

ITEM B

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
NOVEMBER 8, 2017 AGENDA**

Subject:	Type:	Submitted By:
NEGLECTED BUILDING REGISTRATION PROGRAM	RESOLUTION ◆ ORDINANCE RECEIVE/FILE DISCUSSION	ANN BIRCH COMMUNITY DEVELOPMENT DIRECTOR

SYNOPSIS

An ordinance has been prepared for Council to consider adoption of a Neglected Building Registration Code.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval.

BACKGROUND

Over the years, there have been several properties which were damaged by fire or collision which became neglected and therefore a concern to neighbors and the Council. After researching issues associated with vacant structures, staff identified example building registration codes which are intended to address this problem and presented this information to Council at their meeting on June 20, 2017. Following discussion, the Council directed staff to prepare an ordinance to adopt a program which would address neglected buildings.

Attached is the final draft of the ordinance which has been reviewed by the City Attorney for your consideration.

Related updates to the Master Fee Schedule will be presented to City Council at the next meeting, as additional amendments to other areas of that ordinance are being considered.

ORDINANCE NO. _____

AN ORDINANCE TO ADOPT AND CODIFY THE NEGLECTED BUILDING REGISTRATION PROGRAM AS SECTION 150.80 OF THE LA VISTA MUNICIPAL CODE; 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.

I. That the neglected building registration program set forth below is hereby adopted, enacted and codified as Section 150.80 of the La Vista Municipal Code.

SECTION 150.80: NEGLECTED BUILDING REGISTRATION PROGRAM

Section

[REVISE TABLE WHEN ORDINANCE FINALIZED]

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Section 150.80.0. ESTABLISHMENT OF NEGLECTED BUILDING REGISTRATION PROGRAM.

A Neglected Building Registration Program is hereby established for the City of La Vista, Nebraska pursuant to authority granted by Nebraska law, as adopted or amended from time to time, including, but not limited to, Neb. Rev. Stat. Section 16-246.

Section 150.80.1 FINDINGS, PURPOSE AND INTENT OF THE NEGLECTED BUILDING REGISTRATION PROGRAM.

The Mayor and City Council make the following findings:

- (1) Much of the original housing of the City is approaching 60 years of age. As housing ages, there is an increasing need for regular monitoring and action to maintain it and keep the City's neighborhoods in good, safe and sanitary condition and repair.
- (2) Vacant and neglected residential buildings are a source of blight within a neighborhood.
- (3) Owners who fail to maintain vacant residential properties create eyesores that lead to increased risk of trespass, vandalism and other criminal activity, dangers to residents and their property, declining property values, and a burden to the neighborhood and community.
- (4) Vacant and neglected residential buildings can have a deleterious affect and be a significant contributing factor to the decline of a neighborhood and are a threat to the public health, safety, and welfare.

(5) Vacant and neglected residential buildings constitute a public nuisance.

(6) It is the obligation of the responsible parties to prevent these properties and buildings from becoming a burden to the neighborhood and community and a threat to the public health, safety, and welfare.

(7) A program that establishes and enforces a registration system to monitor vacant and neglected residential buildings and promotes compliance to keep such properties in a safe, sanitary, and properly maintained condition, or to restore them to such condition, is in the public interest, good for the neighborhoods in which such properties are located, and in the interests of all residents of the City.

(8) Livable housing and neighborhoods sustain the City's property tax base.

Based on the foregoing and to correct or prevent negative consequences of neglected residential buildings, the Mayor and City Council have determined that it is necessary, desirable, appropriate and in the public interest to implement a uniform neglected building registration program for vacant residential properties.

The purpose of this Neglected Building Registration Program is to provide for registration and inspection of vacant and neglected residential buildings to promote compliance with the municipal code and other applicable laws. The intent of this Neglected Building Registration Program includes:

- (1) Reducing risks of conditions that are catalysts for unlawful activities, declining neighborhoods, and dangers to persons or property;
- (2) Promoting the health, safety, and welfare of the persons living near vacant and neglected residential buildings;
- (3) Promoting the repair and rehabilitation of vacant and neglected residential buildings;
- (4) Promoting the occupancy of vacant residential buildings;
- (5) Preserving of the existing housing supply and neighborhoods;
- (6) Helping to maintain property values and the City's tax base;
- (7) Working toward preventing or eliminating substandard and deteriorating housing; and
- (8) Maintaining a living environment that contributes to healthful individual and family living.

Section 150.80.2 SCOPE.

This Section 150.80 (also referred to as "subchapter") applies to any residential building within the corporate limits of the City of La Vista, Nebraska.

Section 150.80.3 DEFINITIONS.

Unless otherwise provided herein either expressly or by the context, the following terms shall have the corresponding meanings when used in this subchapter:

"BOARDED UP" means that some or all of the building's doors or windows, or door or window openings, have been covered with plywood, wood, or metal sheeting, paneling, or other materials other than permanently installed doors or windows, for the purpose of preventing entry into the building by persons, animals, or the elements of weather.

"BUILDING" or "Residential Building" means an enclosed structure containing one or more dwelling units primarily arranged, designed, used, or intended for permanent or continuous occupancy or use for residential purposes, and including without limitation all accessory or other structures and improvements of or benefiting the property on which a building is located.

"BUILDING DEPARTMENT" means the Building Division of the Community Development Department.

"BUILDING OFFICIAL" means the Chief Building Official of the City of La Vista or his or her designee.

"CITY CODE" means the La Vista Municipal Code.

"DETERIORATION" means the state, or process of becoming, impaired or inferior in quality, function, or condition, including without limitation, to weaken, disintegrate, corrode, rust or decay, and lose effectiveness; and/or the lowering in quality of the condition, stability, integrity, effectiveness, function, or appearance of a property, building, structure or improvements, or any parts thereof, characterized by holes, breaks, rot, crumbling, peeling, rusting, or any other evidence of physical decay or neglect or extraordinary use, wear and tear, or lack of maintenance, replacement, or repairs of a significant or widespread nature as opposed to a limited, isolated, or concentrated nature.

"DIRECTOR" means the Community Development Director or his or her designee.

"DWELLING" means any building that contains one or more dwelling units constructed or used for residential purposes, or intended or designed to be built, used, rented, leased, let, or hired out to be occupied for residential purposes, excluding hotels and motels. This includes, but is not limited to, single family houses, duplexes, apartments, and other similar buildings or structures.

"DWELLING UNIT" means a single unit, with one or more rooms, providing independent living facilities for residential purposes of one or more persons.

"EFFECTIVE DATE" means the effective date of this subchapter, which shall be _____, 2017.

"LOCAL AGENT" means an agent of the owner pursuant to Section 150.80.7.

"NEGLECTED BUILDING" means an unoccupied dwelling with respect to which one or more of the following have occurred:

(A) Within the last six months, the property is the subject of two or more notices of violation of the provisions of applicable federal, state or local laws or regulations, including without limitation, Chapter 50, 91, 92, 93, 133, or 150 of the city code;

(B) The dwelling is unsecured for 30 days or more;

(C) The dwelling has sustained significant fire, wind, water, or other damage and is uninhabitable and diligent, consistent efforts to repair, rehabilitate, demolish, or remove the building are not evident within 60 days after the occurrence resulting in the damage described herein;

(D) The dwelling has been declared a nuisance pursuant to applicable State Statutes, or Ordinances or regulations of the City, including without limitation, Neb. Rev. Stat. §18-1722 or Chapter 92 of the city code;

(E) The dwelling has been boarded up for a period of more than 60 days;

(F) The dwelling has been declared and placarded by the Building Department as a dangerous building or an unsafe structure pursuant to applicable State Statutes, or Ordinances or regulations of the City, including without limitation Section 92.15 or Chapter 150 of the city code;

(G) The dwelling has sustained substantial deterioration due to the lack of maintenance, replacement, or repairs and the owner has failed to comply with a previous notice to correct a violation of the city code;

(H) The owner has failed to appear and a warrant has been issued in the County Court of Sarpy County, Nebraska, for a violation of federal, state or local laws or regulations, including without limitation, Chapter 50, 91, 92, 93, 133, or 150 of the city code regarding an unoccupied building or structure with violations under such laws or regulations; or

(I) The owner has refused to accept service of notices of violation of applicable laws or regulations, including without limitation, Chapter 50, 91, 92, 93, 133, or 150 of the city code, when service has been attempted.

"OCCUPANCY" means actual possession and use of a property.

'PERSON' means any individual, firm, association, corporation, company, syndicate, partnership, limited liability company, or other legal entity, or any natural person.

"PROPERTY" means all real property in connection with a neglected building, including the parcel on which the building is located.

"PROPERTY MANAGER" means a person responsible for the management of the dwelling other than the property owner. A property manager shall be deemed to be the property owner's agent for purposes of this subchapter unless the property owner otherwise advises the City in writing.

"PROPERTY OWNER" or "OWNER" means any person who alone or with others holds legal title to a dwelling, dwelling unit, or property as recorded with the Sarpy County Register of Deeds, or an equitable interest in such dwelling, dwelling unit, or property, or otherwise has care, custody, or control of the dwelling, dwelling unit, or property as guardian, conservator, receiver, trustee, executor, administrator, beneficiary, or other representative or represented capacity, to the extent proof of such control is presented to the satisfaction of the Building Official. All holders of any legal or equitable title or interest in a dwelling, dwelling unit, or property shall be jointly and severally liable as owners and property owners under this subchapter.

"PROPERTY OWNER'S AGENT" means a person designated by a property owner as an agent to act on behalf of and bind the property owner in all matters arising out of or under this subchapter, except to the extent such authority shall be expressly limited as provided in writing to the Building Official. A property manager shall be deemed to be the property owner's agent for purposes of this subchapter unless the property owner otherwise advises the City in writing.

"RESIDENTIAL PURPOSES" means occupancy or use for residential or living quarters, including without limitation shelter, cooking, eating, sanitation, and/or sleeping by one or more persons.

"UNOCCUPIED BUILDING" means a building that is not actively used as a dwelling.

"UNSECURED" means that access to part or all of an unoccupied building may be obtained with little or no effort, including without limitation, by way of any open, unlocked, damaged, broken, weakened, compromised, or missing doors, windows, or other components. (Ord. ; date)

Section 150.80.4. ADMINISTRATION AND ENFORCEMENT.

(A) The Building Official or his or her designee shall be primarily responsible for administration and enforcement of this subchapter, including without limitation, interpretation of the provisions thereof, and shall be authorized to designate any other persons to assist in carrying out any task or function.

(B) Inspections. The Building Official or his or her designee shall be authorized and directed from time to time to make inspections to carry out this subchapter and safeguard the welfare and safety of the general public, including without limitation, to determine the condition of a property and sufficiency of any corrective actions. Inspections may be conducted at such times as the Building Official determines necessary, including inspections on a complaint basis. Any inspection pursuant to this subchapter shall be subject to voluntary consent or pursuant to a warrant or other court order in accordance with applicable law.

(1) Notice. At least ten days advance written notice of inspection shall be provided to a property owner in accordance with applicable law.

(2) Access.

(a) It shall be the responsibility of the property owner or the property owner's agent to be present at the property at the date and time of all initial and subsequent inspections to provide access for the inspection. Failure to be present at any initial or follow-up inspection will result in an additional administrative and rescheduling fee in accordance with the master fee ordinance, in addition to any other rights or remedies available to the city.

