on arterial streets.*

7.10.02 Advertising displays and advertising devices displayed through a window of the building shall not be permitted.

7.10.03 No more than twenty-five percent (25%) of the home, *not to exceed four hundred (400) square feet*, can be used for the home occupation, *except for Child Care Home. This percentage is inclusive of any detached accessory buildings used for the Home Occupation.*

7.10.04 Home occupations shall employ no more than one full-time or part-time employee on-site other than the residents of the dwelling unit, provided that one off-street parking space is made available and used by that non-resident employee.

7.10.05 Unless expressly permitted by a Conditional Use Permit, no retail sales are permitted from the site.

7.10.06 No outdoor storage is permitted.

7.10.07 Additional off-street parking may be required for the business.

7.10.08 *If home occupation is for a business office for services rendered at another location then not more than two (2) business or employee vehicles parked on or adjacent to the home occupation property at any one time; provided only one said vehicle may be allowed to park on street right-of-way. Construction or maintenance equipment shall not be stored on the property other than in an enclosed garage; provided one*

*(1) piece of equipment shall be counted as one (1) of the two (2) business or employee vehicles allowed. For the purpose of enforcement of the home occupation provisions of this ordinance, a piece of construction equipment parked on a trailer shall be counted as a single business vehicle. A trailer being pulled by another vehicle, however, shall be counted as two (2) vehicles. Personal vehicles of occupants of the residential dwelling shall not be included in the count of number of business or employee vehicles.*

- 7.10.09 No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
- 7.10.10 *A Home Occupation License shall be required for Home Occupation I uses.*
- 7.10.11 *A Conditional Use Permit is required, except for Home Occupation II uses and Child Care Homes.*
- 7.10.12 *Child Care Homes and Child Care Centers shall require a certificate (CRED 9911) signed by the State of Nebraska Fire Marshall.*
- 7.10.13 All fees shall be paid in accordance with the Master Fee Schedule.
- 7.10.14 All businesses related to Child Care Homes and Child Care Centers shall be in accordance with Nebr. R. R. S. 1943, Sec. §71-1911. (*Ordinance No. 884, 11-19-02*)

**American Heritage Firearms, LLC  
12806 Emilie Street  
Omaha, NE 68138  
402-681-0300**

Cale,

In response to your letter dated March 2, 2021, we submit the following:

**Regarding Section 6.05.10:**

We understand the parking requirement limited to the driveway.

**Regarding Section 7.10:**

We will conform the each of the listed requirements as detailed below.

- 1) We will forward inspection reports from the ATF to the City of LaVista Immediately upon receipt.
- 2) Waste materials shall be properly disposed per NDEQ guidelines and other applicable laws. We expect to have minimal waste and intend to recycle when appropriate.
- 3) Fire escape routes from the garage (operation area) will be properly designated.
- 4) I, Brian D. Lichter, am listed as an owner with American Heritage Firearms, LLC and am also listed as an owner of the home at 12806 Emilie Street. Although the change has been made within the organization (American Heritage Firearms), the change has not been updated with the Secretary of State. Once the update is reflected on the SOS website, a copy will be provided for verification.
- 5) We will NOT be dealing in ammunition. Per our license through the ATF, it is not allowed.
- 6) Approximately 33 square feet will be utilized for the business.

Should you have additional questions, please let me know.

Regards,



Brian Lichter

# STATE OF NEBRASKA

United States of America,      } ss.  
State of Nebraska              }

Secretary of State  
State Capitol  
Lincoln, Nebraska

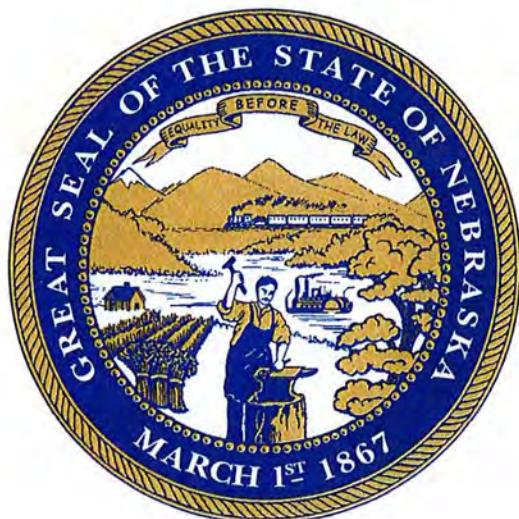
I, Robert B. Evnem, Secretary of State of the  
State of Nebraska, do hereby certify that

## AMERICAN HERITAGE FIREARMS LLC

**was duly formed under the laws of Nebraska on June 11, 2020;**  
**all fees, taxes, and penalties due under the Nebraska Uniform Limited  
Liability Company Act or other law to the Secretary of State have been paid;**  
**the Company's most recent biennial report required by section 21-125 has  
been filed by the Secretary of State;**  
**the Secretary of State has not administratively dissolved the company;**  
**the Company has not delivered to the Secretary of State for filing a Statement  
of Dissolution;**  
**a Statement of Termination has not been filed by the Secretary of State.**

*This certificate is not to be construed as an endorsement,  
recommendation, or notice of approval of the entity's financial  
condition or business activities and practices.*

In Testimony Whereof,



I have hereunto set my hand and  
affixed the Great Seal of the  
State of Nebraska on this date of

February 3, 2021

A handwritten signature in blue ink that reads "Robert B. Evnem".

Secretary of State

**NEBRASKA SECRETARY OF STATE ♦ ROBERT B. EVNEN**  
1201 N STREET, SUITE 120 • LINCOLN, NE • 68508  
**BUSINESS SERVICES DIVISION**

<b><u>Corporations</u></b>	<b><u>Uniform Commercial Code</u></b>	<b><u>Notary</u></b>
P.O.BOX 94608 LINCOLN, NE 68509 (402) 471-4079 <a href="mailto:sos.corp@nebraska.gov">sos.corp@nebraska.gov</a>	P.O.BOX 95104 LINCOLN, NE 68509 (402) 471-4080 <a href="mailto:sos.ucc@nebraska.gov">sos.ucc@nebraska.gov</a>	P.O.BOX 95104 LINCOLN, NE 68509 (402) 471-2558 <a href="mailto:sos.notary@nebraska.gov">sos.notary@nebraska.gov</a>

AMERICAN HERITAGE FIREARMS LLC  
12806 EMILINE ST  
OMAHA, NE, 68138  
United States

Receipt Number: 210126145410997-653617

Receipt Date: February 03, 2021

The following details your transaction(s) with the Secretary of State's Office.

Transactions posted to this receipt:

Entity Name / Filing Number	Type of Filing	Amount
AMERICAN HERITAGE FIREARMS LLC	Good Standings	\$ 0.00
	Total Amount:	\$ 0.00

**City of La Vista  
Conditional Use Permit**

**Conditional Use Permit for Home Occupation (Gunsmith)**

This Conditional Use Permit issued this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by the City of La Vista, a municipal corporation in the County of Sarpy County, Nebraska ("City") to, American Heritage Firearms, LLC ("Owner"), pursuant to the La Vista Zoning Ordinance.

WHEREAS, Owner wishes to locate and operate a home occupation (Gunsmith) in a single-family dwelling at 12806 Emilie Street upon the following legally described property of land within the City of La Vista zoning jurisdiction:

Lot 492 Millard Highlands South Replat, a Subdivision of Sarpy County, Nebraska.

WHEREAS, Owner has applied for a conditional use permit for the purpose of locating and operating a home occupation (Gunsmith); and

WHEREAS, the Mayor and City Council of the City of La Vista are agreeable to the issuance of a conditional use permit to the owner for such purposes, subject to certain conditions and agreements as hereinafter provided.

NOW, THEREFORE, BE IT KNOWN THAT subject to the conditions hereof, this conditional use permit is issued to the owner to use the area of the property described herein for a home occupation (Gunsmith), said use hereinafter being referred to as "Permitted Use or Use".

**Conditions of Permit**

The conditions to which the granting of this permit is subject are:

1. The rights granted by this permit are transferable and any variation or breach of any terms hereof shall cause permit to expire and terminate without the prior written consent of the City (amendment to permit) or unless exempted herein.
2. In respect to the proposed Use:
  - a. Operation of this home occupation must be in accordance with the "Operating Statement" attached to this permit as "Exhibit A".
  - b. Permitted use will utilize approximately 33 square feet in the garage.
  - c. Hours of operation will generally be from 1:00 p.m. to 3:00 p.m. Tuesdays, and 9:30 a.m. to 11:30 a.m. Saturdays, by appointment only.
  - d. No external evidence of the home occupation is allowed with the exception of one unlighted nameplate of not more than two (2) square feet in area attached flat against the building. Advertising displays and advertising devices displayed through a window of the building shall not be permitted.
  - e. There will be no employees.
  - f. Owner will maintain a Federal Firearms License (FFL) at all times and adhere to the rules and regulations of the ATF.
  - g. Waste material from activities shall be properly disposed of as per all Nebraska Department of Environmental Quality (NDEQ) guidelines and other applicable laws, regulations and requirements as in effect or amended from time to time.
  - h. There will be no test firing or discharge of the firearms on the premises.

- i. Only ten firearms, other than those owned by the property owner, will be on site at any one time. All firearms shall be secured in an acceptable gunsafe whenever the operator is not actively working with the firearms.
- j. Fire escape routes shall be properly designated.
- k. There shall be no storage, placement or display of goods or supplies outside described areas relating to permitted use.
- l. Client parking will consist of owner's driveway.
- m. Owner shall obtain all required permits from the City of La Vista and shall comply with any additional requirements as determined by the Building Inspector.
- n. Owner shall comply with all sections of the International Fire Code, and NFPA 495 (2010) Sections 14.3-14.5 regarding the storage of small arms ammunition and its components in an R occupancy.
- o. Owner shall comply (and shall ensure that all, invitees, suppliers, structures, appurtenances and improvements, and all activities occurring or conducted, on the premises at any time comply) with any applicable federal, state and/or local laws, regulations, or other requirements, as amended or in effect from time to time, including, but not limited to, applicable environmental or safety laws, rules or regulations.
- p. Owner shall forward any and all inspection reports received of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) per the requirements of the Federal Firearms License to the City of La Vista Community Development Department immediately upon receipt.
- q. Owner hereby indemnifies the City against, and holds the City harmless from, any liability, loss, claim or expense whatsoever (including, but not limited to, reasonable attorney fees and court cost) arising out of or resulting from the acts, omissions or negligence of the owner, his/her agents, employees, assigns, suppliers or invitees, including, but not limited to, any liability, loss, claim or expense arising out of or resulting from any violation on the premises of any environmental or safety law, rule or regulation.
- r. At least one individual listed as a legal owner of the property for which this home occupation Conditional Use Permit applies shall also be a legal owner of the business entity registered with the State of Nebraska as American Heritage Firearms, LLC.

3. The applicant's right to maintain the use as approved pursuant to these provisions shall be based on the following:

- a. An annual renewal of a home occupation license and annual inspection to determine compliance with the conditions of approval. The conditional use permit may be revoked upon a finding by the City that there is a violation of the terms of approval.
- b. The use authorized by the conditional use permit must be initiated within one (1) year of approval and shall become void two (2) years after the date of approval unless the applicant has fully complied with the terms of approval.
- c. All obsolete or unused structures and accessory facilities or materials specifically pertaining to such permitted use shall be removed at owner's expense within twelve (12) months of cessation of the conditional use, if required by the City.

4. Notwithstanding any other provision herein to the contrary, this permit, and all rights granted hereby, shall expire and terminate as a permitted use hereunder upon the first of the following to occur:

- a. Owner's abandonment of the permitted use. Non-use thereof for a period of twelve (12) months shall constitute a presumption of abandonment.
- b. Cancellation, revocation, denial or failure to maintain any federal, state or local permit required for the Use.
- c. Owner's breach of any other terms hereof and his/her failure to correct such breach within ten (10) days of City's giving notice thereof.

5. In the event of the owner's failure to promptly remove any safety or environmental hazard from the premises, or the expiration or termination of this permit and the owner's failure to promptly remove any

permitted materials or any remaining environmental or safety hazard, the City may, at its option (but without any obligation to the owner or any third party to exercise said option) cause the same to be removed at owner's cost and the owner shall reimburse the City the costs incurred to remove the same. Owner hereby irrevocably grants the City, its agents and employees the right to enter the premises and to take whatever action as is necessary or appropriate to remove the structures or any environmental or safety hazards in accordance with the terms of this permit, and the right of the City to enter the premises as necessary or appropriate to carry out any other provision of this permit.

6. If any provision, or any portion thereof, contained in this agreement is held to be unconstitutional, invalid, or unenforceable, the remaining provisions hereof, or portions thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

### **Miscellaneous**

The conditions and terms of this permit shall be binding upon owner, his/her successors and assigns.

1. Delay of City to terminate this permit on account of breach of owner of any of the terms hereof shall not constitute a waiver of City's right to terminate, unless it shall have expressly waived said breach, and a waiver of the right to terminate upon any breach shall not constitute a waiver of the right to terminate upon a subsequent breach of the terms hereof, whether said breach be of the same or different nature.
2. Nothing herein shall be construed to be a waiver or suspension of, or an agreement on the part of the City to waive or suspend, any zoning law or regulation applicable to the premises except to the extent and for the duration specifically authorized by this permit.
3. Any notice to be given by City hereunder shall be in writing and shall be sufficiently given if sent by regular mail, postage prepaid, addressed to the owner as follows:

**Contact Name and Address:** American Heritage Firearms  
Attn: Brian D. Licher  
12800 Emilie Street  
Omaha, NE 68138

### **Effective Date:**

This permit shall take effect upon the filing hereof with the City Clerk a signed original hereof.

THE CITY OF LA VISTA

By \_\_\_\_\_  
Douglas Kindig, Mayor

Attest:

Pam Buethe  
City Clerk

CONSENT AND AGREEMENT

The undersigned does hereby consent and agree to the conditions of this permit and that the terms hereof constitute an agreement on the part of the undersigned to fully and timely perform each and every condition and term hereof, and the undersigned does hereby warrant, covenant and agree to fully and timely perform and discharge all obligations and liabilities herein required by owner to be performed or discharged.

Owner:

By: \_\_\_\_\_

Title: owner/operator \_\_\_\_\_

Date: \_\_\_\_\_

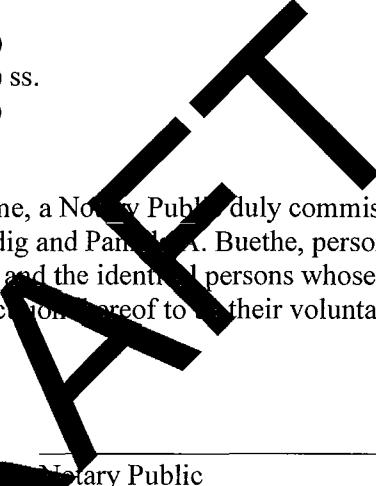
ACKNOWLEDGMENT OF NOTARY

STATE OF NEBRASKA

)  
) ss.  
)

COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 2021, before me, a Notary Public duly commissioned and qualified in and for said County and State, appeared Douglas Kindig and Pamela A. Buethe, personally known by me to be the Mayor and City Clerk of the City of La Vista, and the identical persons whose names are affixed to the foregoing Agreement, and acknowledged the execution thereof to be their voluntary act and deed and the voluntary act and deed of said City.

  
\_\_\_\_\_  
Notary Public

ACKNOWLEDGMENT OF NOTARY

STATE OF NEBRASKA

)  
) ss.  
)

COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 2021, before me, a Notary Public duly commissioned and qualified in and for said County and State, appeared Brian Licher personally known by me to be the owner/operator of American Heritage Firearms LLC, and the identical person whose name is affixed to the foregoing Agreement, and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said company.

\_\_\_\_\_  
Notary Public

# American Heritage Firearms, LLC Plan

## Owners: Patrick S. Licher & Brian D. Licher

The initial intent of American Heritage Firearms, LLC, was to attempt to obtain one of the 50 caliber machine guns that had been recovered when Lt. A. C. Licher's P51 Mustang was excavated in the Netherlands in 2006. We both were a part of the family group that were present for the recovery of our father's/grandfather's plane. After trying many avenues of acquiring this gun, we have been informed that the only option is for us to obtain an FFL (Federal Firearms License). That is what we are attempting here.

Since the FFL allows for us to sell firearms, we intend to do so to friends and family as well as through a yet-to-be-developed website. We do not anticipate a large volume of sales due to the current shortage of firearms, little to no marketing effort, and a lack of a storefront presence. Furthermore, our license will preclude the sale of ammunition.

Our business will be conducted at 12806 Emilie Street, Omaha, NE 68138. All sales activities shall take place in a specifically modified area of the garage that must be approved by the ATF. The ATF require specific hours of operation to allow for their annual and surprise inspections. Our hours shall be Tuesdays from 1:00pm to 3:00pm and Saturdays from 9:30am to 11:30am. Business will be conducted by appointment only.

Our inventory will be limited to firearms that are pre-purchased by customers who have filled out an ATF Form 4473 and have been approved by the ATF after the 3-day National Criminal Background Check. If they haven't filled out the Form 4473, they must do so and wait the 3 days to return for pickup. Once we have received their purchase from the supplier, we are required to secure the inventory. This is completed by us being on site to sign for and receive the inventory, storing it in a locked safe, specifically utilized for inventory, and the use of a HD camera system with off-site video storage.

We will coordinate and schedule an appointment for the customer to complete their transaction on site. All firearms must be picked up at a licensed FFL location, and purchasers must provide identification and paperwork as approved by the ATF. Transactions are limited and must be completed by the owners of American Heritage Firearms, LLC.

All deliveries and shipments will be by appointment only. All Covid-19 protocols will be observed wherever possible and masks shall be worn at all times during transactions.



Patrick S. Licher



Brian D. Licher

**CITY OF LA VISTA**  
**MAYOR AND CITY COUNCIL REPORT**  
**MAY 18, 2021 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
INTERLOCAL AGREEMENT – JAIL, PROSECUTORIAL AND INDIGENT DEFENSE SERVICES	◆ RESOLUTION ORDINANCE RECEIVE/FILE	BOB LAUSTEN POLICE CHIEF

**SYNOPSIS**

A resolution has been prepared to approve an Interlocal Cooperation Agreement between the Cities of La Vista, Bellevue, Papillion, Gretna and Sarpy County for jail, prosecutorial and indigent defense services.

**FISCAL IMPACT**

N/A

**RECOMMENDATION**

Approval

**BACKGROUND**

Sarpy County conducted an analysis of the interlocal agreements the County has in place in order to potentially have the cost of the service computed outside of the lid and levy calculations.

Three functions (jail, county attorney and public defender) were identified to qualify as an exempted interlocal. (This information was confirmed by the State Auditor.)

Currently, (and historically) Sarpy County provides these services to local cities/police departments when offenders are arrested and prosecuted/defended on State violations at no cost. Which is how the interlocal agreement is drafted.

La Vista would be responsible for costs if the City decides to adopt our own city ordinances for jailable offenses and have our City Attorney prosecute those offenses, resulting in the defendant being sentenced to jail for that city code violation.

On April 20, 2021, the La Vista City Council approved an Interlocal Agreement that has since been modified and is being presented for approval.

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA APPROVING AN INTERLOCAL COOPERATION AGREEMENT BETWEEN THE CITIES OF LA VISTA, BELLEVUE, GRETNNA, PAPILLION AND SARPY COUNTY, NEBRASKA TO PROVIDE JAIL, PROSECUTORIAL AND INDIGENT DEFENSE SERVICES.

WHEREAS, Sarpy County owns and maintains a jail facility, provides prosecutorial functions through the County Attorney's Office, and provides indigent defense services through the Office of the Public Defender; and,

WHEREAS, Sarpy County and the Cities are agreeable to housing persons cited or arrested, or sentenced in connection with a citation or arrest, under lawful authority ("Offenders") within the corporate boundaries of the Cities, including those offenders cited, arrested, or sentenced solely for violating a City Municipal Code, in the County Correctional Facility; and,

WHEREAS, Sarpy County and the Cities desire to acknowledge the prosecutorial services provided by the County Attorney and the indigent defense services provided by the Office of the Public Defender; and,

WHEREAS, such an agreement is authorized by the Interlocal Cooperation Act, Neb. Rev. Stat §§ 13-801 to 13-827.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of La Vista, Nebraska, hereby authorize the Mayor to execute an Interlocal Cooperation Agreement with between the Cities of La Vista, Bellevue, Gretna, Papillion and Sarpy County, Nebraska to provide jail, prosecutorial and indigent defense services.

PASSED AND APPROVED THIS 18TH DAY OF MAY 2021.

CITY OF LA VISTA

---

Douglas Kindig, Mayor

ATTEST:

---

Patricia Anderson  
Deputy City Clerk

**INTERLOCAL AGREEMENT  
BETWEEN THE CITIES AND  
THE COUNTY OF SARPY, NEBRASKA**

This Agreement is entered into by and between the County of Sarpy, Nebraska, a political subdivision of the State of Nebraska (hereinafter referred to as "the County") and the City of Bellevue, Nebraska, a municipal corporation, the City of Gretna, Nebraska, a municipal corporation, the City of LaVista, Nebraska, a municipal corporation, and the City of Papillion, Nebraska, a municipal corporation, (hereinafter collectively referred to as "the Cities" and separately referred to as "City").

WHEREAS, the County owns and maintains a jail facility, provides prosecutorial functions through the County Attorney's Office, and provides indigent defense services through the Office of the Public Defender; and,

WHEREAS, the County and the Cities are agreeable to housing persons cited or arrested, or sentenced in connection with a citation or arrest, under lawful authority ("Offenders") within the corporate boundaries of the Cities, including those offenders cited, arrested, or sentenced solely for violating a City Municipal Code, in the County Correctional Facility; and,

WHEREAS, the County and the Cities desire to acknowledge the prosecutorial services provided by the County Attorney and the indigent defense services provided by the Office of the Public Defender; and,

WHEREAS, such an agreement is authorized by the Interlocal Cooperation Act, Neb. Rev. Stat §§ 13-801 to 13-827.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

**1. Corrections Administration.** The administration of the adult correctional facility within the County shall be under the jurisdiction of the Sarpy County Board of Commissioners in its capacities as the Board of Corrections. Such Correctional Facility shall be administered through the Department of Corrections. The administrative officer of the Department shall be the Director of Corrections who shall be qualified by education, training, and experience to perform the duties of such position and shall be appointed by the Board of Corrections. The Director of Corrections shall report to the Chair of the County Board of Corrections and shall be subject to dismissal by the County Board in its capacities as the Board of Corrections.

**2. Services to be Provided by the County to the Cities.** The County shall provide:

(a) **Prosecutorial Services:** The County shall provide prosecutorial services in regard to persons cited and/or arrested for criminal state statute violations within the corporate

boundaries of the Cities pursuant to the County Attorney's lawful authority, duties, and responsibilities under Nebraska state law. The County Attorney shall have sole and absolute authority and discretion, including but not limited to any decisions regarding charging, bonds, dismissals, trial preparation and strategy, plea bargaining, or sentencing recommendations, over all prosecutorial services rendered for Offenders cited and/or arrested for criminal state statute violations. The City Attorneys of the respective Cities shall provide prosecutorial services in regard to persons cited and/or arrested for violations of the City's Municipal Code. The City Attorneys shall have sole and absolute authority and discretion over all prosecutorial services rendered for Offenders cited and/or arrested for City Municipal Code violations.

(b) Indigent Defense Services: The Office of the Public Defender of Sarpy County ("Public Defender") provides legal representation to indigent persons prosecuted for criminal state statute violations within the corporate boundaries of the Cities upon court appointment pursuant to its statutory responsibilities under Nebraska state law. Additionally, the Public Defender shall provide legal representation to indigent defendants that have been charged by a City Attorney with offenses arising under City Municipal Code, and have been appointed legal counsel by the Sarpy County Court, except in such instances where such representation would be a violation of the Rules of Professional Conduct for Attorneys. The Public Defender shall have sole and absolute authority and discretion over all indigent defense services rendered by its office. Nothing in this Agreement shall infringe upon the Public Defender's authority with regard to the execution of its responsibilities, including but not limited to any decisions regarding the representation of its clients, trial preparation and strategy, or plea bargaining.

(c) Correctional Facility Services: The County shall provide the following services related to the care of Offenders held in the Correctional Facility solely for a City Municipal Code violation:

- i. Assume the safekeeping, care, and sustenance, including necessary medical treatment, of Offenders held in the Correctional Facility pursuant to the City's lawful authority.
- ii. Transport Offenders to all areas outside the secure Correctional Facility, including transfer to all court appearances, emergency and routine medical, optical, and dental treatment, and other authorized facilities.
- iii. Manage the Correctional Facility in accordance with such rules as may be adopted from time to time by the Nebraska Jail Standards and the District Court of Sarpy County, Nebraska, in accordance with Neb. Rev. Stat. § 47-101 and § 47-201; and be responsible for the administration of the Correctional Facility so as to keep Offenders under proper discipline and control.

- iv. Maintain its Correctional Facility in a clean and sanitary condition. Offenders shall be provided with adequate and wholesome food. Juveniles shall be segregated from adults, and males and females shall be properly housed. Offenders of City Municipal Codes shall not be allowed special privileges or improper liberties, nor will they be subject to corporal punishment, cruel or inhumane treatment, or abuse. Offenders of the City Municipal Codes who violate the rules of the Correctional Facility may be disciplined as appropriate, in the same manner and to the same extent as other Offenders. No Offenders shall be discriminated against because of race, color, disability, religion, sex, age, or national origin, in any manner relating to his or her custody.
- v. Ensure that mail privileges will be the same for all Offenders.
- vi. Protect and accurately account for all personal effects and belongings of all Offenders.
- vii. Employ or utilize Offenders of City Municipal Codes to the same extent and in the same manner as other offenders.
- viii. Permit proper City law enforcement officials to see all offenders in custody.

The Director of Corrections may make such further rules and regulations as will assist in carrying out the terms of this Agreement, provided that no such rules or regulation violates the terms of this Agreement or any laws of the State of Nebraska.

Additionally, the County at its cost shall house, manage and provide services for the care and safekeeping of individuals cited or arrested, or sentenced in connection with a citation or arrest, within the corporate boundaries of the Cities for criminal state statute violations by any law enforcement officer with jurisdiction to lawfully make such arrest. Such housing, management and services shall be provided in accordance with applicable laws and regulations, including without limitation such rules as may be adopted from time to time by the Nebraska Jail Standards Board or the District Court of Sarpy County, Nebraska, in accordance with Chapter 47 of the Nebraska Revised Statutes, and the Correctional Facility shall be administered so as to keep such Offenders under proper discipline and control.

### **3. Funding; Budget Review.**

- (a) In accordance with the County Attorney's statutory authority, duties, and responsibilities under Nebraska state law, the County budgets and provides for the cost of prosecutorial services in regard to Offenders violating criminal state statutes.
- (b) In accordance with the statutory requirements under Chapter 47 of the Nebraska Revised Statutes, the County budgets and provides for the cost to safekeep, care, sustain, and

transport Offenders after Offenders are lodged in the Correctional Facility. In consideration of the safekeeping, care, sustenance, and transportation provided by the County, the Cities shall pay the County reimbursement, according to Section 3(c) below, for the cost of housing an Offender who meets one or more of the following criteria:

- i. Was cited and arrested by a City Police Department (or in the case of the City of Gretna, by the Sheriff's Office) and charged solely with a violation or violations of the City Municipal Code; or,
- ii. Was sentenced to the Corrections Department by any court to satisfy a sentence solely for a violation or violations of the City Municipal Code. This does not include circumstances where an Offender is incarcerated solely to sit out a fine or costs in lieu of payment.

(c) Reimbursement for Department of Corrections Costs. For the term of the agreement, the rate of reimbursement to the County shall be a per diem rate of \$86.49 for each Offender meeting the criteria of Section 3(b) above. On April 1<sup>st</sup> of each subsequent year, upon receiving written notice from the County, the rate may be adjusted by the County to reflect increases in the Bureau of Labor Statistics, Consumer Price Index (CPI), for Midwest Urban, All Items, Series ID CUUR0200SA0.

Billing shall be on a full-day basis and shall start upon the Offender's arrival at the Correctional Facility and end upon the Offender's release from the Correctional Facility. The County shall bill the applicable City for the day of arrival, but not for the day the Offender was released from the Correctional Facility. If the Offender arrives and is released from the Correctional Facility on the same calendar day, the County shall bill the applicable City for one full day.

Additionally, each City agrees to be responsible for, and to reimburse the County for, the cost of any off-site medical services, including emergency medical services rendered by off-site providers, for the City's respective Offenders meeting the criteria of Section 3(b) above, unless such expenses directly arise from injuries that are caused by the acts or omissions of the County, its agents, employees, representatives, or other inmates housed at the Correctional Facility. Off-site medical services shall include but not be limited to any medical, mental health, dental or health care services, that are not provided at the Correctional Facility. Off-site expenses shall include the cost of all prescriptions prescribed by an off-site physician, physician's assistant, nurse practitioner, dentist, or other licensed prescriber.

The County agrees to be responsible for all on-site medical services. This includes medical, mental health or dental services provided at the Correctional Facility, including but not limited to any services provided by a physician, physician's assistant, nurse, practitioner, licensed practical nurse, psychiatrist, licensed mental health practitioner, registered nurse, and/or dentist who is employed by or contracted with the County to

provide such services on-site, at the Correctional Facility. The County also agrees to provide at its cost all prescriptions prescribed by its contracted physician, physician's assistant, nurse practitioner, dentist, or other licensed prescriber. The community standard of health care will be provided to all inmates housed in the Correctional Facility.

The Cities shall pay all costs invoiced by the County under this Section 3(c) within 45 days from the date on which the statement is received.

(d) In accordance with the Public Defender's statutory duties and responsibilities under Nebraska state law, the County budgets and provides for the cost of indigent defense services rendered by the office and by contract alternate public defenders for conflict cases.

**4. Personal Property Acquired.** Personal property for the operation of the Department of Corrections shall be supplied as needed from the current Corrections Department of the County.

**5. Liability.** The County shall indemnify, save and hold harmless each City, and all officials, officers, employees, and agents of each City, from and against all liabilities, losses, claims, expenses, and damages arising out of and proximately caused by the negligent acts or omissions of the County, or any official, officer, agent or employee of the County, in the performance of this Agreement. Each City shall indemnify, save and hold harmless the County, and all officials, officers, employees, and agents of the County, from and against all liabilities, losses, claims, expenses, and damages arising out of and proximately caused by the negligent acts or omissions of such City, or any official, officer, agent or employee of such City, in the performance of this Agreement. It is understood and agreed, however, that liability resulting from a violation of the civil rights of Offenders, as defined by 42 U.S.C. §1983, by an individual, shall be the responsibility of that individual, and when provided by law, the party by which the individual is employed.

Each party's liability is, and the provisions of this Section 5 shall be subject to, governed by and limited to the extent provided by the Nebraska Political Subdivision Tort Claims Act or other applicable provisions of law. Provisions of this Section 5 are not intended to waive, and shall not waive, a party's sovereign immunity.

**6. Agreement Term and Termination.** This Agreement shall commence on May 1, 2021, and shall continue for a period of one year, until April 30, 2022. Thereafter it shall automatically renew with respect to the County and each City for successive periods of one year unless the County or any City provides the other parties with written notice of its intention to re-negotiate or terminate its participation in the Agreement at least ninety (90) days prior to the anniversary date of the Agreement. If the County or any City gives notice to the other parties of its intention to re-negotiate, such party's participation in the Agreement shall terminate on its anniversary date unless it has been successfully re-negotiated by that date. Recitals at the beginning of this Agreement are incorporated into this Agreement by reference.

IN WITNESS WHEREOF, each of the parties have caused this Agreement to be executed in duplicate by the respective duly authorized officers as indicated below.

COUNTY OF SARPY, NEBRASKA,  
A Nebraska Political Subdivision

By: \_\_\_\_\_  
Sarpy County Board Chair

Date: \_\_\_\_\_

Attest:

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Deb Houghtaling, County Clerk

Approved as to Form:

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\_\_\_\_\_  
Deputy Sarpy County Attorney

CITY OF BELLEVUE, NEBRASKA,  
A municipal corporation and Nebraska Political  
Subdivision

By: \_\_\_\_\_  
Mayor

Date: \_\_\_\_\_

Attest:

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City Clerk

Approved as to Form:

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City Attorney

CITY OF RETNA, NEBRASKA,  
A municipal corporation and Nebraska Political  
Subdivision

By: \_\_\_\_\_  
Mayor

Date: \_\_\_\_\_

Attest:

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City Clerk

Approved as to Form:

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City Attorney

CITY OF LAVISTA, NEBRASKA,  
A municipal corporation and Nebraska Political  
Subdivision

By: \_\_\_\_\_  
Mayor

Date: \_\_\_\_\_

Attest:

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City Clerk

Approved as to Form:

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City Attorney

CITY OF PAPILLION, NEBRASKA,  
A municipal corporation and Nebraska Political  
Subdivision

By: \_\_\_\_\_  
Mayor

Date: \_\_\_\_\_

Attest:

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City Clerk

Approved as to Form:

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City Attorney

**CITY OF LA VISTA**  
**MAYOR AND CITY COUNCIL REPORT**  
**MAY 18, 2020 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
PERSONNEL MANUAL UPDATES	◆ RESOLUTION ORDINANCE RECEIVE/FILE	RANDY TRAIL HUMAN RESOURCES DIRECTOR

**SYNOPSIS**

A resolution has been prepared to update Section III of the City's Personnel Manual. This update will clarify language and incorporate a revised nepotism policy and diversity and inclusion statement.

**FISCAL IMPACT**

N/A

**RECOMMENDATION**

Approval.

**BACKGROUND**

Section III of the Personnel Manual has not been updated since 2005. An update is necessary to clarify language and bring old policies into compliance with current practices.

In addition, the current nepotism policy (section 3.7 in the Personnel Manual) is brief, general in nature, and does not address several significant issues associated with nepotism including:

- Personal (romantic) relationships;
- Conflicts of interest due to family relationships;
- Resolution of nepotism issues;
- Exemptions for seasonal and temporary positions.

