

ORDINANCE RECORD

No. 728—REDFIELD & COMPANY INC., OMAHA

ORDINANCE NO. 1468

AN ORDINANCE OF THE CITY OF LA VISTA, NEBRASKA, TO AMEND MUNICIPAL CODE SECTIONS 35.46, 35.47, 35.48, 35.49 AND 35.50; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY AND AN EFFECTIVE DATE HEREOF.

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

SECTION 1. Section 35.46 of the La Vista Municipal Code is amended to read as follows:

§ 35.46 PROPOSED BUDGET STATEMENT; CONTENTS; FILING.

(A) The City Council shall annually or biennially, as the case may be, prepare a proposed budget statement on forms prescribed and furnished by the Auditor of Public Accounts. The proposed budget statement shall be made available to the public by the City prior to publication of the notice of the hearing on the proposed budget statement pursuant to Neb. RS 13-506. A proposed budget statement shall contain the following information, except as provided by state law:

(1) For the immediately preceding fiscal year or biennial period, the revenue from all sources, including motor vehicle taxes, other than revenue received from personal and real property taxation, allocated to the funds and separately stated as to each such source: The unencumbered cash balance at the beginning and end of the year or biennial period; the amount received by taxation of personal and real property allocated to each fund; and the amount of actual expenditures;

(2) For the current fiscal year or biennial period, actual and estimated revenue from all sources, including motor vehicle taxes, allocated to the funds and separately stated as to each such source: The actual unencumbered cash balance available at the beginning of the year or biennial period; the amount received from personal and real property taxation; and the amount of actual and estimated expenditure, whichever is applicable. Such statement shall contain the cash reserve for each fiscal year or biennial period and shall note whether or not such reserve is encumbered. Such cash reserve projections shall be based upon the actual experience of prior years or biennial periods. The cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items;

(3) For the immediately ensuing fiscal year or biennial period, an estimate of revenue from all sources, including motor vehicle taxes, other than revenue to be received from taxation of personal and real property, separately stated as to each such source: The actual or estimated unencumbered cash balances, whichever is applicable, to be available at the beginning of the year or biennial period; the amounts proposed to be expended during the year or biennial period; and the amount of cash reserve, based on actual experience of prior years or biennial periods, which cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items;

(4) A statement setting out separately the amount sought to be raised from the levy of a tax on the taxable value of real property:

(a) For the purpose of paying the principal or interest on bonds issued or authorized to be issued by the City Council or the legal voters of the City; and
(b) For all other purposes;

(5) A uniform summary of the proposed budget statement, including each proprietary function fund included in a separate proprietary budget statement prepared pursuant to the Municipal Proprietary Function Act and a grand total of all funds maintained by the City Council; and

(6) A list of the proprietary functions which are not included in the budget statement. Such proprietary functions shall have a separate budget statement which is approved by the City Council as provided in the Municipal Proprietary Function Act. (Neb. RS 13-504(1))

(B) The actual or estimated unencumbered cash balance of each fund required to be included in the budget statement by this section shall include deposits and investments of the city as well as any funds held by the County Treasurer for the city and shall be

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accurately stated on the proposed budget statement.
(Neb. RS 13-504(2))

(C) The city shall correct any material errors in the budget statement detected by the Auditor of Public Accounts or by other sources.
(Neb. RS 13-504(3))

(D) The estimated expenditures plus the required cash reserve for the ensuing fiscal year or biennial period less all estimated and actual unencumbered balances at the beginning of the year or biennial period and less the estimated income from all sources, including motor vehicle taxes, other than taxation of personal and real property shall equal the amount to be received from taxes, and such amount shall be shown on the proposed budget statement in accordance with requirements of Nebraska Statutes. The amount to be raised from taxation of personal and real property, as determined above, plus the estimated revenue from other sources, including motor vehicle taxes, and the unencumbered balances shall equal the estimated expenditures, plus the necessary required cash reserve, for the ensuing year or biennial period.

(Neb. 13-505) ('79 Code, § 1-902) (Am. Ord. 381, passed 2-5-85; Am. Ord. 602, passed 1-3-95; Am. Ord. 701, passed 10-21-97; Am. Ord. 1314, passed 8-15-17)

Statutory reference:

Reimbursement provisions for years 1993 through 2000, see Neb. RS 13-504(2)

SECTION 2. Section 35.47 of the La Vista Municipal Code is amended to read as follows:

§ 35.47 PROPOSED BUDGET STATEMENT; HEARING; ADOPTION; CERTIFICATION OF AMOUNT TO BE RECEIVED FROM TAXATION.

(A) (1) After the filing of the proposed budget statement with the City Clerk, the City Council shall each year or biennial period conduct a public hearing on the proposed budget statement. Such hearing shall be held separately from any regularly scheduled meeting of the governing body and shall not be limited by time. Notice of the place and time of the hearing, together with a summary of the proposed budget statement, shall be published at least four calendar days prior to the date set for the hearing in a newspaper of general circulation within the city and, if available, on the city's website. For purposes of such notice, the four calendar days shall include the day of publication but not the day of hearing.

(2) When the total operating budget, not including reserves, does not exceed \$10,000 per year or \$20,000 per biennial period, the proposed budget summary may be posted at the City Council's principal headquarters.

(3) At such hearing, the governing body shall make at least three copies of the proposed budget statement available to the public and shall make a presentation outlining key provisions of the proposed budget statement, including but not limited to, a comparison with the prior year's budget. Any member of the public desiring to speak on the proposed budget statement shall be allowed to address the governing body at the hearing and shall be given a reasonable amount of time to do so.

(4) After the hearing, the proposed budget statement shall be adopted or amended and adopted as amended, and a written record shall be kept of such hearing. The amount to be received from personal and real property taxation shall be certified to the levying board after the proposed budget statement is adopted or is amended and adopted as amended. The certification of the amount to be received from personal and real property taxation shall specify separately:

(a) The amount to be applied to the payment of principal or interest on bonds issued or authorized to be issued by the City Council or the legal voters of the City; and

(b) The amount to be received for all other purposes.

(5) If the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of such changes shall be published within 20 calendar days after its adoption in the manner provided in this section, but without provision for hearing, setting forth the items changed and the reasons for such changes.

(B) Upon approval by the City Council, the budget shall be filed with the Auditor of

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Public Accounts. The Auditor of Public Accounts may review the budget for errors in mathematics, improper accounting, and noncompliance with the provisions of the Nebraska Budget Act or Neb. RS 13-518 to 13-522. If the Auditor of Public Accounts detects such errors, he or she shall immediately notify the City Council of such errors. The City Council shall correct any such error as provided in Neb. RS 13-511.

Warrants for the payment of expenditures provided in the budget adopted under this section shall be valid notwithstanding any errors or non-compliance for which the Auditor of Public Accounts has notified the City Council.

(C) When a levy increase has been authorized by vote of the electors, the adopted budget statement shall indicate the amount of the levy increase.

('79 Code, § 1-903) (Am. Ord. 1314, passed 8-15-17; Am. Ord. 1444, passed 2-1-22)

Statutory reference:

Reimbursement provisions for years 1993 through 2000, see Neb. RS 13-506(1)

Similar state provisions, see Neb. RS 13-506(2), 13-507

SECTION 3. Section 35.48 of the La Vista Municipal Code is amended to read as follows:

§ 35.48 ADOPTED BUDGET STATEMENT; FILING; CERTIFICATION OF AMOUNT TAXED; REVISION.

(A) (1) After publication and hearing on the proposed budget statement and within the time prescribed by law, the City Council shall file with and certify to the Levying Board or Boards on or before September 30 of each year or September 30 of the final year of a biennial period and file with the Auditor of Public Accounts a copy of the adopted budget statement which complies with Neb. RS 13-518 to 13-522, together with amount of the tax required to fund the adopted budget, setting out separately:

- (a) The amount to be levied for the payment of principal or interest on bonds issued or authorized to be issued by the City Council or the legal voters of the City; and
- (b) The amount to be levied for all other purposes.

(2) Proof of publication shall be attached to the statements.

(B) If the prime rate published by the Federal Reserve Board is 10% or more at the time of the filing and certification required under this division, the City Council, in certifying the amount required, may make allowance for delinquent taxes not exceeding 5% of the amount required plus the actual percentage of delinquent taxes for the preceding tax year or biennial period and for the amount of estimated tax loss from any pending or anticipated litigation which involves taxation and in which tax collections have been or can be withheld or escrowed by court order. For purposes of this section, anticipated litigation shall be limited to the anticipation of an action being filed by a taxpayer who or which filed a similar action for the preceding year or biennial period which is still pending. Except for such allowances, the City Council shall not certify an amount of tax more than 1% greater or lesser than the amount determined under Neb. RS 13-505.

(C) The City Council shall use the certified taxable values as provided by the County Assessor pursuant to Neb. RS 13-509 for the current year in setting or certifying the levy. The City Council may designate one of its members to perform any duty or responsibility required of the Council by this section.

(D) A previously adopted budget statement may be revised in accordance with applicable Nebraska statutes, as enacted, amended, or superseded from time to time. ('79 Code, § 1-904) (Am. Ord. 603, passed 1-3-95; Am. Ord. 670, passed 6-17-97; Am. Ord. 702, passed 10-21-97; Am. Ord. 1030, passed 5-1-07; Am. Ord. 1121, passed 4-20-10; Am. Ord. 1314, passed 8-15-17; Am. Ord. 1444, passed 2-1-22)

Statutory reference:

Additional provisions regarding reimbursement of property taxes pursuant to Neb. RS 13-504(1), see Neb. RS 13-508(1)

Similar state provisions, see Neb. RS 13-508

SECTION 4. Section 35.50 of the La Vista Municipal Code is amended to read as follows:

§ 35.50 PROPERTY TAX REQUEST; PROCEDURE.

(A) *Property tax request procedure, including increases up to allowable growth percentage.*

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(1) If the annual assessment of property would result in an increase in the total property taxes levied by the city as determined using the previous year's rate of levy, the city's property tax request for the current year shall be no more than its property tax request in the prior year, and the city's rate of levy for the current year shall be decreased accordingly when such rate is set by the County Board of Equalization pursuant to Neb. RS 77-1601. The City Council shall pass a resolution or ordinance to set the amount of its property tax request after holding the public hearing required in division (A)(3). If the City Council seeks to set its property tax request at an amount that exceeds its property tax request in the prior year, it may do so after holding the public hearing required in division (A)(3) and by passing a resolution or ordinance that complies with division (A)(5). If the city seeks to increase its property tax request by more than the allowable growth percentage, it shall comply with the requirements of division (B) below in lieu of the requirements in divisions (A)(3) through (5).

(2) If the annual assessment of property would result in no change or a decrease in the total property taxes levied by the city as determined using the previous year's rate of levy, the city's property tax request for the current year shall be no more than its property tax request in the prior year, and the city's rate of levy for the current year shall be adjusted accordingly when such rate is set by the County Board of Equalization pursuant to Neb. RS 77-1601. The City Council shall pass a resolution or ordinance to set the amount of its property tax request after holding the public hearing required in division (A)(3). If the City Council seeks to set its property tax request at an amount that exceeds its property tax request in the prior year, it may do so after holding the public hearing required in division (A)(3) and by passing a resolution or ordinance that complies with division (A)(5). If the city seeks to increase its property tax request by more than the allowable growth percentage, the city shall comply with the requirements of division (B) below in lieu of the requirements in divisions (A)(3) through (5).

(3) The resolution or ordinance required under this division (A) shall only be passed after a special public hearing called for such purpose is held and after notice is published in a newspaper of general circulation in the area of the city at least four calendar days prior to the hearing. For purposes of such notice, the four calendar days shall include the day of publication but not the day of hearing.

(4) The hearing notice shall contain the following information:

(a) The certified taxable valuation under Neb. RS 13-509 for the prior year, the certified taxable valuation under Neb. RS 13-509 for the current year, and the percentage increase or decrease in such valuations from the prior year to the current year;

(b) The dollar amount of the prior years tax request and the property tax rate that was necessary to fund that tax request;

(c) The property tax rate that would be necessary to fund last years tax request if applied to the current years valuation;

(d) The proposed dollar amount of the tax request for the current year and the property tax rate that will be necessary to fund that tax request;

(e) The percentage increase or decrease in the property tax rate from the prior year to the current year; and

(f) The percentage increase or decrease in the total operating budget from the prior year to the current year.

