

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
JULY 7, 2015 AGENDA**

Subject:	Type:	Submitted By:
AMEND SECTIONS 31.21, 133.01 AND 92.15 OF THE LA VISTA MUNICIPAL CODE	RESOLUTION ◆ ORDINANCES RECEIVE/FILE	PAM BUETHE CITY CLERK

SYNOPSIS

Ordinances have been prepared to amend Sections 31.21, 133.01 and 92.15 of the La Vista Municipal Code.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval.

BACKGROUND

The changes to Sections 31.21 and 133.01 are a result of American Legal Publishing Corporation incorporating the legislative changes from the 2013/14 legislative session into our Code including some minor language changes.

The changes to Section 92.15 are to insure that the erosion control facilities and plantings approved by the City will not constitute nuisances.

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

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA TO AMEND MUNICIPAL CODE SECTION 31.21 REGARDING CITY TREASURER DUTIES; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; AND 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 31.21 is hereby amended to read as follows:

§ 31.21 CITY TREASURER.

(A) (1) The City Treasurer shall receive all money belonging to the city and shall keep books and accounts in such a manner as the Mayor and City Council shall prescribe. The Treasurer shall keep a daily cash book, which shall be footed and balanced daily, and such books and accounts shall always be subject to inspection of the Mayor, members of the City Council, and such other persons as they may designate. (Neb. RS 16-717)

(2) The Treasurer shall keep all money in his or her hands belonging to the city separate and distinct from the Treasurer's own money. The Treasurer is hereby expressly prohibited from using, either directly or indirectly, the corporation money or warrants in his or her custody and keeping for his or her own use and benefit or that of any other person whomsoever. Any violation of this provision shall subject the Treasurer to immediate removal from office by the City Council, and it may declare such office vacant. The Mayor shall appoint a successor who shall be confirmed by the City Council to hold office for the remainder of the term. (Neb. RS 16-719)

(3) The Treasurer shall be required to give bond or evidence of equivalent insurance of not less than \$25,000, or he or she may be required to give bond in double the sum of money estimated by the City Council at any time to be in his or her hands belonging to the ~~city~~ City. ~~and school district, and he or she~~ The Treasurer shall be the custodian of all money belonging to the corporation. The City Council shall pay the actual premium of the bond or insurance coverage of such Treasurer. The Treasurer shall keep a separate account of each fund or appropriation and the debts and credits belonging thereto. He or she shall give every person paying money into the treasury a receipt therefor, specifying date of payment and on what account paid. He or she shall also file copies of such receipts, except tax receipts, with his or her monthly reports, and he or she shall at the end of every month, and as often as may be requested, render an account to the City Council, under oath, showing the state of the treasury at the date of such account, the amount of money remaining in each fund and the amount paid therefrom, and the balance of money in the treasury. ~~He or she~~ The Treasurer shall also accompany such account with a statement of all receipts and disbursements, together with all warrants redeemed and paid by him or her, which warrants, with all vouchers held by him or her, shall be filed with his or her account in the Clerk's office. He or she shall produce and show all funds shown by such report to be on hand, or satisfy the Council or its committee that he or she has such funds in his or her custody or under his or her control. If the Treasurer fails to render his or her account within 20 days after the end of the month, or by a later date established by the Council, the Mayor with the consent of the Council may consider this failure as cause to remove the Treasurer from office. The Treasurer shall keep a record of all outstanding bonds against the City, showing the number and amount of each bond, for and to whom the bonds were issued, and the date upon which any bond is purchased, paid, or canceled. The treasurer shall accompany the annual statement submitted pursuant to Neb. RS 19-1101 with a description of the bonds issued and sold in that year and the terms of sale, with every item of expense thereof. The Treasurer may employ and appoint a delinquent tax collector, who shall be allowed a percentage upon his or her collections to be fixed by the Council not to exceed the fees allowed by law to the County Treasurer for like services, ~~and u~~ Upon taxes collected by such delinquent tax collector, the ~~City~~ Treasurer shall receive no fees. The ~~City~~ Treasurer shall prepare all ~~paving and curbing taxes~~ special assessment lists and shall collect all ~~paving and curbing taxes~~ special assessments. (Neb. RS 16-318) ('79 Code, § 1-309) Statutory reference: Treasurer's statutory duties, Neb. RS 16-717 through 16-722

(B) The Treasurer shall make duplicate receipts for all sums paid into the Treasury, which receipts shall:

- (1) Specify the date of payment and what account paid;
- (2) Show the source from which such funds are derived; and