These issues are not addressed in the current policy, therefore a revised policy has been written which is inclusive.

The diversity and inclusion statement has been added to clearly communicate the importance of these concepts at the City.

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AMENDING SECTION III OF THE CITY'S PERSONNEL MANUAL REGARDING A NEPOTISM POLICY AND A DIVERSITY AND INCLUSION STATEMENT.

WHEREAS, the Mayor and City Council of the City of La Vista, Nebraska, has determined that a need exists to make changes to the existing La Vista City Personnel Policy and Procedures Manual as adopted on December 20, 2005; and

WHEREAS, Section III in the manual regarding Nepotism and a Diversity and Inclusion Statement is amended to clarify language and incorporate a nepotism policy and diversity and inclusion statement; and

WHEREAS, it is the desire of the City Council to amend Section III of the Personnel Policy and Procedures Manual to incorporate the changes to the above listed section;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of La Vista, Nebraska, that the existing La Vista City Personnel Policy and Procedures Manual adopted on December 20, 2005, is hereby amended to reflect the proposed changes to Subsection III.

PASSED AND APPROVED THIS 18TH DAY OF MAY 2021.

CITY OF LA VISTA

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Douglas Kindig, Mayor

ATTEST:

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Patricia Anderson  
Deputy City Clerk

<b>SECTION III:</b>	<b>GENERAL PROVISIONS</b>	<b>READOPTED:</b>	<b>RESOLUTION NO. 05-159</b>
<b>ADOPTED:</b>	<b>RESOLUTION NO. 96-012</b>	<b>DATE:</b>	<b>DECEMBER 20, 2005</b>
<b>DATE:</b>	<b>FEBRUARY 6, 1996</b>	<b>AMENDED:</b>	<b>RESOLUTION NO.</b>
<b>AMENDED:</b>	<b>RESOLUTION NO. 96-051</b>	<b>DATE:</b>	
<b>DATE:</b>	<b>MAY 21, 1996</b>		
<b>AMENDED:</b>	<b>RESOLUTION NO. 97-092</b>		
<b>DATE:</b>	<b>JULY 15, 1997</b>		
<b>AMENDED:</b>	<b>RESOLUTION NO. 98-092</b>		
<b>DATE:</b>	<b>MAY 19, 1998</b>		
<b>AMENDED:</b>	<b>RESOLUTION NO. 00-152</b>		
<b>DATE:</b>	<b>DECEMBER 19, 2000</b>		
<b>AMENDED:</b>	<b>RESOLUTION NO. 02-099</b>		
<b>DATE:</b>	<b>OCTOBER 1, 2002</b>		

**3.1 Organization for Personnel Administration:**

- (1) **Mayor-City Council:** The Mayor and the City Council have ultimate policy-making authority for the City of La Vista in matters pertaining to personnel administration.
- (2) **The City Administrator:** The function of the City Administrator is to aid in the formulation of personnel policies, to prescribe procedures and to administer those policies and procedures with the aim of facilitating personnel administration for operating all City departments. The City Administrator is charged by the City Council to fairly administer the personnel program which shall include: recruitment, interviewing, job testing (where applicable), eligibility lists, appointments based on merit, the formulation and interpretation of personnel policies, maintenance and administration of the classification plan and pay plan, maintenance of employee records, supervision of the grievance procedures, promoting training programs and fostering good employee relations. The City Administrator shall also be responsible for administering discipline concerning City employees ~~and MVFD~~ as provided in this Manual, and accomplishing such other personnel matters as deemed appropriate by the Mayor and City Council.

**3.2 Administration of the Rules:** The City Administrator is charged with the responsibility for the administration of these rules.

**3.3 Departmental Regulations:** These rules shall not be construed as limiting in any way the power and authority of any Department Head to make departmental rules and regulations governing the conduct and performance of employees. However, departmental rules and regulations shall not conflict with provisions of these rules. Departmental rules and regulations shall have the force and effect of rules of that department and disciplinary action may be based upon any breach of those rules and regulations. The City Administrator shall be provided copies of all departmental rules and regulations and shall have the authority to rescind any departmental rule or regulation.

**3.4 Political Activities:** Unless specifically prohibited from doing so by federal or state law, City employees ~~and MVFD~~ may participate in local, state and federal political activities, provided they do

so during their non-working time and do not wear City uniforms or City clothing while participating in such activities. No City employee ~~or MVFD~~ shall, simultaneously with such City employment ~~or MVFD membership~~, hold the office of Mayor or City Council Member of the City. Any City employee ~~or MVFD~~ elected or appointed to the office of Mayor or of City Council Member of the City shall be deemed, upon accepting and assuming such office of Mayor or City Council Member of the City, to have automatically and simultaneously resigned his or her position of employment with the City. No employee of the City ~~or MVFD~~ shall be appointed as a member of any citizen board, commission or committee appointed by the Mayor or the City Council unless such appointment is required by ordinance or statute as a part of the composition of the board, commission or committee.

**3.5 Prohibition of Discrimination:**

- (1) No employee, ~~MVFD~~ or applicant for employment with the City ~~or membership in the Volunteer Fire Department~~ shall be appointed, promoted, demoted, removed, or advanced on any basis or for any reason other than qualification, merit and experience for service or lack thereof. An individual with a disability will be evaluated only on his or her ability to perform the essential functions of the position in question, with or without reasonable accommodation.
- (2) No employee ~~or MVFD~~ shall use, or promise or attempt to use, directly or indirectly, any official authority or influence to secure or attempt to secure, for any person, an unmerited appointment or unmerited advantage in appointment to a position with the City or an unmerited increase in pay or any other unmerited advantage or benefit in employment in any such position.
- (3) No employee, ~~MVFD~~ or appointing authority shall unlawfully discriminate against any individual in appointment, transfer, dismissal, discipline, compensation, promotion or other terms and conditions of employment because of race, color, religion, sex, national origin, age, disability, marital status or any other protected classification.

**3.6 Diversity and Inclusion Statement**

The City of La Vista is committed to a work environment that values diversity and inclusion. We believe that employees benefit from a diverse and inclusive work environment where they feel supported, welcomed, and valued. Employees should feel comfortable and encouraged to bring their own unique capabilities, experiences, and characteristics to their work in order to be productive, innovative, and able to achieve to their fullest potential. We will strive to proactively attract, hire, and maintain a diverse workforce that reflects our city's residents. We will continue to partner with community associations and groups so that the voices of our residents are heard and reflected in the work we do.

**3.7 Unlawful Acts Prohibited:**

- (1) No employee, ~~MVFD~~ or applicant for a position shall willfully make any false statement, certificate, mark, rating, or report in regard to any application for employment, testing, certification or appointment held or made under these rules or ordinances of the City of La Vista, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such personnel provisions or the rules and regulations made thereunder.

(2) No person seeking appointment or promotion with the City shall either directly or indirectly give, promise, render or pay any money, service or other thing of value to any person for or on account of or in connection with, his/her test, appointment, proposed or desired appointment, promotion or proposed or desired promotion.

**3.87 Nepotism Policy**

Familial and personal relationships between employees create circumstances in which biased conduct, conflicts of interest, breaches of confidentiality, sexual harassment, and other unacceptable situations may occur. The City of La Vista therefore restricts and places conditions upon the employment of individuals who share familial or personal relationships.

The restrictions and conditions detailed in this Nepotism Policy apply to both current City employees and applicants for City employment. The City Administrator shall have final and discretionary authority regarding the interpretation and applicability of the provisions of this policy.

**(1) —Definitions**

**(A) (1) — “Employee”** includes any full-time regular, part-time regular, temporary, and seasonal employee of the City. “Employee” also includes an applicant for employment by the City. “Employee” does not include an employee within the Police Department if, but only to the extent that, the provisions of the Civil Service Act guarantee protected job status to the employee.

**(B)(2) — A “Familial Relationship”** exists between an employee and the employee’s spouse, parents, children, siblings, grandchildren, grandparents, aunts and uncles (siblings of a parent), nieces and nephews (children of siblings of a parent), great-grandparents, and great-grandchildren. A familial relationship also exists between the employee and the employee’s spouse’s parents, children, siblings, grandparents, and grandchildren, as well as any spouse of the employee’s parents, children, siblings, grandparents, or grandchildren. A familial relationship, as defined above, exists without regard to age or dependent status, and regardless of whether the relationship exists as a result of blood, marriage, or legal adoption.

**(C)(3) — A “Personal Relationship”** exists between employees engaged in a romantic or sexual relationship. This includes casual dating, serious dating, casual sexual involvement, and any other conduct or behavior normally associated with romantic, intimate or sexual relationships. This definition encompasses any employees engaged in such a relationship without regard to either employee’s gender or sexual orientation.

**(D)(4) — A “Condition of Conflict of Interest”** exists where a familial or personal relationship might in any way induce or encourage action that contravenes or could contravene an employee’s duty to act in the best interest, financial or otherwise, of the City of La Vista.

**(E)(5) — “Elected Official”** means an individual elected or appointed as Mayor or as a member of the City Council.

**(2B) — Grandfather Clause**

As of the date of adoption of this policy, some employees may share familial or personal relationships with elected officials or other employees. These individuals will be “grandfathered” under this policy, which means they will be permitted to continue their employment with the City as long as the employment status and position(s) of employment do not change, the relationship does not result in interpersonal conflict that interferes with job performance or the working environment, and no act of improper or unfair favoritism occurs. Any future changes to employment status and/or position(s) will be governed by the requirements and restrictions of this policy.

**(3C) — Nepotism in Hiring**

**(A+) — Disclosure**

An applicant for employment must disclose, on his or her application, all familial and personal relationships that exist between the applicant and any elected official or employee of the City. Failure to make a required disclosure will render the applicant ineligible for employment. If the non-disclosure is discovered after the applicant has been employed by the City, the non-disclosure may result in disciplinary action, up to and including termination, at the discretion of the City Administrator.

**(B2) — Prohibited Relationships**

**(i) Relationships with Elected Officials**

No individual who shares a familial or personal relationship with an elected official may be offered or accept employment with the City.

**(ii) Relationships with Mayoral Appointees**

No individual who shares a familial or personal relationship with a Mayor-appointed employee may be offered or accept employment with the City.

**(iii) Relationships with Managerial and Supervisory Employees**

No individual who shares a familial or personal relationship with a managerial or supervisory employee may be offered or accept a position of employment which places the individual within and under the managerial or supervisory employee's chain of command. No managerial or supervisory employee of the City shall supervise, conduct a performance review of, or in any other manner affect the advancement, compensation, hours, assignment(s), or other terms and conditions of

employment of an employee with whom the managerial or supervisory employee has a familial or personal relationship.

**(iv) Department Assignment**

No individual who shares a familial or personal relationship with a City employee may be offered or accept employment within the same department as the employee, regardless of the employee's seniority or supervisory level.

**(v) Exemption of Seasonal and Temporary Positions**

This policy does not apply to seasonal and temporary positions in certain programs within the Public Works and Recreation Departments, as designated or approved by the Human Resources Director.

**(C3) Condition of Conflict of Interest**

The employment of an individual sharing a familial or personal relationship with a City employee, even if not expressly prohibited by this policy, may present a condition of conflict of interest. No individual who shares a familial or personal relationship with an employee shall be offered employment, accept employment or be allowed to continue in employment with the City, if a condition of conflict of interest exists. In any situation in which the Human Resources Director deems that a condition of conflict of interest may exist the Human Resources Director shall advise the City Administrator, who shall make the final determinations as to whether a condition of conflict exists and any appropriate action to be taken to eliminate the conflict.

**(4D) Nepotism in Current Employment**

**(A)**

**(1) Required Disclosures**

When seeking a different position in City employment, an employee must disclose the name and assignment of any elected official and of any other City employee with whom the employee shares a familial or personal relationship. This disclosure must be made in writing with the individual's application for the different position or, if no formal application process is involved, the disclosure must be made in writing to the hiring supervisor before the selection is made.

Whenever a new familial or personal relationship is created between two employees or an employee and an elected official, the City employee (or both City employees, if applicable) shall disclose the relationship in writing to his or her department manager within 30 working days of creation of the relationship. The Department Manager shall then consult with the Human Resources Department to determine whether a relationship is prohibited and coordinate any further action that may be appropriate.

Failure to make a required disclosure will render an employee ineligible for transfer, promotion, or re-assignment, and may result in disciplinary action, up to and including termination, at the discretion of the City Administrator.

**(B)(2) Prohibited Relationships**

**(ia) Relationships with Elected Officials**

Any employee who develops a personal relationship with an elected official must tender a written resignation within 90 days. This does not include relationships that exist prior to the election of an official to office.

**(ib) Relationships with Mayor-Appointed or Council-Appointed Employees**

A non-appointed employee who comes to share or who develops a personal relationship with an appointed employee, must tender a written resignation within 90 days after the date the personal relationship was created. If a resignation is not tendered within such period, the Human Resources Director, in coordination with the City Administrator and the appropriate Managing Director, will terminate employment with the non-appointed employee.

In the case both employees are appointed employees, the City Administrator will advise the Mayor and City Council of the situation. The Mayor and City Council will select the appointed employee to dismiss.

**(iie) Relationships with Managerial and Supervisory Employees**

An employee who comes to share a familial or personal relationship with a managerial or supervisory employee (including but not limited to a Managing Director, Department Director or Department Head) may not occupy, be offered, or accept a position of employment with the City which places the employee within the chain of command or line of supervision of the managerial or supervisory employee, or which permits either employee to supervise or be supervised by the other. No managerial or supervisory employee shall supervise, conduct a performance review of, or in any other manner affect the advancement, compensation, hours, assignment(s), or other terms and conditions of employment of a City employee with whom the managerial or supervisory staff employee has a familial or personal relationship.

**(ivd) Department Assignment**

Incumbent employees who share a familial or personal relationship will not normally be permitted to work in the same department. Prior written authorization from the Managing Director and the City Administrator shall be required for any employees who share a familial or personal relationship to work in the same department.

**(C)(3) Condition of Conflict of Interest**

The employment of individuals sharing a familial or personal relationship, even if not expressly prohibited by this policy, may present a condition of conflict of interest. No employees who share a familial or personal relationship shall be employed in any capacity which permits such a conflict to exist or which in any way may pose a detriment to the interests of the City. In any situation in which the Human Resources Director deems that a condition of conflict of interest may exist, the Human Resources Director shall advise the City Administrator, who shall make the final determination as to whether a condition of conflict exists and any appropriate action to be taken to eliminate the conflict.

**(5E) Resolution of Prohibited Relationships**

If any of the prohibitions of this policy apply, and timely disclosure of the relationship has been made, a decision shall be made as soon as practicable after the disclosure of a relationship occurs. The resolution may include, but is not limited to:

- (A) (1) Voluntary movement of either (or both) individuals to open and available City position(s) for which the individual(s) is/are qualified;
- (B) (2) Mandatory (ordered) re-assignment of one of the employees to another position in another department (if available); or
- (C) (3) Resignation or dismissal of one of the employees.

Positions to which an employee may voluntarily move or be mandatorily re-assigned are subject to availability and employee qualifications.

If mandatory re-assignment or dismissal is determined to be necessary and only one department is involved, the Managing Director will make the decision as to which employee will be reassigned or dismissed. If more than one department is involved, the decision will be made by the Managing Directors of the departments in which the employees involved are employed, in coordination with the Human Resources Director. In all cases, however, the City Administrator retains the prerogative and discretion to review the decision(s) made and to approve, disapprove, or modify any decision(s) made.

If the City determines there is no suitable course of action that would remedy a situation that is contrary to this policy and which would allow both employees to remain employed by the City, and if neither employee is willing to resign to remedy the situation, the City Administrator will make the final decision as to which employee's employment will be terminated.

Any resolution of a prohibited relationship will comply with Nebraska Revised Statute 49-1499.03.

(6F) Date of Adoption

This policy was adopted by action of the Mayor and City Council on \_\_\_\_\_, 2020.

**Employment of a Relative:** Members of the same immediate family shall not be employed in the same department. In a case where one member of an immediate family is employed in an unclassified management position involving supervision of another immediate family member, such period of supervision shall not exceed ten (10) days. No member of the immediate family of any elected official of the City of La Vista shall be appointed to any position in City employment or membership in the Volunteer Fire Department during the term of said elected official.

**3.98 Residency and Travel Time Requirements:** Persons holding certain positions of employment with the City shall, as a condition of employment, meet residency requirements.

- (1) **Residency — Appointed Officials:** The City Administrator, ~~and~~ Police Chief ~~and the Fire Chief~~ shall reside within the City of La Vista or the zoning jurisdiction of the City of La Vista.
- (2) **Travel Time — Appointed Officials:** The Public Works Director shall reside within twenty (20) minutes travel time by motor vehicle to the public works facility. Residency within the zoning jurisdiction of the City of La Vista shall in all cases satisfy the requirements of this policy. The City Administrator shall make the determination of distances and locations that are within the radius of the allowed travel time, taking into account all then existing facts and circumstances of the particular case.
- (3) **New Hires & Transfers:** The City Administrator may establish a period of time up to a maximum of 24 months from the date of hire/transfer/promotion for an employee to comply with the residency and travel time requirements as provided herein.
- (4) **Volunteer Fire Department:** ~~Members of the Volunteer Fire Department shall reside within the City of La Vista or the extraterritorial zoning jurisdiction of the City of La Vista or six blocks thereof.~~

**3.109 Outside Employment:** Employees of the City of La Vista may obtain outside employment if the outside employment does not conflict with the employee's normal working hours for the City, the employee's efficiency in his/her City work performance is not affected, and there is no conflict with the interest of the City. The employee shall advise his/her City department head of the nature of the outside employment, hours involved, and any other appropriate information requested. In any situation in which an extra City duty or extra City work hours are necessitated by an employee's position with the City, City work will take priority over the employee's outside employment.

The following activities, although not all-inclusive, are considered to be in conflict or incompatible with City employment:

- (1) Any employment, enterprise or activity which involves the use for private gain of the City's time, facilities, equipment or supplies, or the prestige or influence of a City office or equipment. This provision shall not apply to police-related off-duty employment of uniformed police officers in accordance with established policy.
- (2) Any activity which involves receipt or acceptance by an employee of any money or other consideration from anyone other than the City for the performance of an act or service which the employee is required or expected to render in the regular course of his/her City employment or his/her duty as a City employee.
- (3) Any outside activity which involves performance of a task or activity which may later be subject to the control, inspection, review or enforcement by the employee or the City department by which he/she is employed.
- (4) Any outside activity consisting of a business partnership between employees in the same City department.
- (5) Any activity which involves so much of the employee's time that it impairs his/her attendance or efficiency in the performance of his/her duties as a City employee.

The City Administrator shall make the final determination as to whether a specific activity is prohibited.

**3.110 Appearance and Conduct:** Employees of the City of La Vista ~~and MVFD~~ shall:

- (1) Maintain a clean, well-groomed appearance in keeping with their positions and conducive to good public relations. Department heads shall develop, for their respective departments, requirements related to dress, personal appearance and hygiene.
- (2) Treat their supervisors with appropriate respect for the positions they hold and carry out all lawful directives and instructions to the best of their abilities without delay or argument.
- (3) Serve the public in a courteous, impartial, business-like manner and conduct themselves respectfully during work hours and in the performance of their duties. Rudeness or courtesy toward members of the public is prohibited.
- (4) Be ethical, impartial, just and honorable in all their relations with each other. Employees ~~and MVFD~~ shall not make false reports or gossip to the discredit or injury of another City employee or concerning City matters. Employees ~~and MVFD~~ shall not act in a manner calculated to create any disturbance or dissension within City departments, including fighting.
- (5) Not consume, be under the influence of, or have in their possession while on duty, any alcoholic beverage or controlled substance (excluding prescription medicines being taken as directed by a physician).

- (6) Not harass, threaten or seek to intimidate or bully fellow employees, ~~MVFD~~ or members of the public. The City will not tolerate any behavior toward fellow employees, ~~MVFD~~ or members of the public that threatens physical or bodily harm or injury, harmful or offensive bodily contact or damage to public or private property. (This will not be interpreted to prohibit the use of or threat to use lawful and appropriate force in appropriate circumstances by members of the La Vista Police Department as may be allowed by Police Department rules and policies.)
- (7) (A) Not at any time, while on City property or within City buildings or facilities, possess any firearm or other weapon on their persons (or in any package, container or vehicle that is in their possession or custody or under their control).~~E.~~
- (B) Not at any time while on duty for the City, at any location, possess any firearm or other weapon on their persons (or in any package, container or vehicle that is in their possession or custody or under their control).
- (C) As used in the two preceding subparagraphs, "weapon" shall include but not be limited to any knife with a blade longer than three inches that is not the property of the City.
- (D) This prohibition on possession of weapons shall not apply to (a) City police officer to the extent he or she is required or ordered to carry firearms or other weapons as part of the duties and responsibilities of his or her employment by the City, or ~~to a(b)~~ City employee to the extent he or she is granted permission by his or her Department Head to possess a specific item while on duty. Example: The Department Head may grant a maintenance worker permission to carry in plain view a sheath knife having a blade longer than 3 inches in length for use in performing the maintenance worker's job duties, ~~or (c) Qualified active and retired law enforcement when they meet all requirement of the Federal H.R. 218 "Law Enforcement Officer Safety Act".~~

Violation of any of the rules set forth in this Manual with respect to employee ~~or MVFD~~ conduct or behavior may result in disciplinary action up to and including termination of employment ~~or Volunteer Fire Department membership.~~

3.124 **Attendance:** Employees shall be in attendance at their assigned places of work in accordance with the policies or their particular assignments regarding hours of work, holidays and leave. If an employee, for some unavoidable reason, cannot report for work, he/she shall notify his/her supervisor or department head as soon as possible. Except in unavoidable circumstances, such notice is required prior to the time the employee is scheduled to commence work, ~~and All absences from work must are to be reported to the payroll department on the appropriate "request for leave" form via an employee's time off request submission in the timekeeping system.~~ Noncompliance with these policies may result in disciplinary action.

3.132 **Hours of Work:** The normal work week is five (5) days of work, eight (8) hours per day for all employees except those of the Police Department. The FOP contract references the procedure by which the City establishes the normal work week for the Police Department. Each department shall

establish and post work schedules for its employees in accordance with the needs of the department. Employees are subject to call out (i.e., being called in to work while off duty) as circumstances warrant. An employee's failure to report when so called out may result in disciplinary action. Each department head shall advise the City Administrator of the department's work schedule.

3.143 **Repair and Use of City Property:** Any employee ~~or MVFD~~ of the City of La Vista found to be responsible for damage to or loss of City property through negligence or abuse shall be subject to disciplinary action and may be required to reimburse the City for such damages or loss. No City equipment, materials or supplies shall be removed from the City's possession without the approval of the supervisor, department head or City Administrator.

3.154 **Use of City-Owned Vehicles:** Department heads and other employees ~~or MVFD~~ as designated by the City Administrator shall be allowed to use city owned vehicles as transportation to their homes from their places of work in addition to use during normal duty hours. As an essential job function, employees may also be required to operate/drive city-owned motor vehicles during normal duty hours. -Such vehicles shall not be used for other than official city business. They shall be kept clean and driven in a manner so as to conform with existing traffic regulations and not bring discredit upon the city.

Operators of city owned vehicles must possess a valid, current operators' license in accordance with state laws. The City may establish procedures to routinely inspect ~~the~~ such licenses. Operators are expected to drive safely and observe all traffic laws. Seat belts must be worn by employees at all times while driving a City vehicle, while a passenger in a City vehicle, or while conducting City business utilizing a vehicle. Employees who receive a traffic ticket while conducting City business will be responsible for paying any associated fine and may be subject to disciplinary action.

Employees ~~or MVFD~~ who have an accident with a city-owned vehicle shall first notify a law enforcement agency and then their supervisor or department head. This shall be done regardless of how minor the accident may be.

The City Administrator or his/her designee will review the ability of an employee ~~or MVFD~~ to operate a city-owned motor vehicle if an employee ~~or MVFD~~ has been involved in two or more traffic accidents and/or has received two or more moving violations while operating a city-owned vehicle within a twelve month time frame. The review may result in disciplinary action which may include but is not limited to driver's safety training, suspension from use of city-owned vehicles, suspension from work or demotion.

-If driving a City vehicle is part of an employee's job duties for the City, the employee may be subject to disciplinary or other job action – such as termination of employment or transfer to a vacant position (with any applicable pay reduction) – if the City's insurer advises the City that the City will no longer have insurance coverage for accidents involving a vehicle operated by the employee.

3.165 **Safety:** Department heads shall ensure that safety rules and regulations are posted properly and that all employees of the department ~~and MVFD~~ are trained to work safely. Designated City personnel shall periodically conduct safety inspections of work sites to detect hazardous areas or practices for

correction as appropriate. A record of such inspections and results thereof shall be maintained by the department head.

Employees ~~and MVFD~~ are expected to know and observe prudent safety precautions at all times, to wear required Personal Protective Equipment~~safety equipment~~, to observe all posted safety rules and regulations and to keep the work place neat and clean.

(1) Safety Committee(s): In accordance with Sections 48-443 through 48-445 of the Nebraska Revised Statutes, the City has established one or more Safety Committees consisting of management and non-management personnel. The duties of the committee(s) shall be in accordance with the cited Nebraska statutes and the rules and regulations promulgated thereunder by the Nebraska Department of Labor (Title 230, Chapter 6, of the Nebraska Administrative Code).

**3.176 Reporting Accidents and Injuries:** Employees ~~and MVFD~~ shall report all accidents and injuries to their supervisors or department heads as soon as possible after the accident. Injuries of a minor first-aid nature may be treated at the work site or department office, ~~but~~ must be reported. Rescue squad services shall be used to transport employees ~~or MVFD~~ to a hospital if the accident or injury results in the incapacitation of the employee ~~or MVFD~~. Within twenty-four (24) hours of any accident or incident the City employee ~~or MVFD~~ or his/her supervisor shall file an accident-injury report with the ~~city~~ Clerk~~Clerk~~ and Human Resources Department. As stated in 3.14, employees ~~or MVFD~~ involved in an accident with a city-owned vehicle must notify a law enforcement agency and their supervisor or department head, regardless of how minor an accident may be.

**3.187 Selling and Peddling:** No peddling, solicitation or sales for charitable purposes or other reason shall be allowed among or by City employees during working hours unless approved by the City Administrator.

**3.198 Conflict of Interest:** No employee ~~or MVFD~~ shall engage in any activity or enterprise which conflicts with his/her duties as a City employee ~~or MVFD~~ or with the duties, functions and responsibilities of the department in which he/she is employed or volunteers.

No employee ~~or MVFD~~ of the City shall have any financial interest in the profits of any contract, service or other work performed by or for the City; nor personally profit directly or indirectly from any contract, purchase, sale or service between the City and any person or company; nor personally or as an agent provide any surety, bail or bond required by law or subject to the approval of the City Council. No officer or employee shall accept any free or preferred service, benefit, or concession from any person or company, other than a service, benefit or concession offered to members of the public-at-large. Violation of any of these provisions may result in disciplinary action.

**3.2049 Maintenance of Records:** The City Administrator shall be responsible for maintaining records concerning each employee ~~and MVFD~~, to include pertinent personnel data such as name, address, telephone number, title of position held, the department to which assigned, current pay rate and changes in employment status and performance evaluations. Records shall also include information relative to completion of training schools, professional and technical courses, accomplishment of work,

conformance to expected standards, awards and such other information as shall be deemed appropriate. Each employee ~~or MVFD~~ shall be advised as to the content of his/her record upon request.

Personnel records shall be treated as confidential information not to be released without signed authorization of the employee ~~or MVFD~~ except as required by law. However, internal release and use of personnel records by authorized offices and officers of the City is permitted.

3.210 **Reporting Changes in Name, Address and Dependents:** Employees ~~and MVFD~~ shall report to their department head in writing any change of name and any change of dependents. Also, to be reported for tax and insurance purposes are any changes in address, telephone number or information which will have an impact on the personnel record of the employee. Department heads shall, in turn, notify the City Clerk/Human Resources Department of such changes.

3.224 **Promotion:** Insofar as determined by the City Administrator to be consistent with the City's interest, higher positions in a given department will be filled by promotions from among the lower ranks of employees ~~and MVFDs~~ within the same department. The factors in determining promotions will include, but not be limited to: competitive promotional examination where applicable, efficiency of service, education, experience and commitment to the City. This practice is observed so that both employees and the public will regard City service as a career; efficiency and ability will be recognized and turnover of personnel will be minimized.

3.232 **Transfer:** City employees shall have the privilege of requesting a transfer to another department whenever there is an existing vacancy for which they are qualified. The City Administrator will determine which employees are qualified for the vacancy and ascertain whether ~~or not~~ they are available for temporary or permanent transfer by consulting with the department head and receiving his/her recommendation based on the needs of the department. In all cases, needs of the department and of the City will prevail.

3.243 **Equal Employment Opportunity:** The City of La Vista is an equal opportunity employer. Unlawful discrimination on the basis of race, color, sex, national origin, religion, political affiliation, age, genetic information, ~~or~~ marital status, sexual orientation, ~~or~~ gender identity with respect to terms and conditions of employment, including but not limited to recruitment, selection, hiring, promotion, demotion, lay off, recall, transfer and dismissal is prohibited. Discrimination on the basis of disability is also prohibited, except where the applicant or employee ~~or MVFD~~ is unable to perform the essential functions of the position with or without reasonable accommodation, where a requested or necessary accommodation would impose an undue hardship on the City's operations or where a direct threat to health or safety would otherwise be presented.

3.254 **Employee Suggestions:** Employee and volunteer suggestions for improvement of City services are encouraged. The City Administrator and department heads shall take action to encourage and facilitate employee and volunteer suggestions. Suggestions submitted at the department level will be forwarded to the City Administrator by the department head. All signed, written suggestions shall receive a reply.

3.265 **Harassment Prohibited:**

- (1) The following policy is written primarily in terms of "sexual harassment." However, harassment of employees ~~or MVFD~~ on the basis of or because of race, color, religion, age (age 40 or older), national origin, disability, genetic information, ~~or~~ marital status, sexual orientation of gender identity is similarly unlawful and prohibited by the City. The following policy and procedures will be deemed to prohibit and apply to all such forms and bases of harassment.
- (2) Sexual harassment in the workplace is unlawful and will not be tolerated by the City. Sexual harassment can fall into one or both of two categories: "quid pro quo" harassment (one thing in exchange of another) and "hostile environment" harassment.

"Quid pro quo" sexual harassment typically involves a supervisor using his or her supervisory authority to obtain sexual favors from an employee in exchange for the granting of favorable on-the-job treatment. "Hostile environment" sexual harassment most often arises when an employee is subjected to an intimidating, hostile or offensive work environment because of offensive sexually-based or sexually-oriented physical or verbal conduct. It is important to understand that "hostile environment" harassment includes harassment "because of" sex or gender, even if the harassing behavior itself is not in any way related to sex or sexuality. Similarly, harassing behavior toward a member of one race "because of" that person's race is prohibited, even if the "content" of the harassing behavior itself is not in any way related to race.

- (3) Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature are considered sexual harassment (a) when submission to such conduct is made a condition of an individual's employment; (b) when an individual's submission to or rejection of such conduct is used as a basis for employment decisions affecting the individual; ~~or~~ (c) when such conduct has the purpose and/or the effect of unreasonably interfering with an individual's work performance through the creation of an intimidating, hostile or offensive working environment.

Anything that a reasonable person may perceive to be sexually (or racially, etc.) offensive may be unlawful harassment. Examples include (but are not limited to): offensive or vulgar jokes or language; inappropriate physical contact; comments, questions or innuendoes of a sexual nature; and the display of "pin-ups" or sexually-oriented pictures.

- (4) Employees ~~or MVFD~~ who believe themselves to be victims of sexual or other unlawful harassment or who are aware of such harassment should immediately report such incidents to a supervisor or the ~~City Administrator~~Human Resources Director. An employee ~~or MVFD~~-victim of harassment may discuss the offensive conduct with the offender(s) before reporting it to management, but is not required to do so. Further, the employee ~~or MVFD~~-victim may make a complaint directly to the ~~City Clerk~~City Administrator or Mayor, if necessary to permit the employee ~~or MVFD~~ to avoid having to discuss the matter with the offender(s).

The City will promptly and thoroughly investigate complaints or reports of sexual (or other) harassment. When warranted by the investigation, the City will take immediate and appropriate corrective action. Such action may include disciplinary action against the offender(s), which may range up to and include dismissal from employment, depending upon the severity of the conduct as assessed by the City. To the extent lawful and realistically feasible, the City will endeavor to

handle harassment complaints in a manner that is as discreet and confidential as the circumstances allow; however, because of the nature of such situations, absolute confidentiality cannot be guaranteed.

- (5) No retaliation will be permitted against an employee ~~or MVFD~~ who in good faith registers a complaint or reports a sexual (or other prohibited) harassment incident, or against any employee ~~or MVFD~~ who in good faith provides testimony as a witness or who otherwise provides assistance to any complaining or reporting employee, or who in good faith provides assistance to the City in connection with the investigation of any complaint or report of harassment.
- (6) After the City has taken appropriate corrective action to resolve a complaint or report of harassment, the City may make follow-up inquiries after an appropriate interval to ~~ensure~~ that the harassment has not resumed ~~and~~ and retaliation has not been suffered. However, victims and witnesses are not required to wait for follow-up. If harassment resumes or retaliation occurs, the victim or witness is encouraged to contact his/her supervisor, or the City Administrator, or any other appropriate City representative or official immediately, that the City might promptly and effectively act.

### **3.26 Diversity and Inclusion Statement**

The City of La Vista is committed to a work environment that values diversity and inclusion. We believe that employees benefit from a diverse and inclusive work environment where they feel supported, welcomed, and valued. Employees should feel comfortable and encouraged to bring their own unique capabilities, experiences, and characteristics to their work in order to be productive, innovative, and able to achieve to their fullest potential. We will strive to proactively attract, hire, and maintain a diverse workforce that reflects our city's residents. We will continue to partner with community associations and groups so that the voices of our residents are heard and reflected in the work we do.