

# ORDINANCE RECORD

No. 728-REDFIELD & COMPANY INC., OMAHA

## ORDINANCE NO. 1131

AN ORDINANCE OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA, TO AMEND THE LA VISTA MUNICIPAL CODE SECTIONS 72.58 AND 72.59; 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 72.58 of the La Vista Municipal Code is amended to read as follows:

### § 72.58 Violations Bureau.

(A) *Establishment.* There is hereby established the Violations Bureau which shall function as a part of the office of the City Clerk, under the direction of the City Clerk of the City Clerk's lawful designee.

(B) *Duties.* The Violations Bureau shall collect and account for all moneys paid in accordance with the provisions of this section, issue receipts therefore and keep records of all payments, showing the names, time and date of payment; as well as receive, review and make determinations and recommendations on disputed violations pursuant to subsection (F) below. It shall be the duty of the City Clerk to credit to the city such amounts as shall be collected for the payment of administrative costs. The City Clerk shall fix the days and the hours during which the office of the Violations Bureau shall be open to the public for the transaction of business coming under the provisions of this section.

(C) *Waiver of appearance; penalties and costs.* Whenever any person is alleged to have violated any of the provisions of this title, such person may, under such conditions as are herein prescribed, execute a waiver of appearance, enter a plea of guilty and make payment of penalty and administrative fees as follows:

(1) If paid within seven days of the date of the violation, a penalty in the sum of \$5 as set forth by the Master Fee Ordinance, plus administrative fees;

(2) If paid after seven days of the date of the violation, but within 30 days a penalty in the sum as set forth by the Master Fee Ordinance, plus administrative fees;

(3) If paid after 30 days of the date of the violation, but prior to the filing of a complaint, a penalty in the sum as set forth by the Master Fee Ordinance, plus administrative fees; or

(4) If a complaint has been filed, a penalty in the sum as set forth by the Master Fee Ordinance and such other penalty as the court, in its discretion, may impose pursuant to the penalty provisions of §§ 72.43 or 70.999, plus court costs.

(D) *Issuance of warrant and complaint.* Whenever any person refuses, neglects or fails to pay any such penalty and administrative fees within 30 days of the date of the violation or otherwise refuses, neglects or fails to comply with any of the provisions of this section, a complaint charging such violation may be filed in Sarpy County court and a warrant issued for the arrest of such person; provided, however, that the complaint for a handicapped parking infraction must be issued and filed at least 24 hours before the time set for the appearance of the cited person or such person shall be released from the obligation to appear as specified.

(E) *Notice.* At the time of issuance of a citation for the alleged violation coming under the provisions of this section, the accused shall be served with a printed notice advising the accused:

(1) That a waiver of appearance may be executed, a plea of guilty entered and the payment of such penalty and administrative fees made as provided by this section;

(2) That upon the neglect, refusal or failure of the accused to pay such penalty and administrative fees as provided by this section or upon the failure, refusal or neglect of the accused to otherwise comply with the provisions of this section, a complaint be filed and a warrant issued for the arrest of the accused;

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(3) Of the violation or violations charged as defined by this section;

(4) Of the form of waiver which the accused shall be required to execute and present to the Parking Violations Bureau in order to comply with this section;

(5) Of the amount of penalty and administrative fees which the accused shall be required to pay in order to comply with this section.

(F) *Petition procedure for parking violations.* A person receiving notice of a parking violation may file an informal notice of dispute with the city within seven (7) days of the occurrence of the violation. Receipt of this notice of dispute within seven (7) days means that the fine indicated in Section 72.58(C)(1) above will apply for each violation that the defendant timely disputes and is not determined in defendant's favor, provided that payment is made within seven (7) days of the date of a notice to the defendant of the determination. For purposes of notice to the defendant, defendant will be deemed to have received notice upon hand delivery or two days after it is placed in the United States Mail, whichever occurs first. If full payment is not received within seven (7) days of the notice of determination, the fines shall increase as indicated in section § 72.58 (C) of the Code of Ordinances as though the notice of dispute was never received. Notices of dispute must be written and filed with the La Vista City Clerk at 8110 Park View Blvd., La Vista, Nebraska.

Informal notices of dispute will be evaluated by the Violations Bureau and a decision will be made whether or not to recommend the City Attorney dismiss the violation. The parking violator shall be notified by United States Mail sent to his or her last known address as to the decision.

(F G) *Administrative fees.* The administrative fee, as provided in § 72.59, for each violation citation paid through the Violations Bureau shall be collected by the City Clerk in addition to the penalty provided herein and such administrative fee shall be deposited in the General Fund of the city. The administrative fee shall be uniform for all parking violations without regard to the amount of the penalty assessed and shall represent the cost to the city for the operation of the Parking Violations Bureau which may include the wages and fringe benefits of operating personnel; the cost of printing citations and forms; postage; office supplies; office equipment, maintenance and repair; and necessary overhead, including heating and air conditioning, lights, rents, telephone expense and data processing expenses.

(G H) *Nonexclusive penalty.* The penalties and administrative fees provided herein shall not preclude the assessment or collection of additional amounts. Such penalties and administrative fees shall be in addition to any other applicable fees, penalties, costs or towing charges.

('79 Code, § 5-719) (Ord. 513, passed 11-20-90; Am. Ord. 680, passed 7-1-97)

**Statutory reference:**

*Prevention and abatement of nuisances, see Neb. RS 18-1720*

SECTION 2. Section 72.59 of the La Vista Municipal Code is amended to read as follows:

## § 72.59 ADMINISTRATIVE FEES

An administrative fee is hereby established in an amount as set forth in the Master Fee Ordinance which represents the actual cost to the city of the operation of the Violations Bureau and which shall be assessed pursuant to § 72.58. Such administrative fee shall be uniform for all citation without regard to the amount of penalty assessed and shall be collected by the city in addition to such penalty as provided in § 72.58 and in addition to any other applicable fees, costs or penalties.

('79 Code, § 5-720) (Ord. 513, passed 11-20-90; Am. Ord. 960, passed 9-16-97)

SECTION 3. *Repeal of Conflicting Ordinances.* All ordinances and parts of ordinances as previously enacted that are in conflict with this Ordinance or any parts hereof are hereby repealed.

SECTION 4. *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 5. *Effective Date.* This Ordinance shall be in full force and effect from and

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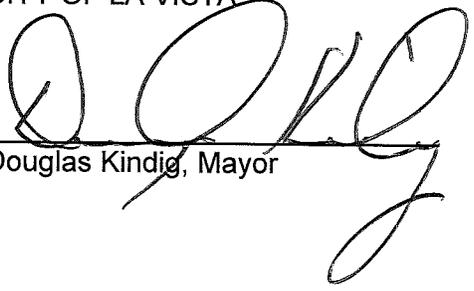
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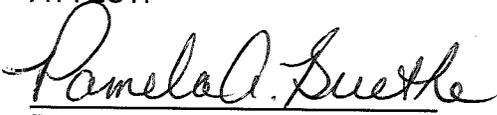
after passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED THIS 2ND DAY OF NOVEMBER, 2010.

CITY OF LA VISTA

  
Douglas Kindig, Mayor

ATTEST:

  
Pamela A. Buethe, CMC  
City Clerk