

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
FEBRUARY 18, 2025 AGENDA**

Subject:	Type:	Submitted By:
AMEND VARIOUS SECTIONS OF THE LA VISTA MUNICIPAL CODE	RESOLUTION ◆ ORDINANCE RECEIVE/FILE	BRUCE FOUNTAIN COMMUNITY DEVELOPMENT DIR.

SYNOPSIS

Ordinances have been prepared to amend Sections 32.03, 150.01, 150.55, 150.73, and 155 of the La Vista Municipal Code.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval.

BACKGROUND

During a recent review of the City's requirements and processes of the Board of Adjustment and Board of Appeals spurred by recent code enforcement actions, the City Attorney has recommended changes to sections 32.03, 150.01, 150.55, 150.73 and 155 for clarification and consistency of procedural requirements governing zoning and building code appeals to the Board of Adjustment and Board of Appeals. Attached are the redlined, proposed changes to various sections of the La Vista Municipal Code. Amendment of section 150.65 also is recommended regarding rental license application requirements, consistent with applicable law.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTION 32.03 OF THE LA VISTA MUNICIPAL CODE, REGARDING THE BOARD OF ADJUSTMENT AND BOARD OF APPEALS; AND TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES PREVIOUSLY ENACTED, SEVERABILITY, PUBLICATION AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AS FOLLOWS:

Amendment of Section 32.03. Section 32.03 of the La Vista Municipal Code is hereby amended to read as follows:

“§ 32.03 BOARD OF ADJUSTMENT AND BOARD OF APPEALS.

(A) The Mayor shall appoint, with the consent of the City Council, a Board of Adjustment which shall consist of five regular members plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason. Each member of the Board shall serve a term of three years, unless reappointed, and shall be removable only for cause by the Mayor, with the consent of the City Council, upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Adjustment shall be appointed from the membership of the Planning Commission, and the loss of membership on the Planning Commission by such member shall also result in his or her immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commissioner to the Board of Adjustment. After the effective date of this section, the first vacancy occurring on the Board of Adjustment shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the city at such time as more than 200 persons reside within such area. Thereafter, at all times, at least one member of the Board of Adjustment shall reside outside the corporate boundaries of the city but within its extraterritorial zoning jurisdiction.

(Neb. RS 19-908)

(B) The members of the Board shall serve without compensation and may be required, in the discretion of the Mayor and City Council, to give a bond in a sum set by resolution of the Mayor and City Council and conditioned upon the faithful performance of their duties. The Board shall conduct an organizational meeting in January of each year and elect from its membership a Chairperson and a Secretary. It shall be the duty of the Secretary to keep complete and accurate minutes of all Board meetings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the City Clerk and shall be public record. All meetings of the Board shall be open to the public and shall be held at such times as the Chairperson may, in his or her discretion, call a meeting, and at such other times as the Board may determine. Special meetings may also be held upon the call of any three members of the Board. At least four members of the Board shall constitute a quorum for the purpose of doing business. The Board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to Neb. RS 19-901 to 19-914.

(C) It shall be the duty of the Board

(1) To hear and decide appeals pursuant to Neb. Rev. Stat. Section 19-910 where it is alleged there is error in any order, requirement, decision or determination made by a city official based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures; provided, however, any order or decision of the Building Inspector under any standard code adopted, or modified and adopted, in Title XV (“Standard Codes”), shall be appealed to the Board of Appeals as provided in subsection (F) below.

(2) To hear and decide, in accordance with the provisions of the zoning regulations, requests for interpretation of any map; and

(3) Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or

hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any zoning regulation.

(4) No such variance shall be authorized by the Board unless it finds that:

- (a) The strict application of the zoning regulation would produce undue hardship;
- (b) Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
- (c) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
- (d) The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.

