

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA, TO AMEND THE LA VISTA MUNICIPAL CODE SECTION 70.035; TO REPEAL CONFLICTING ORDINANCES 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. Section 70.035 of the La Vista Municipal Code is amended to read as follows:

§ 70.035 CHILD PASSENGER RESTRAINT SYSTEM.

(A) (1) Any person driving any motor vehicle which has or is required to have an occupant protection system shall ensure that:

(a) All children ~~under the age of five or weighing less than 40 pounds~~ **up to six years of age** being transported in such vehicle use a child **passenger** restraint system of a type which meets federal Motor Vehicle Safety Standard 213 as developed by the National Highway Safety Administration as of ~~July 10, 1990~~ **January 1, 2006**, and which is correctly installed in such vehicle; and

(b) All children ~~under the age of 16 and weighing 40 or more pounds~~ **six years of age and less than 18 years of age** being transported in such vehicle use an occupant protection system.

(2) This division (A) shall apply to every motor vehicle which is equipped with an occupant protection system or is required to be equipped with restraint systems pursuant to federal Motor Vehicle Safety Standard 208, **as such standard existed on January 1, 2006**, except taxicabs, mopeds, motorcycles, and any motor vehicle designated by the manufacturer as a 1963 year model or earlier which is not equipped with an occupant protection system.

(B) Whenever any licensed physician determines through accepted medical procedures that use of a child passenger restraint system by a particular child would be harmful by reason of the child's weight, physical condition, or other medical reason, the provisions of division (A) of this section shall be waived. The driver of any vehicle transporting such a child shall carry on his or her person or in the vehicle a signed written statement of the physician identifying the child and stating the grounds for such waiver.

(C) The drivers of authorized emergency vehicles shall not be subject to the requirements of division (A) of this section when operating such authorized emergency

vehicles pursuant to their employment.

(Neb. RS 60-6,267)

(D) A driver of a motor vehicle shall not be subject to the requirements of division (A) of this section if the motor vehicle is being operated in a parade or exhibition and the parade or exhibition is being conducted in accordance with applicable state law or local ordinances and resolutions.

(E) All persons being transported by a motor vehicle operated by the holder of a provisional operator's permit or a school permit shall use such motor vehicles' occupant protection system.

(F) Enforcement of this section by state or local law enforcement agencies shall be accomplished only as a secondary action when a driver of a motor vehicle has been cited or charged with a violation or some other offense.

('79 Code, § 5-442) (Ord. 402, passed 11-19-85; Am. Ord. 523, passed 3-5-91) Penalty, see § 70.999

SECTION 2. 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 3. 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 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 full force and effect from and after passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED THIS 1ST DAY OF MAY 2007.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk