

**CITY OF LA VISTA**  
**MAYOR AND CITY COUNCIL REPORT**  
**MAY 6, 2008 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
MUNICIPAL CODE – AMEND SECTION 91.08 – ADD SECTIONS 91.061, 91.062, AND 91.09	RESOLUTION ◆ ORDINANCES RECEIVE/FILE	RICH UHL FIRE CHIEF

**SYNOPSIS**

Ordinances have been prepared to amend and add certain sections in Chapter 91: Fire Regulations of the Municipal Code.

**FISCAL IMPACT**

None.

**RECOMMENDATION**

Approval.

**BACKGROUND**

Recently, the City has received several complaints regarding the burning of plastics, cardboard, and other combustibles in home fireplaces. Additionally, the City has received complaints regarding unattended, "home-made" fire pits on personal property. It is the intention of these proposed ordinances to specifically identify acceptable and unacceptable materials used for recreational and cooking fires. Also, these proposed ordinances will clarify the definition of approved fire pits and outdoor fireplaces.

City Staff including law enforcement, fire department, and code enforcement personnel have responded to these complaints, but have had little to base their actions upon. These proposed ordinances would provide the public adequate clarification for purchase and use of these appliances and provide staff grounds for mitigation of violations of the Municipal Code.

Recommended amendments are proposed as follows:

- Section 91.08 of the Municipal Code amended to clarify the exclusion of the named appliances from burning ban provisions and to identify that rules exist for what materials can be burned.
- Section 91.061 to provide for definitions of approved outdoor burning appliances.
- Section 91.062 to determine what are allowable and not allowable outdoor recreation fires.
- Section 91.09 specifies the materials that can and cannot be burned in any of the aforementioned appliances.

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

AN ORDINANCE TO AMEND SECTION 91.08 OF THE LA VISTA MUNICIPAL CODE PERTAINING TO FIREPLACES AND INDOOR INCINERATORS; TO REPEAL SECTION 91.08 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 91.08.** Section 91.08 of the La Vista Municipal Code is hereby amended to read as follows:

**§ 91.08 FIREPLACES AND INDOOR INCINERATORS EXEMPTED**

Burning in fireplaces and incinerators opening exclusively into the interior of any permanent structure are exempt from the burning ban as well as grilling/outdoor cooking appliances but must follow rules regarding burning materials which are allowed and not allowed.

**SECTION 2. Repeal of Conflicting Ordinances.** All ordinances and parts of ordinances as previously enacted that are in conflict with this Ordinance or any part hereof are hereby repealed.

**SECTION 3. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

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

PASSED AND APPROVED THIS 6TH DAY OF MAY 2008.

CITY OF LA VISTA

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Douglas Kindig, Mayor

ATTEST:

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Pamela A. Buethe, CMC  
City Clerk

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

AN ORDINANCE TO PROVIDE FOR OPEN BURNING: OUTDOOR RECREATIONAL FIRES; 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. New Section 91.061 of the La Vista Municipal Code. Section 91.061 of the La Vista Municipal Code is hereby enacted to read as follows:

"§ 91.061 DEFINITIONS. For the purpose of Section 91.062 the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1. *Approved fire pit* shall mean any pit dug below ground not greater than 36 inches inside diameter (inside edge of the pit to inside edge); lined with non-combustible material, soil, metal or stone; a minimum of 6 inches deep; and, ringed on the outer diameter with stone, brick or concrete, and the fire fuel area shall be enclosed within a steel or non-combustible screening material.
2. *Outdoor Fireplace* shall mean any commercially available appliance designed to contain a wood fire when operated according to manufacturer's instructions with all lids, screens and spark arresting devices in place; or permanent fireplace structure built entirely of non-combustible materials designed with spark arrestors and screens to contain a wood fire.
3. *Recreational fire* shall mean any fire used for purposes of entertainment and personal enjoyment which is contained within an outdoor fireplace in accordance with any requirements or limitations of this Code.
4. *Proper Fire Extinguishing Equipment* shall mean a garden hose connected to a water supply, shovels, water buckets or a 2A 10BC rated fire extinguisher.

SECTION 2. New Section 91.062 of the La Vista Municipal Code. Section 91.062 of the La Vista Municipal Code is hereby enacted to read as follows:

"§ 91.062 OPEN BURNING: OUTDOOR RECREATIONAL FIRES. Outdoor fires within the corporate limits of the City of La Vista are prohibited except as set forth in subsections (A) and (B) of this section.

(A) (1) No grills or devices used for outdoor fires for cooking are authorized to be used above the first story of any building on a balcony, raised porch or platform, etc. except for properly maintained liquid petroleum or liquid natural gas outdoor cooking appliances that have tanks no greater than 1.02 lb. LP gas capacity.

(B) (1) No recreational fire may be started or allowed to continue burning unless such recreational fire is fully contained within an approved fire pit or outdoor fireplace.

(2) Outdoor fireplace appliances shall not be within 10 feet of any dwelling, building structure, shed or garage or combustible material; no fire pit shall be closer than 15 feet from any wooden fence, deck or combustible material; all recreational fires are to be set back a minimum of 6 feet from adjoining property lines.

(3) No recreational fire shall be started or allowed to continue burning when the wind direction or wind speed will cause embers or other burning material to be carried onto any building or combustible material; nor any time that the wind direction will carry smoke into the open windows of any building. Smoke from any recreational fire shall not create a nuisance for neighboring properties and fires shall be completely extinguished when police or fire department investigation determines a nuisance is present.

(4) Fuel for outdoor recreational fires shall consist of natural wood or manufactured fire log material only and may not include leaves, rubbish, garbage, trash, construction materials, any materials made of or coated with rubber or plastic, leather or petroleum based materials and may not contain any flammable or combustible liquids. Flammable or combustible liquids may not be used to aid in starting any outdoor fire. Common/standard dry kindling materials may be used to aid in starting fires.

(5) Recreational fires shall be constantly attended and supervised by a competent person at least 18 years of age until the fire has been completely extinguished. Proper fire extinguishing equipment must be kept immediately available at all times when a recreational fire is burning.

(6) Any party who starts or maintains a recreational fire that is allowed to burn out-of-control shall be held responsible for paying any costs associated with fire control efforts to extinguish the fire.

(7) Ash or waste from any fire shall not be deposited in the roadway ditches within the public streets and highways within the township.

(8) Recreational fires shall be permitted only from 11 a.m. to 11 p.m., year round."

**SECTION 2. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

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

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BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

SECTION 1. New Section 91.09 of the La Vista Municipal Code. Section 91.09 of the La Vista Municipal Code is hereby enacted to read as follows:

**“§ 91.09 BURNING MATERIALS: ALLOWED AND NOT ALLOWED.**

Except for commercial products expressly manufactured for starting a fire in a wood burning appliance, whether internal or external, no person shall cause or allow any of the following materials to be burned in a wood burning appliance: 1). Garbage; 2). Treated wood; 3). Plastic products; 4). Rubber products; 5). Waste petroleum products; 6). Paints & paint solvents; 7) Coal; 8). Glossy or colored paper; 9). Particle board; 10). Any other material not intended by a manufacturer for use as fuel in a solid fuel burning device.

Fuel allowed by this section shall include, but shall not supersede manufacturer's specifications for a specific wood burning appliance: 1). Seasoned wood (containing no more than 20% moisture by weight); 2). Solid fuel (any wood or other non-gaseous or non-liquid fuel) approved by the manufacturer for the appliance.”

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