- (b) If any property owner or other person lawfully in control of a property or dwelling contained therein fails or refuses to consent to access and entry to the property or dwelling under its/his/her ownership or control for any inspection pursuant to this subchapter, the Building Official shall apply for and obtain a warrant or other appropriate court order authorizing such inspection in accordance with applicable law, including but not limited to, Neb. RS 29-830 et seq.
- (c) Access requirements or inspections provided under this subchapter shall be in addition and supplemental to any other access or inspection in accordance with applicable law.
- (d) **Inspection Fees.** An initial inspection shall be conducted at no charge. Inspection of a property after the initial inspection also shall be conducted at no charge if violations have been corrected. If any violation has not been corrected, a fee shall be charged for inspections after the initial inspection as provided in the master fee ordinance, which fee shall be due and payable before a property is removed from the registration list.

(C) Any officer, official, or employee of the City charged or assisting with administration or enforcement of this subchapter shall not, in the discharge of his/her duties, thereby render himself/herself liable personally. Any suit brought against an officer, official, or employee of the City because of such act performed by him or her in the administration or enforcement of any of the provisions of this subchapter shall be defended by the City until the final termination of the proceedings therein.

Section 150.80.5. CHAPTER NOT EXCLUSIVE.

This subchapter in no way limits the remedies, penalties, actions, or abatement measures which may be taken by the Building Official or City at law or in equity for a violation described in this subchapter that also constitutes a violation under any other applicable federal, state or local laws or regulations.

Section 150.80.6. DUTY TO REGISTER NEGLECTED BUILDING.

(A) **NOTICE OF NEGLECTED BUILDING.** The Building Official or Building Division shall notify the property owner of any determination that a dwelling is a neglected building. Such notice shall be personally delivered or mailed regular first class U.S. mail, postage prepaid, addressed to the owner of said property as the owner's name and address appears on the last equalized assessment roll of Sarpy County. Mailed service shall be deemed good service upon deposit with the United States Postal Service, postage prepaid.

- (1) Service to the owner appearing on the last equalized assessment roll of Sarpy County shall suffice for purposes of notice under this subchapter when a property has multiple owners.
- (2) Service on a property owner's agent shall be deemed good service on the owner.
- (3) A copy of the notice under this subsection (A) shall be recorded by the City Clerk in the records of the Register of Deeds of Sarpy County, Nebraska and indexed against the property.

(B) **REGISTRATION OF NEGLECTED BUILDING.** The owner of a neglected building no later than thirty days after notice pursuant to subsection "A" shall register such neglected building with the Building Department.

(C) APPLICATION FOR REGISTRATION.

- (1) An application to register a neglected building satisfying the requirements of this subchapter shall be filed with the City of La Vista and be accompanied by all applicable registration fees as described herein and/or established by the master fee ordinance from time to time.

(2) Specific Requirements. The application to register a neglected building shall be made in such manner as determined from time to time by the Building Official and include without limitation the following information:

- (a) The correct legal description and address of the property;
- (b) Names, street addresses, telephone numbers, and e-mail addresses (if applicable) of the property owner or owners;
- (c) Names, street addresses, and telephone numbers of all known lienholders and all other parties with a legal or equitable interest in the property;
- (d) Names, street addresses, telephone numbers, and e-mail addresses (if applicable) of the property owner's agent, if applicable, and of the local agent;
- (e) The length of time the building is reasonably expected to remain unoccupied under the circumstances and plan for occupancy;
- (f) A plan and timetable to correct and bring the building into compliance with applicable federal, state, or local laws or regulations constituting the bases for a neglected building determination;
- (g) If the owner does not intend to sell, repair, or rehabilitate the building(s), the owner shall provide a plan for the removal or demolition of all buildings and structures, including a reasonable timeline for completion; and
- (h) Such other information as the Building Official from time to time determines necessary or appropriate to carry out purposes or provisions of this subchapter.