No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

(D) In exercising the above-mentioned powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all powers of the officer from whom the appeal is taken. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such city official or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variance in such regulation. (Neb. RS 19-910)

(E) The Board shall be responsible for making such reports and performing such other duties as the Mayor and City Council may designate. Neither the Mayor nor any member of the City Council shall serve as a member of the Board of Adjustment. No member of the Board of Adjustment shall serve in the capacity of both Chairperson and Secretary of the Board.

(F) Board of Appeals. Members of the Board of Adjustment also shall constitute and serve as the members of the Board of Appeals for purposes of appeal of any decisions of the Building Inspector under Standard Codes; specifically:

- (1) The Board of Appeals shall have the same number of members and alternate members, qualification requirements for membership, and term of office as provided in subsection (A) above. Each appointment to the Board of Adjustment pursuant to subsection (A) also shall constitute appointment of such person to the Board of Appeals for purposes of hearing and deciding appeals of orders or decision by the Building Official pursuant to Chapter 150 and Standard Codes, and
- (2) Resignation, removal or other termination of any member from the Board of Adjustment also shall constitute resignation, removal or termination of such member from the Board of Appeals.
- (3) Provided however, members of the Board of Appeals shall serve at the pleasure of the Mayor, and may be removed at any time by the Mayor, with or without cause, subject to approval of the City Council. Any vacancy resulting from removal of a member of the Board of Appeals pursuant to this subsection (3) shall be filled for the remaining term by appointment by the Mayor, subject to approval of the City Council, with a person having such qualifications as the Mayor determines appropriate.
- (4) Unless otherwise specified by the Board of Appeals, the Chairperson and Secretary of the Board of Adjustment from time to time also shall serve as the Chairperson and Secretary of the Board of Appeals.

- (5) The owner of real property or improvements, or his or her agent or occupant may appeal any order or decision of the Building Inspector under the Standard Codes to the Board of Appeals. Appeal to the Board of Appeals shall not stay any order or decision of the Building Inspector, unless otherwise specified by the Board of Appeals.
- (6) Provisions of this subsection (F), 32.03 or this Code that are applicable to the Board of Appeals shall apply notwithstanding any provisions of any standard codes adopted, adopted and modified, or referenced in Chapter 150, (together "Standard Codes") to the contrary. If there is any conflict, inconsistency or ambiguity between or among the provisions of subsection (F), 32.03 or this Code and provisions of any Standard Codes with respect to the Board of Appeals, the provisions of subsection (F), 32.03 or this Code shall govern and control, in that order.

(G) Except as otherwise provided to the contrary in Neb. Rev. Stat. Sections 19-907 through 19-912 for meetings or hearings of the Board of Adjustment, the following rules shall apply to meetings and hearings of the Board of Adjustment or Board of Appeals.

- (1) All regular and special meetings of the Board shall be open to the public and shall be held at such times as the Chairperson, Secretary, Board or City Clerk may determine in her, his or its discretion. The Secretary or Secretary's designee shall keep complete and accurate minutes of all Board meetings and records of all Board examinations and other official actions in accordance with applicable law, all of which may be filed in the office of the City Clerk and shall be public record.
- (2) The number of Members constituting a quorum for purposes of holding a meeting or hearing shall be equal to at least two-thirds of the number of membership positions of the Board.
- (3) Appeal of any order or decision of a City official shall be perfected within twenty days after the date of such order or decision by filing a written notice of appeal with such City official and the Secretary of the Board specifying the grounds for such appeal. Hearing on such appeal shall be held by the Board within a reasonable time after the appeal is filed, as determined by the Chairperson, Secretary, Board or City Clerk. The City Clerk or City Clerk's designee shall transmit to the Board such papers, documents or other information constituting the record upon which the City official's order or decision was based.
- (4) The Mayor, City Council, City Administrator or Board shall be authorized to appoint a hearing officer ("Hearing Officer") to assist, advise and take such actions on behalf of the Board in connection with procedural or technical aspects of a hearing on an appeal. Provided, however, the Board at any time may elect to perform any action designated in this Code for the Hearing Officer. In all events the Board will decide an appeal.
- (5) The Hearing Officer will convene the meeting and hearing and act on any initial procedural or administrative matters. The hearing will be conducted by the Hearing Officer in open session, except for any closed session in accordance with the Open Meetings Act. The hearing shall be recorded by a qualified court reporter and by stenographic means. A transcript of the proceeding shall be made available to all parties upon request and upon payment of the fees to transcribe the proceeding. The Hearing Officer or any Board Member or notary public is authorized to administer oaths. The Hearing Officer will rule on any objections, evidentiary or procedural matters, The hearing will follow a format similar to civil trials and shall include:
 - a. Each of the following, first by the City official or such official's representative ("Appellee"), followed by the party appealing the official's order or decision, or such party's representative ("Appellant"), unless otherwise indicated:

- i. Opening statement by each party.
 - ii. Presentation of evidence, including, examination of witnesses and introduction of exhibits by each party.
 - iii. Cross examination, objections by opposing party to any examination, testimony or exhibits, and Hearing Officer rulings on any such objections.
- b. Appellee's rebuttal of Appellant's evidence.
 - c. Closing argument of Appellee and Appellant, and Appellee rebuttal of Appellant's closing argument.
- (6) Unless otherwise elected by the Board, a hearing will be conducted as an informal hearing. The Board may admit and give probative effect to relevant evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs, and exclude incompetent, irrelevant, immaterial, or unduly repetitious evidence, and shall give effect to the privilege rules of evidence in sections Neb. Rev. Stat. Sections 27-501 through 27-513 but shall not otherwise be bound by usual common-law or statutory rules of evidence. Fees and costs of a court reporter shall be paid by the party or parties against whom a final order or decision is rendered. Informality in the proceeding or manner of taking testimony shall not invalidate any decision of the Board.
- (7) Upon the conclusion of all evidence, the Board shall deliberate and decide the appeal based on whether the order or decision of the City official was within the City official's authority and whether there was sufficient relevant evidence presented at the hearing to support the order or decision of the City official. Evidence is sufficient if the City official could reasonably find the facts as the City official did, and the action of the City official was not arbitrary or capricious. An action is "arbitrary and capricious" if it is taken in disregard of the facts or circumstances of the case, without some basis which would lead a reasonable and honest person to the same conclusion. The Board shall have the power and authority to affirm, modify or reverse the City official's order or decision, subject to any conditions the Board determines necessary or appropriate. The affirmative vote of at least four members of the Board shall be required to reverse or modify an order or decision of the City official. Notwithstanding anything in this paragraph to the contrary, the Hearing Officer may provide the Board a proposed decision that the Board in its sole discretion may elect to accept, modify and accept as modified, or reject. Any order or decision of the Board shall be final. A copy of any order or decision of the Board reduced to writing shall be available for inspection in the office of the City Clerk
- (8) The Board shall be authorized to adopt any additional rules as the Board determines necessary or appropriate."

Repeal of Conflicting Provisions. Section 32.03 and all ordinances and any parts of ordinances as previously enacted that are in conflict with this ordinance or any part hereof are hereby repealed.

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 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.

Publication and Effective Date. This ordinance shall be in full force and effect from and after passage, approval and publication in book, or pamphlet, or electronic form in accordance with applicable law.

Ordinance No.

PASSED AND APPROVED THIS 18TH DAY OF FEBRUARY 2025.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Rachel D. Carl, CMC
City Clerk

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTION 150.01 OF THE LA VISTA MUNICIPAL CODE REGARDING THE BUILDING CODE; AND TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES PREVIOUSLY ENACTED, SEVERABILITY, PUBLICATION AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AS FOLLOWS:

Amendment of Section 150.01. Section 150.01 of the La Vista Municipal Code is hereby amended to read as follows:

“§ 150.01 BUILDING CODE.

(A) Portions of standard codes and additional requirements, rules and regulations specified in subsections 150.01 through 150.05 below, with the modifications specified in such subsections,

section 155 or other provisions of this Code or City Ordinances, are hereby adopted pursuant to Neb. Rev. Stat. subsections 19-902(4), 18-132, and 71-6406(2) and (7) as the Building Code of the City of La Vista for regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings or structures within the jurisdiction of the City of La Vista and providing for the issuance of permits and collection of fees therefor. Provisions of the standard codes and additional requirements, rules and regulations adopted herein, as modified, shall be applied, interpreted and construed together and consistently to the extent possible. Unless otherwise indicated by context or otherwise, references to any table, section or subsection shall mean the corresponding provision of the relevant standard code, with such modifications as adopted by the City. Appeal of any order or decision of the Building Inspector under any standard code shall be to the Board of Appeals as provided in section 155 below and subsection 32.03, notwithstanding provisions of any standard code to the contrary.

(B) (1) *International Building Code provisions adopted by reference.* Two copies of certain documents in book form, being marked and designated as the *International Building Code*, 2018 Edition, ("IBC") are on file in the office of the City Clerk of the City of La Vista. With the exception of portions of § 105.2 preceding § 105.2.1, the following portions of said IBC are hereby adopted: Chapters 1 thru 35 inclusive, and Appendices "E", Supplementary Accessibility Requirements, and "I", Patio Covers, ("adopted IBC provisions"); and each and all of the regulations, provisions, conditions and terms of such adopted IBC provisions, and all amendments, revisions or editions thereto on file or hereafter placed on file in the office of the City Clerk of the City of La Vista, are hereby referred to, adopted and made a part hereof as if fully set out herein.

(2) *Additional requirements, rules and regulations adopted.*

(a) *Work exempt from permit (adopted in lieu of portions of IBC § 105.2 preceding § 105.2.1).* Exemptions from permit requirements of the adopted IBC provisions shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of said adopted IBC provisions or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

1. *Building.*

a. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 79 square feet.

b. Oil derricks.

c. Retaining walls which are not over four feet (1,219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or III-A liquids.

d. Water tanks supported directly on grade if the capacity does not exceed 5,000 gallons (18,925 L) and the ratio of height to diameter or width does not

exceed 2 to 1.

- e. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
- f. Temporary motion picture, television and theater stage sets and scenery.
- g. Prefabricated swimming pools accessory to a Group R-3 occupancy that are less than 24 inches deep and installed entirely above ground.
- h. Shade cloth structures constructed for nursery or agricultural purposes and not including service systems.
- i. Swings and other playground equipment accessory to detached one- and two-family dwellings.
- j. Window awnings supported by an exterior wall that do not project more than 54 inches (1,372 mm) from the exterior wall and do not require additional support of Group R-3 and Group U occupancies.
- k. Nonfixed and movable fixtures, cases, racks, counters and partitions not over five feet nine inches (1,753 mm) in height.

2. *Electrical.*

- a. *Repairs and maintenance.* Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.
- b. *Radio and television transmitting stations.* Adopted IBC provisions shall not apply to electrical equipment used for radio and television transmissions, but do apply to equipment and wiring for power supply, the installations of towers and antennas.
- c. *Temporary testing systems.* A permit shall not be required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

3. *Gas.*

- a. Portable heating appliance.
- b. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

4. *Mechanical.*

- a. Portable heating appliance.
- b. Portable ventilation equipment.
- c. Portable cooling unit.
- d. Steam, hot or chilled water piping within any heating or cooling equipment regulated by adopted IBC provisions.
- e. Replacement of any part which does not alter its approval or make it unsafe.
- f. Portable evaporative cooler.
- g. Self-contained refrigeration system containing ten pounds (5 kg) or less of refrigerant and actuated by motors of one horsepower (746 W) or less.

5. *Plumbing.*

a. The stopping of leaks in drains, water, soil, waste or vent pipe provided, however, that if any concealed trap, drain pipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code.

b. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

(b) *Any Group "A" occupancies with alcoholic beverages (adopted in addition to those requirements listed in adopted IBC provisions, § 903.2.1.1 through § 903.2.1.5).* An automatic sprinkler system shall be installed throughout any building with any Group "A" exceeding 1,000 square feet and where there is liquor, wine, or beer license issued and/or where the occupants consume alcoholic beverages.

