

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
JANUARY 17, 2012 AGENDA**

| Subject: | Type: | Submitted By: |
|---|--|--------------------------|
| AMEND SECTIONS 35.03, 91.06, 114.02 114.40, 114.41 AND 131.01 OF THE MUNICIPAL CODE | RESOLUTION ◆ ORDINANCES RECEIVE/FILE | PAM BUETHE CITY CLERK |

SYNOPSIS

Ordinances have been prepared to amend Sections 35.03, 91.06, 114.02, 114.40, 114.41 and 131.01 of the La Vista Municipal Code.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval.

BACKGROUND

These changes are a result of American Legal Publishing Corporation incorporating the legislative changes from the previous legislative session into our Code including some minor language changes. These changes have been reviewed by the City Attorney and City Clerk.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA, TO AMEND THE LA VISTA MUNICIPAL CODE SECTION 35.03; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

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

SECTION 1. Section 35.03 of the La Vista Municipal Code is amended to read as follows:

§ 35.03 CONTRACT ADVERTISING.

(A) Before the City Council shall make any contract in excess of ~~\$20,000~~30,000 for general improvements, such as water extensions, sewers, public heating systems, bridges, work on streets or any other work or improvement where the cost of such improvement shall be assessed to the property, an estimate of the cost thereof shall be made by the City Engineer and submitted to the Council. No contract shall be entered into for any such work, improvement or enlargement of such an improvement, or for the purchase of equipment used in the construction of such enlargement or general improvement, for any price exceeding ~~\$20,000~~30,000 without advertising for bids. In advertising for bids for any such work, or for the purchase of such equipment, the Council may publish the amount of such estimate therewith. Such advertisement shall be published at least seven days in some newspaper of general circulation published in the city; provided, that in the case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, war or an exigency or pressing necessity or unforeseen need calling for immediate action or remedy to prevent a serious loss of or serious injury or damage to life, health or property, estimates of costs and advertising for bids may be waived in the emergency ordinance when adopted by a three-fourths vote of the Council and entered on record. If after advertising for bids as provided in this section, the City Council receives fewer than two bids on a contract for any work or improvement, or if the bids received by the city contain a price which exceeds the estimated cost of the project, the Mayor and City Council may negotiate a contract in an attempt to complete the proposed project at a cost commensurate with the estimate given.

(B) If the materials are of such a nature that, in the opinion of the manufacturer and with the concurrence of the City Council, no cost can be estimated until the materials have been manufactured or assembled to the specific qualifications of the city, the City Council may authorize the manufacture and assemblage of such materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer.

(C) Any city bidding procedure may be waived by the City Council:

(1) When materials or equipment are purchased at the same price and from the same seller as materials or equipment which have formerly been obtained pursuant to the state bidding procedure in Neb. RS 81-145 to 81-162; or

(2) When the contract is negotiated directly with a sheltered workshop pursuant to Neb. RS 48-1503; or

(3) When required to comply with any federal grant, loan, or program.
(‘79 Code, § 1-922) (Am. Ord. 263, passed 12-4-79; Am. Ord. 548, passed 6-16-92; Am. Ord. 692, passed 9-16-97)

Statutory reference:

Contract advertising requirements, see Neb. RS 16-321

Waiver of contract advertising requirements, see Neb. RS 16-321.01

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

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

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

PASSED AND APPROVED THIS 17TH DAY OF JANUARY 2012.

Ordinance No.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Bueth, CMC
City Clerk

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ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA, TO AMEND THE LA VISTA MUNICIPAL CODE SECTION 91.06; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

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

SECTION 1. Section 91.06 of the La Vista Municipal Code is amended to read as follows:

§ 91.06 OPEN BURNING BAN; WAIVER.

(A) It shall be unlawful to burn trash or other combustible material outside of a permanent structure, and there shall be an open burning ban on all bon fires, outdoor rubbish fires and fires for the purpose of clearing land in the city of La Vista except and unless a special permit is obtained.

('79 Code, § 7-205)

(B) (1) There shall be a statewide open burning ban on all bonfires, outdoor rubbish fires and fires for the purpose of clearing land.

(2) The Fire Chief of the City Fire Department ~~or his or her designee~~ may waive ~~an the~~ open burning ban under subsection (1) of this section for an area under his or her jurisdiction by issuing an open burning permit to a person requesting permission to conduct open burning. The permit issued by the Fire Chief ~~or his or her designee~~ to a person desiring to conduct open burning shall be in writing, signed by the Fire Chief ~~or his or her designee~~ and on a form provided by the State Fire Marshal.

(3) The Fire Chief ~~or his or her designee~~ may waive the open burning ban in his or her jurisdiction when conditions are acceptable to the Chief ~~or his or her designee~~. Anyone ~~burning intending to burn in such that~~ jurisdiction when the open burning ban has been waived shall notify the Fire Department and Sarpy County Dispatch Center prior to starting the burn and when the burn has been extinguished.

(4) The Fire Chief may adopt ~~and promulgate rules and regulations~~ standards listing the conditions acceptable for issuing a permit to conduct open burning under subsection (2) of this section.

(5) The Fire Department may charge a fee, the amount of which shall be set from time to time by the Mayor and City Council and a current record of which shall be maintained by the City Clerk, for each such permit issued. This fee shall be remitted to the City Council by deposit with the City Treasurer for inclusion in the general funds allocated to the Fire Department. Such funds shall not reduce the tax requirements for the Fire Department. No such fee shall be collected from any state or political subdivision to which such a permit is issued to conduct open burning under subsection (2) of this section in the course of such state's or political subdivision's official duties.

('79 Code, § 7-206) (Ord. 137, passed - -; Am. Ord. 632, passed 9-19-95) Penalty, see § 91.99

Statutory reference:

Statewide ban; exemptions, see Neb. RS 81-520.01

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

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

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

PASSED AND APPROVED THIS 17TH DAY OF JANUARY 2012.

CITY OF LA VISTA

Ordinance No.

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

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ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA, TO AMEND THE LA VISTA MUNICIPAL CODE SECTION 114.02; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

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

SECTION 1. Section 114.02 of the La Vista Municipal Code is amended to read as follows:

§ 114.02 CITY POWERS AND DUTIES.

(A) The City Council is authorized to regulate by ordinance, not inconsistent with the provisions of the Nebraska Liquor Control Act, the business of all retail, craft brewery, microdistillery and bottle club licensees carried on within the corporate limits of the city.

(B) The City Council shall further have the following power and duties in respect to licensed retailers of alcoholic beverages licensees within the corporate limits of the city:

(1) To cancel or revoke for cause retail, or bottle club craft brewery, or microdistillery licenses to sell or dispense alcoholic liquors issued to persons for premises within its jurisdiction, subject to the right of appeal to the Nebraska Liquor Control Commission;

(2) To enter or to authorize any law enforcement officer to enter at any time upon any premises licensed by under the state of Nebraska Liquor Control Act to determine whether any of the provisions of the city laws or the laws of the state of Nebraska Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule, or regulation adopted by the City Council has been or is being violated; and at that time examine the premises of the licensee in connection with such determination;

(3) To receive a signed complaints from any citizens resident within its jurisdiction that any provision of the Act, any of the city laws or laws of the state of Nebraska are rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule, or regulation relative to alcoholic liquor has been or is being violated, and to act upon such complaints in the manner herein provided in the Act; and

(4) To cancel or revoke on its own motion any license if, upon the same notice and hearing as provided for resident complaints, it determines that the licensee has violated any of the provisions of the Nebraska Liquor Control Act or any valid and subsisting ordinance resolution, rule, or regulation duly enacted relating to alcoholic liquors; and to collect for the benefit of the state of Nebraska and the city all license fees and occupation taxes as prescribed by law.

(Neb. RS 53-134) ('79 Code, § 10-112)

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

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

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

PASSED AND APPROVED THIS 17TH DAY OF JANUARY 2012.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA, TO AMEND THE LA VISTA MUNICIPAL CODE SECTION 114.40; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

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

SECTION 1. Section 114.40 of the La Vista Municipal Code is amended to read as follows:

§ 114.40 MINORS AND INCOMPETENTS.

It shall be unlawful for any person or persons to sell, furnish, give away, dispose of, exchange, or deliver, or permit the sale, ~~of or make a gift, or procuring~~ of any alcoholic liquors or to procure any such alcoholic liquors to or for any minor or to any person who is mentally incompetent. (Neb. RS 53-180) ('79 Code, § 10-115) Penalty, see § 114.99

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

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

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

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CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Bueth, CMC
City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA, TO AMEND THE LA VISTA MUNICIPAL CODE SECTION 114.41; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

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

SECTION 1. Section 114.41 of the La Vista Municipal Code is amended to read as follows:

§ 114.41 CREDIT SALES.

No person shall sell or furnish alcoholic liquor at retail to any person on credit of any kind, barter or, on a passbook, on an order on a store, in exchange for any goods, wares, or merchandise or in payment for any services rendered, provided that nothing ~~Nothing~~ herein contained shall be construed to prevent the following:

(1) ~~any~~ Any club holding a Class C license from permitting checks or statements for alcoholic liquor to be signed by members, or bona fide guests of members, and charged to the accounts of the ~~said~~ such members or guests in accordance with the bylaws of such club, and provided further that nothing in this section shall prevent

(2) ~~any~~ Any hotel or restaurant holding a retail license from permitting checks or statements for liquor to be signed by regular guests residing in ~~the~~ such hotel or eating at the such restaurant and charged to the accounts of such guests; or

(3) Any licensed retailer engaged in the sale of wine from issuing wine-tasting cards to customers

(Neb. RS 53-183) ('79 Code, § 10-116) Penalty, see § 114.99

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

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

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CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA, TO AMEND THE LA VISTA MUNICIPAL CODE SECTION 131.01; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

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

SECTION 1. Section 131.01 of the La Vista Municipal Code is amended to read as follows:

§ 131.01 OPEN CONTAINER.

It shall be unlawful for any person to consume, possess, or have under their control open alcoholic beverages in the public streets, alleys, roads, highways or upon any property owned by the city, ~~state~~ or other governmental subdivision ~~of the state~~ thereof, ~~or inside vehicles while upon the public streets, alleys, roads, or highways or other public property of the city, state or any governmental subdivision of the state within the city's boundaries, or upon premises of any, in theaters, dance halls, restaurants, clubs, cafes or any other place open to the general public,~~ except that the provisions of this section shall not apply if the consumption, possession or control is lawful in accordance with a validly issued liquor license or otherwise permitted in accordance with the to liquor establishments licensed by the state of Nebraska Liquor Control Act. ('79 Code, § 6-309) (Am. Ord. 279, passed 11-18-80) Penalty, see § 10.99

Statutory reference:

Similar provisions, see Neb. RS 53-186; and 53-186.01; and 60-6.211.08

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.

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Douglas Kindig, Mayor

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Pamela A. Buethe, CMC
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