

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
MAY 16, 2023 AGENDA**

Subject:	Type:	Submitted By:
AMEND SECTIONS 33.19 AND 35.50 OF THE LA VISTA MUNICIPAL CODE	RESOLUTION ◆ ORDINANCES RECEIVE/FILE	PAM BUETHE CITY CLERK

SYNOPSIS

Ordinances have been prepared to amend Sections 33.19 and 35.50 of the La Vista Municipal Code.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval.

BACKGROUND

The changes are a result of American Legal Publishing Corporation incorporating the legislative changes from the 2022 legislative session into our Municipal Code.

These changes have been reviewed by the City Attorney and City Clerk.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LA VISTA, NEBRASKA TO AMEND MUNICIPAL CODE SECTION 33.19; 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. Municipal Code Section 33.19 is hereby amended to read as follows:

§ 33.19 MINUTES.

(A) Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.

(B) The minutes of all meetings and evidence and documentation received or disclosed in open session shall be public records and open to public inspection during normal business hours.

(C) Minutes shall be written or kept as an electronic record and shall be available for inspection within ten working days or prior to the next convened meeting, whichever occurs earlier.

('79 Code, § 1-606)

Statutory reference:

Conduct of meetings, see Neb. RS 84-1411, RS 84-1412 and 84-1413

SECTION 2. Repeal of Conflicting Ordinances. Section 33.19 as originally enacted, and all ordinances and parts of ordinances as previously enacted that are in conflict with this ordinance or any part hereof, are hereby repealed.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 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 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 force and take effect from and after passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED THIS 16TH DAY OF MAY 2023

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, MMC
City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LA VISTA, NEBRASKA TO AMEND MUNICIPAL CODE SECTION 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. Municipal Code Section 35.50 is hereby amended to read as follows:

§ 35.50 PROPERTY TAX REQUEST; PROCEDURE.

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

(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
 - 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) The joint public hearing shall be organized by the County Clerk or his or her designee. 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:

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 send the information required to be included on the postcards pursuant to division (B)(2)(h) to a printing service designated by the County Board. The initial cost of printing the postcards shall be paid from the County general fund. 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 charged proportionately to the political subdivisions participating in the joint public hearing based on the total number of parcels in each participating political subdivision.

(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 which would result in an overall increase in~~ property taxes in [insert current tax year]. THE ACTUAL TAX ON YOUR PROPERTY MAY INCREASE OR DECREASE. 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:

- (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, or failure of any other public body, 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; Am. Ord. 1468, passed 12-6-22)

Statutory update:

Similar state provisions, see Neb. RS 77-1601.02

SECTION 2. Repeal of Conflicting Ordinances. Section 35.50 as originally enacted, and 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 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 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 force and take effect from and after passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED THIS 16TH DAY OF MAY 2023

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, MMC
City Clerk