

ORDINANCE RECORD

No. 728—REDFIELD & COMPANY INC., OMAHA

ORDINANCE NO. 1274

AN ORDINANCE OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA, TO AMEND THE LA VISTA MUNICIPAL CODE SECTIONS 92.17 AND 92.21 RELATING TO NUISANCES; 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 92.17 of the La Vista Municipal Code is amended to read as follows:

§ 92.17 ABATEMENT PROCEDURE.

(A) (1) Whenever a nuisance exists as defined in this subchapter, the city may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(2) Whenever, in any action, it is established that a nuisance exists, the court may together with the fine or penalty imposed, enter an order of abatement as part of the judgement in the case. ('79 Code, § 4-502)

(B) (1) It shall be the duty of every owner or occupant of real estate in the city to keep such real estate free of public nuisances. Upon determination by the Board of Health that the owner or occupant has failed to keep such real estate free of public nuisances, notice to abate and remove such nuisance and notice of the right to a hearing before the City Council and the manner in which it may be requested shall be given to the owner or occupant, or the owner's or occupant's duly authorized agent, by personal service or certified mail. Such notice shall describe the condition as found by the Board of Health and state that the condition has been declared a public nuisance and that the condition must be remedied at once. Within ten days after the receipt of such notice, if the owner or occupant of the real estate does not request a hearing or fails to comply with the order to abate and remove the nuisance, the city shall have such work done and may levy and assess the costs and expenses of the work upon the real estate so benefitted as special assessments.

(2) If the owner or occupant requests in writing a hearing with the City Council, the City Council shall fix a time and place at which a hearing will be held. Notice of the hearing shall be given by personal service or certified mail and require the owner or occupant to appear before the City Council to show cause why such condition should not be found to be a public nuisance and remedied. Such notice shall be given not less than seven, nor more than 14 days before the time of the hearing. Upon the date fixed for the hearing and pursuant to the notice, the City Council shall hear all objections made by the owner or occupant and shall hear evidence submitted by the Board of Health. If after consideration of all the evidence the City Council finds that the condition is a public nuisance, it shall, by resolution, order and direct the owner or occupant to remedy the public nuisance at once. If the owner or occupant refuses or neglects to comply promptly with the order of the City Council, the City Council shall proceed to cause the abatement of the described public nuisance and may levy and assess the costs and expenses of the work upon the real estate so benefitted as special assessments. ('79 Code, § 4-302)

(3) Notwithstanding divisions (B)(1) or (2) above:

(a) If the Mayor determines that any public nuisance constitutes an immediate danger to life, safety, health, or property, the city may remove or abate the nuisance (or cause it to be removed or abated) and assess the cost thereof to the property creating the nuisance or on which the nuisance arises, to the extent necessary or appropriate to eliminate the immediacy and/or magnitude of the danger, upon 48 hours personal or certified written notice to the owner or tenant of the subject property (or the owner's or tenant's duly authorized representative) or, in light of the immediacy or magnitude of the danger, such lesser notice that can reasonably be provided under the circumstances; and, in the event any public nuisance is within the scope of Neb. RS 16-230 or 18-1752, the city shall proceed in accordance with the applicable provision or provisions thereof; and the city shall further have the option to proceed in accordance with any other applicable ordinance or state law, as amended from time to time, with respect to any public nuisance.

(b) Unless otherwise provided by state law, the city shall have the option to proceed under one or more applicable ordinances or state laws with respect to any public nuisance.

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SECTION 2. Section 92.21 of the La Vista Municipal Code is amended to read as follows:

§ 92.21 DEAD OR DISEASED TREES.

(A) It is hereby declared a nuisance for a property owner to permit, allow or maintain any dead or diseased trees within the right-of-way of streets within the corporate limits of the city or within the city's extraterritorial zoning jurisdiction.

(B) It is hereby declared a nuisance for a property owner to permit, allow or maintain any dead or diseased trees on private property within the corporate limits of the city or within the city's extraterritorial zoning jurisdiction.

(C) Notice to abate and remove such nuisance and notice of the right to a hearing and the manner in which it may be requested shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. Within 30 days after the receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing or fails to comply with the order to abate and remove the nuisance, the city may have such work done and may levy and assess all or any portion of the costs and expenses of the work upon the lot or piece of ground so benefitted as special assessments.

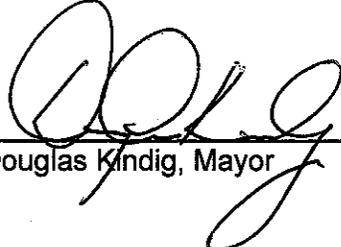
SECTION 3. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances as previously enacted that are in conflict with this Ordinance or any part hereof are hereby repealed.

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

PASSED AND APPROVED THIS 5TH DAY OF APRIL, 2016.

CITY OF LA VISTA



Douglas Kindig, Mayor

ATTEST:



Pamela A. Buethe, CMC
City Clerk