(D) REGISTRATION DETERMINATION. A neglected building shall not be deemed registered until all requirements of registration have been satisfied as determined by the Building Official. The Building Official shall have the authority to deny a registration for any failure to do so, or for reasons that the Building Official determines sufficient considering the purposes of this subchapter, including without limitation the following:

- (1) Any information supplied for the registration is incomplete, false, fictitious, or inaccurate;
- (2) The timetable proposed by any owner for taking any action is unreasonably long, including without limitation a proposed timetable for bringing the building into compliance;
- (3) The plan for any action proposed by an owner is insufficient, including without limitation any plan for repairs and bringing the building into compliance that does not address or correct the violations or deficiencies identified by the Building Official or Building Department;
- (4) Any required action of a property owner is more than 30 days past due; or
- (5) More than 90 days have passed since the first notice of registration has been served or delivered to the property owner or property owner's agent, and registration has not been accomplished.

(E) In the event a registration is denied, the Director shall consult with the City Attorney for consideration of further action. The City Attorney, as directed by the City Administrator or City Administrator's designee, may take any action as the City Administrator or City Administrator's designee determines necessary or appropriate to enforce this subchapter.

(F) In addition to any other remedy permitted in this subchapter, chapter, or city code, in the event an owner fails to timely register or re-register a neglected building as required herein, the City may register or re-register the building, and the registration fees, all penalties, and other consequences that may or shall apply to the owner of the property due to the owner's

failure to register shall be equally enforceable when the building is registered or re-registered by the City. In the event the City registers a neglected building, such registration shall only require the information set forth in subsections a through c of subsection (C)(2) above. Notice of such registration by the City shall be sent to the property owner or the property owner's agent in the same manner set forth in subsection (A) above.

(G) The owner of any dwelling that has been placarded as an unsafe or dangerous structure for 180 days or more as of the date of passage of this section shall have 90 days from said date of passage to correct violations and otherwise bring the building(s) into compliance with applicable laws and regulations.

(H) The Building Department shall maintain a registration list identifying all properties currently registered and describing all actions taken with respect to each registered building.

(I) Each registration automatically shall expire and terminate at the end of 90 days unless earlier removed from the registration list. If the building has not been removed from the registration list at the expiration of a registration herein, the property owner shall re-register the building pursuant to this section.

(J) **REGISTRATION FEES.** The property owner shall pay a registration fee at the time of registration. Neglected building registration fees shall be in such amounts as provided in the master fee ordinance from time to time. Once registered, a new registration fee shall be due and payable for each additional 90-day period thereafter, or portion thereof, as though registered for the first time, until the building is removed from the list. In the event the City registers or re-registers a neglected building, the registration fee, by virtue of the City undertaking performance of the registration or re-registration function, shall be deemed paid by the City and shall be a cost for which owner is liable and shall become a lien on the property as set forth in Section 150.80.8. Accrual of reimbursable registration fees shall be separate from and in addition to any civil penalties permitted in this subchapter or other provisions of the city code or applicable law. Fees for each additional 90-day period shall become a lien on the property as set forth in Section 150.80.8.

Section 150.80.7. LOCAL AGENT REQUIRED.

The property owner of any neglected property covered by this subchapter shall be available to respond to an emergency on a twenty-four (24) hour basis. This requirement may be met by maintaining an operating business or residence within sixty (60) miles of the property at which the property owner or property owner's agent is regularly present, or by use of a responsible local agent who resides within Sarpy County or an adjoining county; any of whom can be contacted on a twenty-four (24) hour basis. If the property owner's agent or a local agent is used, the property owner shall provide the City with the name, address, and telephone number of the property owner's agent or local agent in addition to owner information. A post office box, mailing address, or toll free numbers shall not be deemed sufficient to meet the provisions of this section. The owner's designation of an agent shall not relieve the owner of an obligation to comply with the provisions of this subchapter or any other provisions of the city code or laws of the State of Nebraska.

Section 150.80.8. REGISTRATION PENALTY; LIEN ON PROPERTY; ASSESSMENT PROCESS.

(A) In addition to reimbursing the City for all registration fees deemed paid by the City, any owner who fails to timely register a neglected building, as required by this chapter, shall be liable for a civil penalty not to exceed \$500.00 as determined by the Director.

(B) Each civil penalty herein shall automatically renew for an additional 90 days unless the neglected building is removed from the registration list as set forth in this chapter with new fees assessed pursuant to Section 150.80.6.

(C) If a building continues to meet the definition of a neglected building for a period of more than 90 calendar days after notice is given, or has been registered, and the owner fails or refuses to register or re-register the neglected building after the initial registration expires, or if the City has not been reimbursed for any portion of registration fees deemed paid by the City, or an assessed civil penalty is not paid, the Director may continue to assess a penalty not to exceed \$500.00 for each 90-calendar-day period, or portion thereof, the neglected building continues to be unregistered or the registration fees or civil penalties are not paid. At no time shall the amount of unreimbursed registration fees, civil penalties, and assessments exceed \$4,000.00 per building in a calendar year, but shall be cumulative in following years. The

Director may reduce, waive, or stay the imposition of a civil penalty herein for good cause shown by the owner in efforts to comply with this section of an approved plan.

(D) All registration fee reimbursements and civil penalties assessed shall be payable directly to the City.

(E) The owner of the property at the time any notice under Section 150.80.6 is issued shall be personally liable for all unreimbursed registration fees and unpaid civil penalties and any unreimbursed fees and penalties shall also be a lien on any real estate upon which the neglected building is wholly or partially located, from the date of assessment of fees and civil penalties. Interest as allowed by applicable Nebraska law shall also accrue unless reduced, waived or stayed by the Director.

(F) The Director shall be authorized to develop policies and procedures for the implementation of this penalty.

(G) The Director shall keep an itemized account of the expenses incurred by the City pursuant to this section. For assessment of unpaid fees and civil penalties hereunder, the Director shall prepare and file with the City Clerk a report specifying the actions taken, the itemized and total cost of the actions, a description of the real property upon which the building or structure is or was located, and the names and addresses of the owners of the property.

(H) Upon receipt of said report, the City Clerk shall present it to the City Council for consideration. The City Council shall fix a time, date, and place for hearing said report and any protests or objections thereto. The City Clerk shall cause notice of said hearing to be posted upon the property involved, published once in a newspaper of general circulation in the City, and served by regular first class U.S. mail, postage prepaid, addressed to the owner of said property as the owner's name and address appears on the last equalized assessment roll of the county, if such so appears, or as known to the clerk. Deposit of the notice with the United States Postal Service shall be deemed good service. Such notice shall be given at least ten days prior to the date set for the hearing and shall specify the day, hour, and place the Council will hear and pass upon the Director's report, together with any objection or protests which may be made thereto, and assess such property with such cost. Such assessment shall be a lien upon such property from the date of assessment, shall become delinquent thirty days after the date of assessment, and shall draw interest from said date until paid at the same rate as provided by law for delinquent general real estate taxes. Foreclosure on a lien shall be pursuant to Nebraska law.

Section 150.80.9. REGISTRATION PENALTY; NOTICE.

(A) Whenever the owner of a neglected building fails to timely register or re-register such building or if the City registers or re-registers a neglected building, a Notice of Registration Penalty shall be issued to the owner within 10 days after the date for registration or re-registration.

(B) A separate Notice of Registration Penalty shall be issued for each subsequent registration fee or civil penalty that may be assessed.

(C) The Notice of Registration Penalty shall be sent to the owner or resident agent by regular first class U.S. mail or personal service and shall be deemed good service upon deposit with the United States Postal Service, if first class mail is used. Service upon the resident agent shall be deemed to be good service upon the owner.

(D) All Notices of Registration Penalty shall be recorded in the offices of the City Clerk and the Register of Deeds for Sarpy County, Nebraska and indexed against the property.

Section 150.80.10. REINSPECTION

The Building Official or his or her designee may periodically reinspect neglected buildings to ensure compliance with this subchapter and all applicable court or administrative orders.

Section 150.80.11. REMOVAL FROM REGISTRATION LIST.

(A) A neglected building shall be removed from the registration list and requirements of this chapter by the Director upon such building meeting one or more of the following:

- (1) Correcting all applicable violations and all registration and other fees and penalties have been paid in full;
- (2) Removal or demolition by the owner;
- (3) Removal or demolition by the City of La Vista; or
- (4) Discharge of all assessed registration and other fees and penalties and/or liens upon the property through a foreclosure or other legal process; or

(B) Removal from the registration list shall not result in the reduction, waiver, discharge, release, or other modifications to fees or penalties assessed to the property except as may be ordered by a court of law with competent jurisdictions or as may be modified by the Director herein.

(C) The Director, within 30 days after a building satisfies subsection (A)(1) above, shall record a Notice of Compliance with the Register of Deeds stating that, as of the date of the Notice of Compliance, the property complies with the city code.

(D) The Director, in consultation with the City Attorney, may remove a neglected building from the list in the event the Director determines that the interests of the City and the purpose of this ordinance are best served by removal. Such a finding or determination shall be in writing before becoming effective. All such findings or determinations shall be recorded with the City Clerk.

Section 150.80.12. REGISTRATION NON-TRANSFERABLE.

If the neglected building is required to be registered pursuant to this subchapter, a new registration shall be required for each change of ownership of the building. The seller of a neglected building, which is registered with the Building Department pursuant to this subchapter, shall notify the Building Department within ten business days after the sale or other transfer or conveyance of any registered property. The Director may waive the requirement of a registration following a conveyance if sufficient evidence is provided that action will be taken immediately after the sale to bring the building back into compliance with applicable requirements or remove or demolish the neglected building.

Section 150.80.13. APPEALS TO BOARD OF APPEALS.

Any decision or action of the Director or Building Official related to this subchapter shall be subject to such procedural requirements as described in the International Property Maintenance Code or other applicable law, including any rights of appeal.

Section 150.80.14. FAILURE TO REIMBURSE REGISTRATION FEES OR PAY CIVIL PENALTIES.

In the event that any person fails to reimburse the City for registration fees or pay civil penalties assessed herein, the City Attorney, as directed by the City Administrator or his or her designee, is authorized to seek the recovery of all such registration fees and civil penalties by any means allowed by law. In the event the City Attorney forecloses on any liens assessed under this subchapter, notice shall be given to the owner in accordance with applicable law.

Section 150.80.15. COLLECTION AND DISTRIBUTION OF FEES AND PENALTIES.

Any collection or reimbursement of fees and costs incurred due to the registration of a neglected building by the City, and any penalties collected herein shall be deposited in the General Fund and appropriated or distributed pursuant to applicable law. No fee or any other amount paid the city under this subchapter in any case shall be refunded, except to the extent equity may require as determined by the City Administrator or the City Administrator's designee in his or her sole discretion.

Section 150.80.16. CRIMINAL VIOLATIONS; PENALTIES.

Any person upon whom a duty is placed by the provisions of this subchapter who shall fall, neglect, or refuse to perform such duty, or who shall violate a provision of this subchapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed \$500.00 or be imprisoned in the county jail for a period not to exceed six months, or both, except that each person so convicted shall be fined in a sum of not less than \$200.00 for the first offense, not less than \$300.00 for a second offense, and not less than \$400.00 for the third offense and each offense thereafter. The penalty herein provided shall be cumulative with and in addition to the revocation, cancellation, or forfeiture of any license, permit, or right elsewhere provided for or as provided by law. Each day that a violation of this subchapter continues shall constitute a separate and distinct offense and shall be punishable as such.

II. REPEAL OF CONFLICTING PROVISIONS. Any conflicting provision of any previously enacted ordinance is hereby repealed.

III. 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 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 hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

IV. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED THIS 21ST DAY OF NOVEMBER, 2017.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk