

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
DECEMBER 7, 2021 AGENDA

Subject:	Type:	Submitted By:
AMEND MUNICIPAL CODE §95.18 AND §95.99 ANIMAL EXCREMENT AND PENALTIES	RESOLUTIONS ◆ ORDINANCE RECEIVE/FILE	BOB LAUSTEN - CHIEF OF POLICE PAM BUETHE - CITY CLERK

SYNOPSIS

An ordinance has been prepared to amend La Vista Municipal Code §95.18 Animal Excrement; Removal Required and §95.99 Penalty to update and place all penalties for this Chapter under §95.99.

FISCAL IMPACT

N/A

RECOMMENDATION

Approval

BACKGROUND

La Vista Municipal Code Section 95.99 was the original penalty provision involving animals – first dogs in the late 1960s, then cats and rabbits were added later. In the late 1990s/early 2000s the City purchased a service for a complete rewrite of the code and staff has determined that Section 95.18(E) was possibly added at that time.

Since both sections provide penalties for Chapter 95, staff is recommending Section 95.18(E) be eliminated and Section 95.99 fees be updated from those set in 1981.

Costs to prosecute code violations outweigh amounts potentially recoverable considering that any fines must be paid to the school district. Staff recommends that the City consider periodically increasing the fines under Section 95.99 to deter violations.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTIONS 95.18 AND 95.99 OF THE LA VISTA MUNICIPAL CODE, RELATING TO ANIMAL EXCREMENT AND PENALTIES; TO REPEAL SECTIONS 95.18 AND 95.99 AS PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

SECTION 1. Amendment of Section 95.18. Section 95.18 of the La Vista Municipal Code is hereby amended by deleting Section (E) and shall read as follows:

§ 95.18 ANIMAL EXCREMENT; REMOVAL REQUIRED

- (A) It shall be unlawful for the owner or custodian of any animal, or any person harboring any animal, to fail to remove feces, excrement, or droppings deposited by such animal on streets, sidewalks, parks, recreation areas, or any other public or private property, or in any water, immediately after the animal has deposited said feces, excrement, or droppings.
- (B) It is an affirmative defense to a violation of this section if a competent person in immediate control of the animal immediately removes and deposits the fecal matter, excrement, or droppings deposited by an animal in an appropriate trash container.
- (C) This section shall not apply to any person using a trained guide dog because of visual or other physical impairment.
- (D) Farm property and large tracts of land used as riding stables shall be exempt from this section.
- (E) ~~Unless otherwise specified in applicable state statute or in another chapter or section of this code with respect to a particular violation, any person, firm, or entity that violates any of the provisions of this chapter, including but not limited to any neglect or refusal to comply therewith or opposition to the enforcement thereof, shall be guilty of a misdemeanor and shall upon conviction thereof be subject to a fine in any amount not in excess of \$500, or imprisonment for any length of time not to exceed three months, or both, in the discretion of the court. Every day on which a violation continues shall be deemed a separate violation hereunder.~~

(Am. Ord. _____, passed 12-7-21) Penalty, see ' 95.99

SECTION 2. Amendment of Section 95.99. Section 95.99 of the La Vista Municipal Code is hereby amended to read as follows:

95.99 PENALTY.

Unless otherwise specified in applicable state statute or in another chapter or section of this code with respect to a particular violation, any person, firm, or entity that violates any of the provisions of this chapter shall be guilty of a misdemeanor and shall upon conviction thereof be subject to a fine in the amounts set forth below, plus court costs:

First Offense:	A fine of not less than \$15 \$50 nor more than \$50-\$100
Second Offense:	A fine of not less than \$25 \$100 nor more than \$75-\$200
Third Offense:	A fine of not less than \$50 \$200 nor more than \$100-\$500
Fourth Offense <u>(and any subsequent offense):</u>	A fine of \$100 \$500 and any subsequent offense

(>79 Code, ' 6-120) (Am. Ord. 283, passed 4-11-81; AM. Ord. _____ passed 12-7-2021)

SECTION 3. Repeal of Sections 95.18 and 95.99 as Previously Enacted. Sections 95.18 and 95.99 of the La Vista Municipal Code as previously enacted are hereby repealed.

SECTION 4. 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 enacted this ordinance and each section, subsection, sentence clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid. .

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

PASSED AND APPROVED THIS ____ DAY OF _____, 20____.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk