

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
DECEMBER 7, 2010 AGENDA**

Subject:	Type:	Submitted By:
ZONING TEXT AMENDMENTS — R-3 AND R-4 DISTRICTS	RESOLUTION ◆ ORDINANCE RECEIVE/FILE	ANN BIRCH COMMUNITY DEVELOPMENT DIRECTOR

SYNOPSIS

A public hearing has been scheduled and an ordinance has been prepared for Council to consider amendments to Sections 5.08 and 5.09 of the La Vista Zoning Ordinance regarding the R-3 High Density Residential and R-4 Condominium Residential districts, to remove the requirement for a Conditional Use Permit for multi-family residential structures constructed prior to November 20, 2001.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approve.

BACKGROUND

A public hearing has been scheduled and an ordinance has been prepared for Council to consider amendments to Sections 5.08 and 5.09 of the La Vista Zoning Ordinance regarding the R-3 High Density Residential and R-4 Condominium Residential districts, to remove the requirement for Conditional Use Permits for multi-family residential structures constructed prior to November 20, 2001.

On November 20, 2001, the Council adopted Ordinance No. 848, the new La Vista Zoning Ordinance. The new ordinance changed multiple family dwellings from a permitted use to a conditional use in the R-3 and R-4 districts, and thereby requires approval of a conditional use permit from the Council. Existing multi-family developments constructed prior to the adoption of the new zoning ordinance became “legally non-conforming”, meaning they were lawful at the time they were constructed however became a non-conforming use after the adoption of the new ordinance. Recently this fact has appeared to hamper owners of these properties from the ability to refinance their multiple family dwellings. The amendments are intended to resolve this problem.

The Planning Commission held a public hearing on November 18, 2010 and voted unanimously to recommend approval of the revisions.

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Section 5.08 R-3 High Density Residential

5.08.01 Intent: The purpose of this district is to permit high density residential in areas providing all public facilities and supporting facilities to maintain a sound and pleasant environment for the inhabitants.

5.08.02 Permitted Uses:

- 5.08.02.01 Townhouses and Condominiums.
- 5.08.02.02 Public and private schools.
- 5.08.02.03 Publicly owned and operated facilities.
- 5.08.02.04 Public Services.
- 5.08.02.05 Child Care Home, as per Section 7.10. (Ordinance No. 880, 11-19-02)
- 5.08.02.06 Group Care Home (Ordinance No. 1118, 4-6-10)
- ~~5.08.02.06~~ 5.08.02.07 Multiple family dwellings constructed prior to November 20, 2001.

5.08.03 Permitted Conditional Uses:

- 5.08.03.01 Multiple family dwellings constructed after November 20, 2001.
- 5.08.03.02 Bed and Breakfast.
 - 1. Guest rooms shall be within the principal residential building only and not within an accessory building.
 - 2. Each room that is designated for guest occupancy must be provided with a smoke detector which is kept in good working order.
- 5.08.03.03 Public utility substations, distribution centers, regulator stations, pumping stations, storage, equipment buildings, garages, towers, or similar uses.
- 5.08.03.04 Home Occupations, as per Section 7.10.
- 5.08.03.05 Child Care Center.
- 5.08.03.06 Charitable clubs and organizations.
- 5.08.03.07 Nursing care and rehabilitation facilities, and assisted living facilities (Ordinance No. 1118, 4-6-10)
- ~~5.08.02.07~~ 5.08.03.08 Congregate housing, senior apartments (age restricted to 55+ years old), or continuing care retirement community. (Ordinance No. 1118, 4-6-10)

5.08.04 Permitted Accessory Uses:

- 5.08.04.01 Buildings and uses customarily incidental to the permitted uses.
- 5.08.04.02 Decks, elevated patios either attached or detached.
- 5.08.04.03 Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
- 5.08.04.04 Signs as provided for in Section 7.01 through 7.04.
- 5.08.04.05 Parking as provided for in Section 7.05 through 7.09.
- 5.08.04.06 Private swimming pool, tennis court, and other recreational facilities in conjunction with a residence.
- 5.08.04.07 Landscaping as required by Section 7.17.

5.08.05 Height and Lot Requirements:

Uses	5.08.05.01 The height and minimum lot requirements shall be follows:						
	Lot Area (SF)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Building Coverage
Townhouses/Condominiums ⁴	2,500 per unit	25' per unit	30'	10' ⁵	30'	35'	40%
Multi-family Dwelling ³	2,250 per unit	100'	30'	(¹)	30'	45' ¹	40%
Other Permitted Uses	8,500	75'	30'	10'	30'	35'	30%
Other Conditional Uses	8,500	75'	30'	10'	30'	45'	30%
Accessory Buildings	-	-	50'	5'	5'	17'	10% ²

¹ For Multi-Family units the side yard shall be 10 feet if it is a 3-story structure, and 5 feet additional side yard on each side shall be provided for each story in excess of 3 stories.

² Provided total area of accessory structures for single family does not exceed 700 sq. ft. and the total lot coverage of all buildings and accessory structure does not exceed 50%

- 3
- On Corner Lots the following criteria apply to setbacks. In existing developed areas, the Street Side Yard setback may conform to existing setbacks of existing structures along that street. In new developments, the Street Side Yard setback shall be equal to the Front Yard setback.
- 4
- This applies to Condominiums and Townhouses where there are three (3) more units connected and where there is a minimum of two (2) common walls; otherwise the criteria for single-family attached or two-family dwelling shall apply depending upon the appropriate condition.
- 5
- Where there are three (3) or more units connected the side yard at the ends shall meet this criteria otherwise the side yard setback shall zero (0) at common walls.

Section 5.09 R-4 Condominium Residential

5.09.01 Intent: The purpose of this district is to permit high density residential, including condominium dwellings, in areas providing all public facilities and supporting facilities to maintain a sound and pleasant environment for the inhabitants.

5.09.02 Permitted Uses:

- 5.09.02.01
- Townhouses and Condominium dwellings.
- 5.09.02.02
- Public and private schools.
- 5.09.02.03
- Publicly owned and operated facilities.
- 5.09.02.04
- Child Care Home, as per Section 7.10. (Ordinance No. 880, 11-19-02)
- 5.09.02.045.09.02.05
- Multiple family dwellings constructed prior to November 20, 2001.

5.09.03 Permitted Conditional Uses:

- 5.09.03.01
- Multiple family dwellings constructed after November 20, 2001.
- 5.09.03.02
- Bed and Breakfast.

1.

Guest rooms shall be within the principal residential building only and not within an accessory building.

2.

Each room that is designated for guest occupancy must be provided with a smoke detector which is kept in good working order.
- 5.09.03.03
- Churches, temples, seminaries, and convents including residences for teachers and pastors.
- 5.09.03.04
- Public utility substations, distribution centers, regulator stations, pumping stations, storage, equipment buildings, garages, towers, or similar uses.
- 5.09.03.05
- Home Occupations, as per Section 7.10.
- 5.09.03.06
- Child Care Center.
- 5.09.03.07
- Charitable clubs and organizations.
- 5.09.03.08
- Nursing care and rehabilitation facilities, and assisted living facilities (Ordinance No. 1118, 4-6-10)

5.09.04 Permitted Accessory Uses:

- 5.09.04.01
- Buildings and uses customarily incidental to the permitted uses.
- 5.09.04.02
- Decks, elevated patios either attached or detached.
- 5.09.04.03
- Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
- 5.09.04.04
- Signs as provided for in Section 7.01 through 7.04.
- 5.09.04.05
- Parking as provided for in Section 7.05 through 7.09.
- 5.09.04.06
- Private swimming pool, tennis court, and other recreational facilities in conjunction with a residence.
- 5.09.04.07
- Landscaping as required by Section 7.17.

5.09.05 Height and Lot Requirements:

Uses	5.09.05.01 The height and minimum lot requirements shall be follows:						
	Lot Area (SF)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Building Coverage
Townhouses/Condominiums ⁴	2,500 per unit	25' per unit	30'	10' ⁵	30'	35'	40%

Multi-family Dwelling ³	2,250 per unit	100'	30'	(¹)	30'	45', ¹	40%
Other Permitted Uses	8,500	75'	30'	10'	30'	35'	30%
Other Conditional Uses	8,500	75'	30'	10'	30'	45'	30%
Accessory Buildings	-	-	50'	8'	10'	17'	10% ²

- ¹For Multi-Family units the side yard shall be 10 feet if it is a 3-story structure, and 5 feet additional side yard on each side shall be provided for each story in excess of 3 stories.
- ²Provided total area of accessory structures for single family does not exceed 700 sq. ft. and the total lot coverage of all buildings and accessory structure does not exceed 50%
- ³On Corner Lots the following criteria apply to setbacks. In existing developed areas, the Street Side Yard setback may conform to existing setbacks of existing structures along that street. In new developments, the Street Side Yard setback shall be equal to the Front Yard setback.
- ⁴This applies to Condominiums and Townhouses where there are three (3) or more units connected and where there is a minimum of two (2) common walls; otherwise the criteria for single-family attached or two-family dwelling shall apply depending upon the appropriate condition.
- ⁵Where there are three (3) or more units connected the side yard at the ends shall meet these criteria otherwise the side yard setback shall zero (0) at common walls.
- (Ordinance No. 881, 11-19-02)**

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTION 5.08 AND SECTION 5.09 OF ORDINANCE NO. 848 (ZONING ORDINANCE); TO REPEAL SECTION 5.08 AND SECTION 5.09 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 5.08. Section 5.08 of Ordinance No. 848 is hereby amended to read as follows:

Section 5.08 R-3 High Density Residential

5.08.01 **Intent:** The purpose of this district is to permit high density residential in areas providing all public facilities and supporting facilities to maintain a sound and pleasant environment for the inhabitants.

5.08.02 Permitted Uses:

- 5.08.02.01 Townhouses and Condominiums.
- 5.08.02.02 Public and private schools.
- 5.08.02.03 Publicly owned and operated facilities.
- 5.08.02.04 Public Services.
- 5.08.02.05 *Child Care Home, as per Section 7.10. (Ordinance No. 880, 11-19-02)*
- 5.08.02.06 *Group Care Home (Ordinance No. 1118, 4-6-10)*
- 5.08.02.07 *Multiple family dwellings constructed prior to November 20, 2001. (Ordinance No. _____, 12-7-10)*

5.08.03 Permitted Conditional Uses:

- 5.08.03.01 *Multiple family dwellings constructed after November 20, 2001. (Ordinance No. _____, 12-7-10)*
- 5.08.03.02 Bed and Breakfast.
 - 1. Guest rooms shall be within the principal residential building only and not within an accessory building.
 - 2. Each room that is designated for guest occupancy must be provided with a smoke detector which is kept in good working order.
- 5.08.03.03 Public utility substations, distribution centers, regulator stations, pumping stations, storage, equipment buildings, garages, towers, or similar uses.
- 5.08.03.04 Home Occupations, as per Section 7.10.
- 5.08.03.05 Child Care Center.
- 5.08.03.06 Charitable clubs and organizations.
- 5.08.03.07 *Nursing care and rehabilitation facilities, and assisted living facilities (Ordinance No. 1118, 4-6-10)*
- 5.08.03.08 *Congregate housing, senior apartments (age restricted to 55+ years old), or continuing care retirement community. (Ordinance No. 1118, 4-6-10)*

5.08.04 Permitted Accessory Uses:

- 5.08.04.01 Buildings and uses customarily incidental to the permitted uses.
- 5.08.04.02 Decks, elevated patios either attached or detached.
- 5.08.04.03 Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
- 5.08.04.04 Signs as provided for in Section 7.01 through 7.04.
- 5.08.04.05 Parking as provided for in Section 7.05 through 7.09.
- 5.08.04.06 Private swimming pool, tennis court, and other recreational facilities in conjunction with a residence.
- 5.08.04.07 Landscaping as required by Section 7.17.

5.08.05 Height and Lot Requirements:

- 5.08.05.01 The height and minimum lot requirements shall be follows:

Uses	Lot Area	Lot	Front	Sid	Rea	Max.	Max.
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	(SF)	Width	Yard	e Yard	r Yard	Heig ht	Buildin g Covera ge
Townhouses/Condominiums ⁴	2,500 per unit	25' per unit	30'	10' ⁵	30'	35'	40%
Multi-family Dwelling ³	2,250 per unit	100'	30'	(¹)	30'	45' ¹	40%
Other Permitted Uses	8,500	75'	30'	10'	30'	35'	30%
Other Conditional Uses	8,500	75'	30'	10'	30'	45'	30%
Accessory Buildings	-	-	50'	5'	5'	17'	10% ²

- ¹ For Multi-Family units the side yard shall be 10 feet if it is a 3-story structure, and 5 feet additional side yard on each side shall be provided for each story in excess of 3 stories.
- ² Provided total area of accessory structures for single family does not exceed 700 sq. ft. and the total lot coverage of all buildings and accessory structure does not exceed 50%
- ³ On Corner Lots the following criteria apply to setbacks. In existing developed areas, the Street Side Yard setback may conform to existing setbacks of existing structures along that street. In new developments, the Street Side Yard setback shall be equal to the Front Yard setback.
- ⁴ This applies to Condominiums and Townhouses where there are three (3) more units connected and where there is a minimum of two (2) common walls; otherwise the criteria for single-family attached or two-family dwelling shall apply depending upon the appropriate condition.
- ⁵ Where there are three (3) or more units connected the side yard at the ends shall meet this criteria otherwise the side yard setback shall zero (0) at common walls.

SECTION 2. Amendment of Section 5.09. Section 5.09 of Ordinance No. 848 is hereby amended to read as follows:

Section 5.09 R-4 Condominium Residential

5.09.01 Intent: The purpose of this district is to permit high density residential, including condominium dwellings, in areas providing all public facilities and supporting facilities to maintain a sound and pleasant environment for the inhabitants.

5.09.02 Permitted Uses:

- 5.09.02.01 Townhouses and Condominium dwellings.
- 5.09.02.02 Public and private schools.
- 5.09.02.03 Publicly owned and operated facilities.
- 5.09.02.04 *Child Care Home, as per Section 7.10. (Ordinance No. 880, 11-19-02)*
- 5.09.02.05 *Multiple family dwellings constructed prior to November 20, 2001. (Ordinance No. ____, 12-7-10)*

5.09.03 Permitted Conditional Uses:

- 5.09.03.01 Multiple family dwellings *constructed after November 20, 2001. (Ordinance No. ____, 12-7-10)*
- 5.09.03.02 Bed and Breakfast.
 1. Guest rooms shall be within the principal residential building only and not within an accessory building.
 2. Each room that is designated for guest occupancy must be provided with a smoke detector which is kept in good working order.
- 5.09.03.03 Churches, temples, seminaries, and convents including residences for teachers and pastors.
- 5.09.03.04 Public utility substations, distribution centers, regulator stations, pumping stations, storage, equipment buildings, garages, towers, or similar uses.
- 5.09.03.05 Home Occupations, as per Section 7.10.
- 5.09.03.06 Child Care Center.
- 5.09.03.07 Charitable clubs and organizations.
- 5.09.03.08 *Nursing care and rehabilitation facilities, and assisted living facilities (Ordinance No. 1118, 4-6-10)*

5.09.04 Permitted Accessory Uses:

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- 5.09.04.05 Parking as provided for in Section 7.05 through 7.09.
- 5.09.04.06 Private swimming pool, tennis court, and other recreational facilities in conjunction with a residence.
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⁴ This applies to Condominiums and Townhouses where there are three (3) or more units connected and where there is a minimum of two (2) common walls; otherwise the criteria for single-family attached or two-family dwelling shall apply depending upon the appropriate condition.

⁵ Where there are three (3) or more units connected the side yard at the ends shall meet these criteria otherwise the side yard setback shall zero (0) at common walls.
(Ordinance No. 881, 11-19-02)

SECTION 3. Repeal of Section 5.08 and Section 5.09 as Previously Enacted. Section 5.08 and Section 5.09 of Ordinance No. 848 as previously enacted is 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 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 5. 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 7TH DAY OF DECEMBER 2010.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

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