(5) Any resolution or ordinance setting a city's property tax request at an amount that exceeds the city's property tax request in the prior year shall include, but not be limited to, the following information:

(a) The name of the city;

(b) The amount of the property tax request;

(c) The following statements:

1. The total assessed value of property differs from last year's total assessed value by _____ percent;

2. The tax rate which would levy the same amount of property taxes as last year, when multiplied by the new total assessed value of property, would be \$_____ per \$100 of assessed value;

3. The City of La Vista proposes to adopt a property tax request that will cause its tax rate to be \$_____ per \$100 of assessed value; and

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4. Based on the proposed property tax request and changes in other revenue, the total operating budget of the City of La Vista will (increase or decrease) last year's budget by _____ percent; and

(d) The record vote of the City Council in passing such resolution or ordinance.

(6) Any resolution or ordinance setting a property tax request under this division (A) shall be certified and forwarded to the County Clerk prior to October 15 of the year for which the tax request is to apply

(B) *Property tax request procedure for increases in excess of allowable growth percentage.*

(1) If the city seeks to increase its property tax request by more than the allowable growth percentage, the city may do so if:

(a) A public hearing is held and notice of such hearing is provided in compliance with division (2) below; and

(b) The City Council passes a resolution or an ordinance that complies with division (3).

(2) (a) If the city seeks to increase its property tax request by more than the allowable growth percentage, it shall participate in a joint public hearing, together with any other political subdivisions in the county seeking to increase its property tax request by more than the allowable growth percentage. The city shall designate a representative to attend the joint public hearing on behalf of the city. At such hearing, there shall be no items on the agenda other than discussion on the intent of the city (and any other political subdivisions in the county) to increase its property tax request by more than the allowable growth percentage.

(b) The joint public hearing shall be held on or after September 17 and prior to September 29 and before the city or any other participating political subdivision files its adopted budget statement pursuant to Neb. RS 13-508.

(c) The joint public hearing shall be held after 6 p.m. local time on the relevant date.

(d) At the joint public hearing, the representative of the city, together with the representatives of each other participating political subdivision, shall give a brief presentation on its intent to increase its property tax request by more than the allowable growth percentage and the effect of such request on the city's budget. The city's presentation shall include:

1. The name of the city;

2. The amount of the property tax request; and

3. The following statements:

A. The total assessed value of property differs from last year's total assessed value by _____ percent;

B. The tax rate which would levy the same amount of property taxes as last year, when multiplied by the new total assessed value of property, would be \$_____ per \$100 of assessed value;

C. The City of La Vista proposes to adopt a property tax request that will cause its tax rate to be \$_____ per \$100 of assessed value;

D. Based on the proposed property tax request and changes in other revenue, the total operating budget of the City of La Vista will exceed last year's by _____ percent; and

E. To obtain more information regarding the increase in the property tax request, citizens may contact the City of La Vista at (telephone number and email address of City).

(e) Any member of the public shall be allowed to speak at the joint public hearing and shall be given a reasonable amount of time to do so.

(f) Notice of the joint public hearing shall be provided:

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1. By sending a postcard to all affected property taxpayers. The postcard shall be sent to the name and address to which the property tax statement is mailed;

2. By posting notice of the hearing on the home page of Sarpy County's website; and

3. By publishing notice of the hearing in a legal newspaper in or of general circulation in Sarpy County.

(g) The city, together with each other political subdivision that participates in the joint public hearing, shall send the information prescribed in division (B)(2)(h) to the Sarpy County Clerk by September 5. The County Clerk shall transmit the information to the County Assessor no later than September 10. The County Clerk shall notify the city and each other participating political subdivision of the date, time, and location of the joint public hearing. The County Assessor shall mail the postcards required in this division. Such postcards shall be mailed at least seven calendar days before the joint public hearing. The cost of creating and mailing the postcards, including staff time, materials, and postage, shall be divided among the political subdivisions participating in the joint public hearing.