(3) By distinct lines and columns, show the amount received to the credit of each separate fund, and whether same was paid in cash, in warrants, or otherwise, one of which duplicates the Treasurer shall deliver to the person making such payment and the other he or her shall retain in his or her office and file such copy (except tax receipts) with his or her monthly reports. (Neb. RS 77-2209) ('79 Code, § 1-310)

(C) The Treasurer shall daily, as moneys are received, foot the several columns of his or her cashbook and of his or her register, and carry the amounts forward, and at the close of each year, in case the amount of money received by the Treasurer is insufficient to pay the warrants registered, he or she shall close the account for that year in such register and shall carry forward the excess. Any Treasurer who shall fail regularly to enter upon his or her cashbook the amounts so received and receipted for, or who shall fail to keep his or her cashbook footed from day to day for the space of three days, shall forfeit for each offense the sum of \$100 to be recovered in a civil action on his or her official bond by any person holding a warrant drawn on such Treasurer, one-half to the person bringing such action and one-half to the school fund of the county in which the action is brought. The cashbook, register and retained receipts of the Treasurer shall at all times be open to the inspection of any person in whose name any warrants are registered and unpaid.

(Neb. RS 77-2210 through 77-2212) ('79 Code, § 1-311)

(D) ~~It shall be the duty of the~~ The Treasurer ~~to shall~~ prepare and publish annually, within 60 days following the close of the city fiscal year, a statement of the receipts and expenditures ~~by of~~ funds of the city for the preceding fiscal year. The statement shall also include the information required by subsection (3) of Neb. RS 16-318. Not more than the legal rate shall be charged and paid for such publication. Such publication shall be made in one legal newspaper of general circulation in the city. Any Treasurer failing or neglecting to prepare and publish such statement of receipts and expenditures shall be deemed guilty of a misdemeanor and shall upon conviction pay a fine not to exceed \$25 and be liable in addition to removal from office for such failure or neglect. (Neb. RS 19-1101, 19-1103, 19-1104) (79 Code, § 1-312)

(E) (1) The Treasurer shall keep a warrant register which register shall show in columns arranged for that purpose, the number, date and amount of each warrant presented and registered, the particular fund upon which the same is drawn, the date of presentation, the name and address of the person in whose name the same is registered, the date of payment, the amount of interest and the total amount paid thereon, with the date when notice to the person in whose name such warrant is registered is mailed. (Neb. RS 77-2202)

(2) On presentation of a warrant for payment to the Treasurer when there are not sufficient moneys on hand to the credit of the proper fund to pay the same, it shall be the duty of the Treasurer to enter such warrant in his or her warrant register for payment in the order of its presentation, and he or she shall endorse on the warrant the words "registered for payment" with the date of registration and shall sign such endorsement, whereupon the warrant shall draw interest at the rate fixed by the Mayor and City Council, which rate shall be endorsed on the warrant, until notice of payment shall be given the registered owner. (Neb. RS 45-106 and 77-2203)

(3) The Treasurer shall neither directly or indirectly contract for or purchase any city warrant at any discount whatever upon the sum due on such warrant or order, and if he or she shall so contract for or purchase any such order or warrant, he or she shall not be allowed in settlement the amount of such order or warrant, or any part thereof, and shall also forfeit the whole amount due on such order or warrant. (Neb. RS 77-1741) (79 Code, § 1-313) (Am. Ord. 1026, passed 5-1-07; Am. Ord. 1076, passed 10-21-08)

Cross-reference:

Finance Director to perform duties of the City Treasurer, see § 31.01 of this code of ordinances

SECTION 2. Repeal of Conflicting Ordinances. Section 31.21as 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 as provided by law.

PASSED AND APPROVED THIS 7TH DAY OF JULY, 2015.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA TO AMEND MUNICIPAL CODE SECTION 133.01 REGARDING NUISANCES DEFINITIONS; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; AND 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 133.01 is hereby amended to read as follows:

§ 133.01 STAGNANT WATERS, WEEDS, AND LITTER.

(A) Lots or pieces of ground within the city or within the city's extraterritorial zoning jurisdiction shall be drained or filled so as to prevent stagnant water or any other nuisance accumulating thereon.

(B) The owner or occupant of any lot or piece of ground within the city shall keep the lot or piece of ground and the adjoining streets and alleys free of any excessive growth of 12 inches or more in height of weeds, grasses, or worthless vegetation. "Excessive growth" for purposes of this Section 133.01 shall include without limitation, 12 inches or more in height of weeds, grasses, or worthless vegetation.

(C) The throwing, depositing, or accumulation of litter on any lot or piece of ground within the city is prohibited, except that grass, leaves, and worthless vegetation may be used as a ground mulch or in a compost pile.

(D) It is hereby declared to be a nuisance to permit or maintain any excessive growth of 12 inches or more in height of weeds, grasses, or worthless vegetation on any lot or piece of ground within the city or on the adjoining streets or alleys or to litter or cause litter to be deposited or remain thereon except in proper receptacles.

(E) Any owner or occupant of a lot or piece of ground shall, upon conviction of violating this section, be guilty of an offense as provided by Nebraska Statutes.

(F) (1) The city shall, during the month of April of each year, publish or cause to be published in one or more newspapers of general circulation within the city a general notice setting forth the requirements of this section.

(2) In addition to the above general notice, notice to abate and remove such nuisance shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service, first class mail or certified mail. If notice is given by first-class mail, such notice shall be conspicuously marked as to its importance. Within five days after receipt of such notice, the owner or occupant of the lot or piece of ground may request a hearing with the city to appeal the decision to abate or remove a nuisance by filing a written appeal with the office of the city clerk. A hearing on the appeal shall be held within fourteen days after the filing of the appeal and shall be conducted by the City Administrator or any other appointed officer of the City from time to time designated by the City Administrator. The hearing officer shall render a decision of the appeal within five business days after the conclusion of the hearing. If the appeal fails, the city may have such work done. Within five days after receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing with the city or fails to comply with the order to abate and remove the nuisance, the city may have such work done. The costs and expenses of any such work shall be paid by the owner. If unpaid for two months after such work is done, the city may either:

(a) Levy and assess the costs and expenses of the work upon the lot or piece of ground so benefitted in the same manner as other special taxes for improvements are levied and assessed; or

(b) Recover in a civil action the costs and expenses of the work upon the lot or piece of ground and the adjoining streets and alleys.

(3) At all times thereafter until new growth of the following year, the city shall have the right, without providing further notice to such owner, agent, occupant, tenant or

person in possession, charge or control of such lot or ground, to continue cutting and/or removing from such lot or ground all litter or excessive growth of weeds or grass or worthless vegetation which has reached a height of 12 inches or more.

(G) For purposes of this section:

(1) LITTER includes, but is not limited to:

- (a) Trash, rubbish, refuse, garbage, paper, rags, and ashes;
- (b) Wood, plaster, cement, brick, or stone building rubble;
- (c) Grass, leaves, and worthless vegetation;
- (d) Offal and dead animals; and

(e) Any machine or machines, vehicle or vehicles, or parts of a machine or vehicle which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling, or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk; and

(2) WEEDS includes, but is not limited to, bindweed (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*), Johnson grass (*Sorghum halepense*), nodding or musk thistle, quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus* sp.) (tourn), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*).

('79 Code, § 6-328) (Ord. 147, passed - -; Am. Ord. 450, passed 9-15-87; Am. Ord. 547, passed 6-16-92; Am. Ord. 938, passed 8-17-04) Penalty, see § 10.99

Statutory reference:

Municipal authority; notice and hearing requirements, see Neb. RS 16-230
Additional authority to regulate nuisances, see Neb. RS 18-1720

SECTION 2. Repeal of Conflicting Ordinances. Section 31.21as 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 as provided by law.

PASSED AND APPROVED THIS 7TH DAY OF JULY, 2015.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buehe, CMC
City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA TO AMEND MUNICIPAL CODE SECTION 92.15 (B) (14) REGARDING NUISANCES DEFINITIONS; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; AND 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 92.15 is hereby amended to read as follows:

§ 92.15 DEFINITION.

(A) General definition. A nuisance consists in doing any unlawful act, omitting to perform a duty or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

- (1) Injures or endangers the comfort, repose, health or safety of others;
- (2) Offends decency;
- (3) Is offensive to the senses;

(4) Unlawfully interferes with, obstructs, tends to obstruct or renders dangerous for passage any stream, public park, parkway, square, street or highway in the city;

(5) In any way renders other persons insecure in life or the use of property; or

(6) Essentially interferes with the comfortable enjoyment of life and property or tends to depreciate the value of the property of others.
(79 Code, § 4-301)

(B) Specific definition. The maintaining, using, placing, depositing, leaving or permitting of any of the following specific acts, omissions, places, conditions and things are hereby declared to be nuisances:

