

# ORDINANCE RECORD

No. 728-REDFIELD & COMPANY INC., OMAHA

## ORDINANCE NO. 1500

AN ORDINANCE TO AMEND SECTIONS 2.04, 2.07 AND 5.13 OF ORDINANCE NO. 848 (ZONING ORDINANCE); TO REPEAL SECTIONS 2.04, 2.07 AND 5.13 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 2.04. Section 2.04 of the Ordinance No. 848 is hereby amended to read as follows:

### **Section 2.04 - Definitions: C**

**CAMPGROUND** shall mean a parcel of land intended for the temporary occupancy of tents, campers, and recreational vehicles and which primary purpose is recreational, having open areas that are natural in character.

**CAR WASH** shall mean a building or structure or an area of land with machine or hand operated facilities for the cleaning, washing, polishing, or waxing of motor vehicles, not including semi-trailer tractors, buses, and commercial fleets.

**CARPORT** shall mean a permanent roofed structure with not more than two (2) enclosed sides used or intended to be used for automobile shelter and storage.

**CATERING KITCHEN** also known as ghost kitchen or dark kitchen shall mean a commercial kitchen that is used to prepare food for consumption off-site. This may include commercial kitchen facilities for caterers, food trucks, small or artisan manufacturers of food products, or establishments that prepare ready-to-eat food only to be obtained through delivery services. Catering Kitchens may include a limited retail component for the sale of food products but shall not operate as a restaurant or include space(s) for the consumption of food on-site.

**CELLAR** shall mean a building space having more than one-half (1/2) of its height below the average adjoining grade lines.

**CEMETERY** shall mean land used or intended to be used for the burial of the dead and dedicated for such purposes, including columbariums, crematoriums, and mausoleums.

**CHANGEABLE COPY** shall refer to a sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without, altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this ordinance. A sign on which the only copy changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this ordinance. (Ordinance No. 1083, 2-17-09)

**CHANNEL** shall mean the geographical area within either the natural or artificial banks of a watercourse or drainway.

**CHARITABLE ORGANIZATION or CLUB** shall mean a public or semi-public institutional use of a philanthropic, charitable, benevolent, religious, or eleemosynary character, but not including sheltering or caring of animals. (Ordinance No. 1083, 2-17-09)

**CHILD CARE CENTER** shall mean an establishment other than a public or parochial school, which provides day care, play groups, nursery schools or education for thirteen (13) or more children under age 13, at any one time, from families other than that of the provider. In addition to these regulations, Child Care Centers shall meet all requirements of the State of Nebraska.

**CHILD CARE HOME** shall mean an operation in the provider's place of residence which serves at least four (4), but not more than eight (8) children at any one time, from families other than that of the provider. A Family Child Care Home I provider may be approved to serve no more than two (2) additional school-age children during non-school hours. A Family Child Care Home II operation may be either in the provider's own place of residence or a site other than the residence, serving twelve (12) or fewer children at any one time. In addition to these regulations, Child Care Homes shall meet all requirements of the State of Nebraska.

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**CITY** shall mean the City of La Vista.

**CODE** shall mean the Municipal Code of the City of La Vista.

**COFFEE KIOSK** shall mean a retail food business in a freestanding building that sells coffee, or other beverages, and remade bakery goods from a drive-through window or walk-up window. (Ordinance No. 1053, 1-15-08).

**COLLEGE AND UNIVERSITY** shall mean an educational institution offering advanced instruction in any academic field beyond the secondary level, including trade schools or business colleges. (Ordinance No. 1168, 3-6-12)

**COMMISSION** shall mean the La Vista Planning Commission.

**COMMERCIAL MESSAGE** shall mean any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity. (Ordinance No. 1083, 2-17-09)

**COMMON AREA OR PROPERTY** shall mean a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners of the individual building sites in a Planned Development or condominium development.

**COMMUNICATION SERVICES** shall mean establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Excluded are facilities classified as major utility services or wireless communication towers. Typical uses include television studios, communication service centers, internet service offices, or film and sound recording facilities. (Ordinance No. 1083, 2-17-09)

**COMPATIBILITY** shall mean harmony in the appearance of two or more external design features in the same vicinity.

**COMPATIBLE USES** shall mean a land use which is congruous with, tolerant of, and has no adverse effects on existing neighboring uses. Incompatibility may be affected by pedestrian or vehicular traffic generation, volume of goods handled and environmental elements such as noise, dust, odor, air pollution, glare, lighting, debris generated, contamination of surface or ground water, aesthetics, vibration, electrical interference, and radiation.

**COMPREHENSIVE PLAN** shall mean the Comprehensive Plan of La Vista, Nebraska as adopted by the City Council, setting forth policies for the present and foreseeable future community welfare as a whole and meeting the purposes and requirements set forth in Section 19-903, R.R.S. 1943, as the same may, from time-to-time, be amended.

**CONCRETE BATCH PLANT** shall mean an industrial facility used for the production of concrete, used in building or construction, and includes facilities for the administration or management of the business. (Ordinance No. 1329, 9-18-18)

**CONDITIONAL USE** shall mean a use where allowed by the district regulations, that would not be appropriate generally throughout the zoning district without restrictions, but which, if controlled as to number, size, area, location, relation to the neighborhood or other minimal protective characteristics would not be detrimental to the public health, safety, and general welfare.

**CONDITIONAL USE PERMIT** shall mean a permit issued by the Planning Commission and City Council that authorizes the recipient to make conditional use of property in accordance with the provisions of Article 6 and any additional conditions placed upon or required by said permit.

**CONDOMINIUM** shall mean a structure or structures proposed for construction comprising a project in which an undivided interest in the land is coupled with the right to the exclusive occupancy of a designated residential space and/or spaces and accompanying facilities.

**CONGREGATE HOUSING** shall mean a residential facility for four or more persons fifty-five (55) years or over, their spouses, or surviving spouses, providing living and sleeping facilities including meal preparation, dining areas, laundry services, room cleaning and common recreational, social, and service facilities for the exclusive use of all residents including resident

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staff personnel who occupy a room or unit in the residential facility. (Also see Housing for the elderly)

**CONSERVATION** shall mean the protection and care that prevent destruction or deterioration of historical or otherwise significant structures, buildings or natural resources.

**CONSERVATION AREA** shall mean environmentally sensitive and valuable lands protected from any activity that would significantly alter their ecological integrity, balance or character, except in overriding public interest, including but not limited to: wetlands, floodways, flood plains, drainage ways, river or stream banks, and areas of significant biological productivity or uniqueness.

**CONSERVATION EASEMENT** shall mean an easement granting a right or interest in real property that is appropriate to retaining land or water areas predominantly in their natural, scenic, open, or wooded condition and retaining such areas as suitable habitat for fish, plants, or wildlife, or maintaining existing land uses.

**CONSTRUCTION** shall mean on-site erection, fabrication, installation, alteration, demolition, or removal of any structure, facility, or addition thereto, including all related activities, but not restricted to, clearing of land, earth moving, blasting and landscaping. (Ordinance No. 1083, 2-17-09)

**CONTIGUOUS** shall mean the same as "Abut".

**CONTINUING CARE RETIREMENT COMMUNITY** shall offer services and housing packages that allow access to senior independent living, assisted living, and nursing care facilities. Seniors who are independent may live in a single-family home, apartment or condominium within the Continuing Care Retirement Community. When members of the community begin to need help with activities of daily living (e.g. bathing, dressing, eating, etc.), they may be transferred to an assisted living or nursing care facility on the same site.

**CONVENIENCE STORE** shall mean a one-story, retail store that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket.") It is dependent on and is designed to attract and accommodate large volumes of stop-and-go traffic. Fuel sales shall be limited to automobiles, pick-up trucks, boats, recreational vehicles, motorcycles, and small motorized equipment. (Ordinance No. 1083, 2-17-09)

SECTION 2. Amendment of Section 2.07. Section 2.07 of the Ordinance No. 848 is hereby amended to read as follows:

## **Section 2.07 - Definitions: F**

**FACADE** shall mean the exterior wall of a building exposed to public view from the building's exterior.

**FACTORY** shall mean a structure or plant within which something is made or manufactured from raw or partly wrought materials into forms suitable for use.

**FAMILY** shall mean a person living alone, or any of the following groups living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking, and eating facilities: (1) any number of people related by blood, marriage, adoption, guardianship, or duly-authorized custodial relationship; (2) up to four unrelated people and any related children; and (3) a group care home.

*Family does not include any society, club, fraternity, sorority, association, lodge, organization, group of students, or other individuals where the common living arrangement is temporary or seasonal. Also, the term does not include any group of individuals who are in a group living arrangement as a result of criminal offenses.* (Ordinance No. 1083, 2-17-09)

**FARM** an area containing at least twenty (20) acres or more which is used for growing of the usual farm products such as vegetables, fruit, and grain; storing of such products; and/or raising farm animals. The term farming includes the operating of such area for two or more of the above uses with the necessary accessory uses for treating or storing the produce and the feeding of livestock as hereinafter prescribed provided such accessory uses do not include the feeding of garbage or offal to swine or other animals. (Ordinance No. 1083, 2-17-09)

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**FEEDLOT** shall mean a lot, yard, corral or other area in which livestock are confined, primarily for the purpose of feeding and growth prior to slaughter. The term does not include areas which are used for raising crops or other vegetation or upon which livestock are allowed to graze.

**FENCE, OPEN** shall mean a fence, including gates, which has fifty percent (50%) or more of the surface area in open spaces which affords direct views through the fence. (*Ordinance No. 1083, 2-17-09*)

**FENCE, SEASONAL** shall mean a temporary fence constructed of plastic or wood lathe erected and maintained from October through April to prevent snow drifting. (*Ordinance No. 871, 10-15-02*)

**FENCE, SOLID** shall mean any fence which does not qualify as an open fence.

**FESTIVAL** shall mean the sale of ethnic specialty, regional, and gourmet foods, art and crafts, live musical entertainment, in an outdoor setting. (*Ordinance No. 1083, 2-17-09*)

**FLAG** shall mean any fabric containing distinctive colors, patterns, or symbols, used as a symbol of a national, state, or local governmental entity that is attached to a pole structure on one vertical side only; a flag shall not bear any non-governmental logo or represent any commercial interest or use. (*Ordinance No. 1334, 11-20-18*)

**FLOOD** (see Section 5.18.25 of this Ordinance)

**FLOOD PLAIN** (see Section 5.18.25 of this Ordinance)

**FLOODWAY** (see Section 5.18.25 of this Ordinance)

**FLOOR AREA** whenever the term "floor area" is used in this Regulation as a basis for requiring off-street parking for any structure, it shall be assumed that, unless otherwise stated, said floor area applies not only to the ground floor area but also to any additional stories of said structure. All horizontal dimensions shall be taken from the exterior faces of walls.

**FOOD SALES** shall mean establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Typical uses include groceries, delicatessens, meat markets, retail bakeries, candy shops, and catering kitchens.

**FOOD SALES (LIMITED)** shall mean food sales establishments occupying 10,000 square feet or less of space.

**FOOD SALES (GENERAL)** shall mean food sales establishments occupying more than 10,000 square feet of space. Typically a supermarket.

**FRONTAGE** shall mean that portion of a parcel of property which abuts a dedicated public street or highway.

SECTION 3. Amendment of Section 5.13. Section 5.13 of the Ordinance No. 848 is hereby amended to read as follows:

## **Section 5.13 I-1 Light Industrial.**

5.13.01 **Intent:** *It is the intent of the Light Industrial District Regulations to provide for limited industrial uses and services, including some retail businesses, wholesaling, and storage activities; to preserve land for the expansion of basic economic activities; to avoid incompatible land uses, to serve these areas with adequate transportation facilities, and to prevent or mitigate hazards to adjacent properties. (Ordinance No. 1053, 1-15-08)*

### **5.13.02 Permitted Uses: (Revisions by Ordinance No. 1053, 1-15-08, unless otherwise noted)**

- 5.13.02.01 Light Manufacturing
- 5.13.02.02 Automotive services, except repair, towing and wrecking
- 5.13.02.03 Business services
- 5.13.02.04 Facilities for building construction contractors
- 5.13.02.05 Landscape and horticultural services
- 5.13.02.06 Medical and dental laboratories
- 5.13.02.07 Assembly of electrical and electronic appliances
- 5.13.02.08 Miscellaneous repair services, not including automotive

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- 5.13.02.09 Printing, publishing, and allied industries
- 5.13.02.10 Electric, gas and sanitary services, not including collection and disposal of solid waste or hazardous waste
- 5.13.02.11 General warehousing
- 5.13.02.12 Testing laboratories
- 5.13.02.13 Publicly owned and operated facilities (**Ordinance No. 950, 3-1-05**)
- 5.13.02.14 Special and vocational training facilities (**Ordinance No. 950, 3-1-05**)
- 5.13.02.15 Wholesale trade of goods
- 5.13.02.16 Microbreweries and microdistilleries without on-site sales (**Ordinance No. 1292, 9-6-16**)
- 5.13.02.17 Artist Studio Space (**Ordinance No. 1433, 12-7-21**)
- 5.13.02.18 Catering kitchens

**5.13.03 Permitted Conditional Uses: (Revisions by Ordinance No. 1053, 1-15-08, unless otherwise noted)**

- 5.13.03.01 Animal specialty services with or without overnight boarding of animals and outdoor exercise areas
- 5.13.03.02 Heavy equipment rental
- 5.13.03.03 Household furniture, furnishings, and equipment store
- 5.13.03.04 Hardware, lawn and garden supply store
- 5.13.03.05 Lumber and other building materials dealer
- 5.13.03.06 Outdoor display of merchandise
- 5.13.03.07 Radio, television and communication towers and transmitters, as per Section 7.11
- 5.13.03.08 Utility substations, terminal facilities, and reservoirs
- 5.13.03.09 Farm-implement sales and service
- 5.13.03.10 Cabinetry millwork
- 5.13.03.11 Gasoline service stations
- 5.13.03.12 Automotive repair services
- 5.13.03.13 Sale of recreational vehicles, including boats and jet skis
- 5.13.03.14 Indoor recreational facility (**Ordinance No. 918, 10-6-03**)
- 5.13.03.15 Veterinary Services, not including livestock
- 5.13.03.16 Self-service storage facility (**Ordinance No. 1069, 8-19-08**)
- 5.13.03.17 Industrial Condominiums (**Ordinance No. 1246, 4-21-15**)
- 5.13.03.18 Microbreweries and microdistilleries with on-site sales (**Ordinance No. 1292, 9-6-16**)
- 5.13.03.19 Ground-Mounted Solar Energy Conversion Systems outside of the rear yard, as provided for in Section 7.15. (**Ordinance No. 1389, 3-3-2020**)

**5.13.04 Permitted Accessory Uses**

- 5.13.04.01 Buildings and uses customarily incidental to the permitted uses
- 5.13.04.02 Parking as permitted in Section 7.05 through 7.09
- 5.13.04.03 Signs allowed in Section 7.01 through 7.04
- 5.13.04.04 Temporary buildings and uses incidental to construction work that will be removed upon completion or abandonment of the construction work
- 5.13.04.05 Landscaping as required by Section 7.17
- 5.13.04.06 Solar Energy Conversion Systems as provided for in Section 7.15. (**Ordinance No. 1389, 3-3-2020**)

**5.13.05 Height and Lot Requirements:**

- 5.13.05.01 The height and minimum lot requirements shall be as follows:

Use	Lot Area (SF) <sup>2</sup>	Lot Widt h <sup>2</sup>	Front Yard	Side Yard	Rear Yard	Max. Heigh t	Max. Coverage	Lot
Permitted Uses	10,000	100	35' <sup>1</sup>	30'	25'	45'	65%	
Permitted Conditional Uses	10,000	100	35' <sup>1</sup>	30'	25'	45'	65%	
Accessory Buildings	-	-	70'	10'	10'	25'	20%	

<sup>1</sup> 35' front yard setback required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of sixty (60) feet.

<sup>2</sup> **Lots created before January 1, 2008 may have a minimum Lot Area of 10,000 square feet and may have less than the minimum 100 feet lot width. (Ordinance No. 1053, 1-15-08)**

**5.13.06 Use Limitations:**

- 5.13.06.01 When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in any required yard within thirty (30) feet of such

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district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Section 7.17.04. (**Ordinance No. 1053, 1-15-08**)

5.13.06.02 No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.

5.13.06.03 Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.

5.13.06.04 *No use shall produce a nuisance or hazard from fire, explosion, toxic or corrosive fumes, gas, smoke, odors, obnoxious dust or vapor, harmful radioactivity, offensive noise or vibration, flashes, objectionable effluent, or electrical interference which may affect or impair the normal use and peaceful enjoyment of any surrounding property, structure, or dwelling.* (**Ordinance No. 1053, 1-15-08**)

## 5.13.07 Performance Standards:

See Section 7.16 of the Supplemental Regulations.

SECTION 4. Repeal of Sections 2.04, 2.07, and 5.13 as Previously Enacted. Sections 2.04, 2.07, and 5.13 of Ordinance No. 848 as previously enacted are hereby repealed.

SECTION 5. 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 6. Effective Date. This ordinance shall be in full force and effect from and after passage, approval and publication as provided by law.

SECTION 7. This ordinance shall be published in pamphlet form and take effect as provided by law.

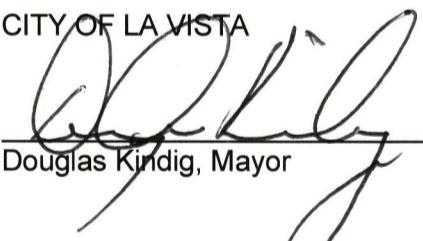
PASSED AND APPROVED THIS 21ST DAY OF NOVEMBER 2023.

ATTEST:

Pamela A. Buethe

Pamela A. Buethe, MMC  
City Clerk

CITY OF LA VISTA

  
Douglas Kindig, Mayor