(h) The postcard sent under this division and the notice posted on the county's website, if required under division (2)(f)2., and published in the newspaper shall include the date, time, and location for the joint public hearing, a listing of and telephone number for each political subdivision that will be participating in the joint public hearing, and the amount of each participating political subdivision's property tax request. The postcard shall also contain the following information:

1. The following words in capitalized type at the top of the postcard:
NOTICE OF PROPOSED TAX INCREASE;

2. The name of Sarpy County as the county that will hold the joint public hearing, which shall appear directly underneath the capitalized words described in division (2)(h)1.

3. The following statement: "The following political subdivisions are proposing a revenue increase as a result of property taxes in [insert current tax year]. This notice contains estimates of the tax on your property and the proposed tax increase on your property as a result of this revenue increase. These estimates are calculated on the basis of the proposed [insert current tax year] data. The actual tax on your property and tax increase on your property may vary from these estimates.";

4. The parcel number for the property;

5. The name of the property owner and the address of the property;

6. The property's assessed value in the previous tax year;

7. The amount of property taxes due in the previous tax year for each participating political subdivision;

8. The property's assessed value for the current tax year;

9. The amount of property taxes due for the current tax year for each participating political subdivision;

10. The change in the amount of property taxes due for each participating political subdivision from the previous tax year to the current tax year; and

11. The following statement: "To obtain more information regarding the tax increase, citizens may contact the political subdivision at the telephone number provided in this notice."

(3) After the joint public hearing required in division (B)(2), the City Council, together with each governing body of each participating political subdivision, shall pass an ordinance or resolution to set such political subdivision's property tax request. If the city is increasing its property tax request over the amount from the prior year, including any increase in excess of the allowable growth percentage, then such ordinance or resolution shall include, but not be limited to, the following information:

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- (a) The name of the City of La Vista;
- (b) The amount of the property tax request;
- (c) The following statements:

1. The total assessed value of property differs from last year's total assessed value by ___ percent;

2. The tax rate which would levy the same amount of property taxes as last year, when multiplied by the new total assessed value of property, would be \$___ per \$100 of assessed value;

3. The City of La Vista proposes to adopt a property tax request that will cause its tax rate to be \$___ per \$100 of assessed value;

4. Based on the proposed property tax request and changes in other revenue, the total operating budget of the City of La Vista will exceed last year's by percent; and

(d) The record vote of the governing body in passing such resolution or ordinance.

(4) Any resolution or ordinance setting a property tax request under this division (B) shall be certified and forwarded to the County Clerk on or before October 15 of the year for which the tax request is to apply.

(5) (a) The County Clerk, or his or her designee, shall prepare a report which shall include:

1. The names of the representatives of the city and each other political subdivisions participating in the joint public hearing; and

2. The name and address of each individual who spoke at the joint public hearing, unless the address requirement is waived to protect the security of the individual, and the name of any organization represented by each such individual.

(b) Such report shall be delivered to the city and other political subdivisions participating in the joint public hearing within ten days after such hearing.

(C) *Definitions; Property Tax Request Act.*

(1) **ALLOWABLE GROWTH PERCENTAGE** and other terms used in this section shall have the meaning provided in Neb. RS 77-1631.

(2) Provisions of this section shall be interpreted and carried out in accordance with the Property Tax Request Act, Neb. RS 77-1631 through 77-1634, and other applicable state statutes, as adopted or amended from time to time. Provided, however, inadvertent failure to comply with the Property Tax Request Act shall not invalidate any property tax request of the city or constitute an unauthorized levy. Without limiting the foregoing sentence, the failure of a taxpayer to receive a postcard as required under the Act shall not invalidate a property tax request of the city or constitute an unauthorized levy under Neb. RS 77-1606.

('79 Code, § 1-904.01) (Ord. 703, passed 10-21-97; Am. Ord. 1031, passed 5-1-07; Am. Ord. 1444, passed 2-1-22)

Statutory update:

Similar state provisions, see Neb. RS 77-1601.02

SECTION 5. 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 6. 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

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phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 7 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 6TH DAY OF DECEMBER 2022

CITY OF LA VISTA



Douglas Kindig, Mayor

ATTEST:



Pamela A. Buethe, MMC
City Clerk