(1) Any odorous, putrid, unsound or unwholesome grain, meat, hides, skins, feathers, vegetable matter or the whole or any part of any dead animal, fish or fowl;

(2) Privies, vaults, cesspools, dumps, pits or like places which are not securely protected from flies or rats, or which are foul or malodorous;

(3) Filthy, littered or trash-covered cellars, houseyards, barnyards, stable-yards, factory- yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings or premises;

(4) Animal manure in any quantity which is not securely protected from flies and the elements, or which is kept or handled in violation of any ordinance of the city;

(5) Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish or any waste vegetable or animal matter in any quantity, provided that nothing herein contained shall prevent the temporary retention of waste in receptacles in a manner provided by the health officer of the city, nor the dumping of nonputrefying waste in a place and manner approved by the health officer;

(6) Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire metal articles, bric-a- brac, broken stone or cement, broken crockery, broken glass, broken plaster and all trash or abandoned material, unless the same be kept in covered bins or galvanized iron receptacles;

(7) Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, old automobiles or parts

thereof, or any other waste materials when any of the articles or materials create a condition or harborage in which flies, rats, or rodents may breed or multiply, or which may be a fire danger or which are so unsightly as to depreciate property values in the vicinity thereof;

(8) Any unsafe or unsightly building, billboard or other structure, any old, abandoned or partially destroyed building or structure or any building or structure commenced and left unfinished, which buildings, billboards or other structures are either a fire hazard, a menace to the public health or safety or are so unsightly as to depreciate the value of property in the vicinity thereof;

(9) All places used or maintained as junk yards, dumping grounds or for the wrecking and dissembling of automobiles, trucks, tractors or machinery of any kind, or for the storing or leaving of worn-out, wrecked or abandoned automobiles, trucks, tractors or machinery of any kind, or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others, or which are so unsightly as to tend to depreciate property values in the vicinity thereof;

(10) Stagnant water permitted or maintained on any lot or piece of ground. Stagnant water is defined as water which stands upon premises in such a manner, and over such a period of time, that it is likely to become a breeding place for mosquitoes;

(11) Stockyards, granaries, mills, pig pens, cattle pens, chicken pens or any other place, building or enclosure in which animals or fowls of any kind are confined or on which are stored tankage or any other animal or vegetable matter, or on which any animal or vegetable matter including grain is being processed, when the places in which the animals are confined, or the premises on which the vegetable or animal matter is located are maintained and kept in such a manner that foul and noxious odors are permitted to emanate therefrom to the annoyance of inhabitants of the city or are maintained and kept in such a manner as to be injurious to the public health; or

(12) All other things specifically designated as nuisances elsewhere in this code or applicable state law.

(13) Storage, accumulation, keeping, placing or allowing to remain of trash, garbage, scrap and wrecked, worn-out, broken or inoperative or partially destroyed or disassembled person or real property of any kind, including any motor vehicles, tractors, trailers, machinery and equipment.

(14) Any lots or pieces of ground within the city or within two miles of the corporate limits of the city that have (or have on adjoining streets or alleys) any ~~weeds or plant~~ growth in excess of 12 inches ~~of weeds, grasses or other worthless vegetation or any other nuisance thereon pursuant to any other provisions of this Code or applicable law, excluding~~. ~~Weeds shall be defined as all grasses, annual plants and vegetation other than trees or shrubs, provided, however, this term shall not include cultivated flowers and gardens~~ city approved plantings, structures, devices or facilities for purposes of weed or erosion control, neighborhood enhancement and/or wildlife promotion or, including but not limited to native plantings used for aesthetic and/or wildlife promotion, to attract and aid wildlife, to improve storm water quality, detention, in city approved storm water management or control facilities, or cultivated expressly for the purpose of weed or erosion control. Without limiting the foregoing provisions of this subsection (14), it shall be the duty of any person owning, leasing, occupying, or controlling any lot or pieces of ground in the jurisdiction to prevent the growth of noxious weeds ~~or other worthless vegetation thereon, including without limitation, such as~~ cockleburrs, thistles, ragweed, burdock, and wild lettuce thereon.

(79 Code, § 4-301.01) (Ord. 646, passed 5-7-96) (Ord. 1212, passed 2-2-14)

Statutory reference:

Authority to regulate and abate nuisances, see Neb. RS 18-1720

SECTION 2. Repeal of Conflicting Ordinances. Section 31.21as 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 as provided by law.

PASSED AND APPROVED THIS 7TH DAY OF JULY, 2015.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Bueth, CMC
City Clerk