(c) *Criteria (adopted in addition to those requirements listed in adopted IBC provisions, § 1601.1).* The climate and geographical design criteria for building construction in La Vista Nebraska shall be:

1. Ground/snow load 30 lbs psf;
2. Wind speed 115 mph for a three-second gust with exposure "C";
3. Seismic design category "B";
4. Weathering probability for concrete "B";
5. Frost line depth 42 inches;
6. Termites, moderate to heavy;
7. Decay, slight to moderate;
8. Winter design temperature, minus five degrees.

(d) *Collapsible soils (adopted in addition to those requirements listed in adopted IBC provisions, § 1804.1 through § 1804.4).* Portions of the Omaha Metro area are underlain by low unit weight soils that can collapse when saturated. Additional studies shall be made to evaluate the presence and extent of the collapsible soils and to assess the effects of any collapsible soils identified at the site on the performance of the structure.

(e) *Markings (adopted in addition to those requirements listed in adopted IBC provisions, § 2303.4.1).* Each truss shall be legibly branded, marked, or otherwise have permanently affixed thereto the following information located within two feet of the center of the span on the face of the bottom chord:

1. Identify the company manufacturing the truss;
2. The design load;
3. The spacing of the truss.

(f) *Vertical support requirements for decks and porches.* Vertical supports for decks and porches shall be wood posts of not less than six inches by six inches in dimension. Underlying footings shall meet the foundation specifications of adopted IBC provisions.

(g) *Rain water (adopted in addition to those requirements listed in adopted IBC provisions § 1503.5).*

1. When roofs are sloped to drain over the edge, scuppers or gutters and down spouts, adequately sized, pitched and supported shall be installed to conduct rain water to ground level. Rain water shall be discharged at least three feet away from the building foundation in a direction parallel to the adjoining property line when the discharge point is within 20 feet of the adjoining property line.

2. *Exception.* Structures with no sub-grade spaces.

(h) Permanent Wood Foundation Systems, IBC §1807.1.4, shall be deleted in its entirety.

(i) Timber Footings, IBC §1809.12, shall be deleted in its entirety.

(C) (1) *International Residential Code provisions adopted by reference.* Two copies of certain documents in book form, being marked and designated as the International Residential Code, 2018 Edition, ("IRC") are on file in the Office of the City Clerk of the City of La Vista. With the exception of portions of § R105.2 preceding § R105.2.1, and §§ R305.1, R311.7.2, R311.7.8.2, R313.1, R313.1.1, R313.2, R313.2.1, R317.1, R502.6.2, R903.4, R908.1, and R1102.1.2, the following portions of said IRC are hereby adopted: Chapters 1 through 42, inclusive, Chapter 44, and Appendices "F", Radon Control Methods, "H", Patio Covers, "J", Existing Buildings and Structures, and "K", Sound Transmission, ("adopted IRC provisions"); and each and all of the regulations, provisions, conditions and terms of such adopted IRC provisions, and all amendments, revisions or editions thereto on file or hereafter placed on file in the Office of the City Clerk of the City of La Vista, are hereby referred to, adopted and made a part hereof as if fully set out herein.

(2) *Additional requirements, rules and regulations adopted.*

(a) *Work exempt from a permit (adopted in lieu of portions of IRC § R105.2 preceding § R105.2.1).* Permits shall not be required for the following. Exemption from the permit requirements of the adopted IRC provisions shall not be deemed to grant authorization for any work to be done in any manner in violation of the adopted IRC provisions or any other laws or ordinances of this jurisdiction.

1. *Building.*

a. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 79 square feet.

b. Retaining walls that are not over four feet (1,219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge.

c. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons (18,927 L) and the ratio of height to diameter or width does not exceed 2 to 1.

d. Painting, papering, tiling, carpeting, cabinets, countertops and similar finish work.

e. Prefabricated swimming pools that are less than 24 inches (610 mm) deep.

f. Swings and other playground equipment accessory to a one- or two-family dwelling.

g. Window awnings supported by an exterior wall which do not project more than 54 inches (1,372 mm) from the exterior wall and do not require additional support.

2. *Electrical. Repairs and maintenance.* A permit shall not be required for minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.

3. *Gas.*

a. Portable heating, cooking or clothes drying appliances.

b. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

c. Portable fuel cell appliances that are not connected to a fixed

piping system and are not interconnected to a power grid.

4. *Mechanical.*

- a. Portable heating appliances.
- b. Portable ventilation appliances.
- c. Portable cooling units.
- d. Steam, hot or chilled water piping within any heating or cooling equipment regulated by the adopted IRC provisions.
- e. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.
- f. Portable evaporative coolers.
- g. Self-contained refrigeration systems containing ten pounds (4.54 kg) or less of refrigerant or that are actuated by motors of one horsepower (746 W) or less.
- h. Portable fuel cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.

5. *Plumbing.*

a. The stopping of leaks in drains, water, soil, waste or vent pipe; provided, however, that if any concealed trap, drainpipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in the adopted IRC provisions.

b. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

(b) *Headroom (adopted in lieu of IRC § R311.7.2).* The minimum headroom in all parts of the stairway shall not be less than six feet eight inches (2,036 mm) measured vertically from the sloped plane adjoining the tread nosing or from the floor surface of the landing or platform. The Building Official shall have the authority to waive the requirements of this section where pre-existing conditions will not allow the requirement to be met.

(c) *Continuity (adopted in lieu of IRC § R311.7.8.4).*

1. Handrails for stairways shall be continuous for the full length of the flight, from a point directly above the top riser of the flight to a point directly above the lowest riser of the flight. Handrail ends shall be returned or shall terminate in newel posts or safety terminals. Handrails adjacent to a wall shall have a space of not less than one and one-half inch (38 mm) between the wall and the handrail.

2. *Exceptions.*

a. Handrails shall be permitted to be interrupted by a newel post at the turn.

b. The use of a volute, turnout, starting easing or starting newel shall be allowed over the lowest tread.

c. Handrails for stairways shall be permitted to have no more than a four-inch (102 mm) break due to wall offsets and other ornamental features.

(d) *Townhouse automatic fire sprinkler systems (adopted in lieu of IRC § R313.1).* An automatic residential fire sprinkler system is not required to be installed in townhouses.

(e) *Design and installation (adopted in lieu of IRC § R313.1.1).* When a non-required automatic residential fire sprinkler is intended to be installed within a townhouse, the system shall be designed and installed in accordance with NFPA 13, NFPA 13D, or NFPA 13R.

(f) *One and two family dwellings automatic fire systems (adopted in lieu of IRC § R313.2).* An automatic residential fire sprinkler system is not required to be installed in one and two family dwellings.

(g) *Design and installation (adopted in lieu of IRC § R313.2.1).* When an automatic residential fire sprinkler system is intended to be installed, it shall be designed and installed in accordance with NFPA 13, NFPA 13D, or NFPA13R.

(h) *Location required (adopted in lieu of IRC § R317.1).* Protection from decay shall be provided in the following locations by the use of naturally durable wood or wood that is preservative treated in accordance with AWPA U1 for the species, product, preservative and end use. Preservatives shall be listed in Section 4 of the AWPA U1.

1. Wood joists or the bottom of a wood structural floor when closer than 18 inches (456 mm) or wood girders when closer than 12 inches (305 mm) to the exposed ground in crawl spaces or unexcavated area located within the periphery of the building foundation.

2. All wood framing members, sills, or plates that rest on concrete or masonry exterior walls.

3. Sills and sleepers on a concrete or masonry slab that is in direct contact with the ground unless separated from such slab by an impervious moisture barrier.

4. The ends of wood girders entering exterior masonry or concrete walls having clearances of less than 0.5 inch (12.7 mm) on tops, sides and ends.

5. Wood siding, sheathing and wall framing on the exterior of a building having a clearance of less than six inches (152 mm) from the ground.

6. Wood structural members supporting moisture-permeable floors or roofs that are exposed to the weather, such as concrete or masonry slabs, unless separated from such floors or roofs by an impervious moisture barrier.

7. Wood furring strips or other wood framing members attached directly to the interior of exterior masonry walls or concrete walls below grade except where an approved vapor retarder is applied between the wall and the furring strips or framing members.

(i) *Roof drainage (adopted in lieu of IRC § R903.4).*

1. When roof sloped to drain over the edge, scuppers or gutters and down spouts adequately sized, pitched and supported, shall be installed to conduct rainwater to ground level. Rainwater shall be discharged at least three feet away from the building foundation in a direction parallel to adjoining property line.

2. *Exception.* Structures with no sub-grade spaces.

(j) *Re-covering versus replacement (adopted in lieu of IRC § R908.1).* New roof coverings shall not be installed without first removing existing roof coverings where any of the following conditions occur:

1. Where the existing roof or roof covering is water-soaked or has deteriorated to the point that the existing roof or roof covering is not adequate as a base for additional roofing.

2. Where the existing roof covering is wood shake, wood shingles, slate, clay, cement or asbestos-cement tile.

3. Where the existing roof has two or more applications of any type of roof covering.

4. For asphalt shingles, when the building is located in an area subject to moderate or severe hail exposure according to § R905.1.

5. *Exceptions.*

a. Complete and separate roofing systems, such as standing-seam metal roof systems, that are designed to transmit the roof loads directly to the building's structural system and that do not rely on existing roofs and roof coverings for support, shall not require the removal of existing roof coverings.

b. Installation of metal panel, metal shingle, and concrete and clay tile roof coverings over existing wood shake roofs shall be permitted when the application is in accordance with § R908.4.

c. The application of new protective coating over existing spray polyurethane foam roofing systems shall be permitted without tear-off of existing roof coverings.

(k) *U-factor alternative (adopted in lieu of IRC § N1102.1.2).*

1. An assembly with a U-factor equal to or less than that specified in Table N1102.1.4 shall be permitted as an alternative to the R-value in Table N1102.1.2

2. *Exception.* For mass walls not meeting the criterion for insulation location in § N1102.2.5, the U-factor shall be permitted to be:

- a. U-factor of 0.17 in Climate Zone 1.
- b. U-factor of 0.14 in Climate Zone 2.
- c. U-factor of 0.12 in Climate Zone 3.
- d. U-factor of 0.10 in Climate Zone 4 except Marine.
- e. U-factor of 0.082 in Climate Zone 5 and Marine 4.

f. Single-family dwellings, two-family dwellings and townhomes with a window to wall ratio greater than 15% must conform to the State of Nebraska Energy Code.

(D) *International Existing Building Code adopted by reference.* Certain documents in book form, two copies of which are on file in the Office of the City Clerk of the City of La Vista and being marked and designated as the International Existing Building Code, 2018 Edition, are hereby adopted; and each and all of the regulations, provisions, conditions and terms of such International Existing Building Code, and all amendments, revisions or editions thereto on file or hereafter placed on file in the Office of the City Clerk of the City of La Vista, are hereby referred to, adopted and made a part hereof as if fully set out herein.

(E) *International Swimming Pool And Spa Code adopted by reference.* Certain documents in book form, two copies of which are on file in the office of the City Clerk of the City of La Vista and being marked and designated as the *International Swimming Pool And Spa Code*, 2018 Edition, are hereby adopted; and each and all of the regulations, provisions, conditions and terms of such *International Swimming Pool And Spa Code*, and all amendments, revisions or editions thereto on file or hereafter placed on file in the Office of the City Clerk of the City of La Vista, are hereby referred to, adopted and made a part hereof as if fully set out herein.

(F) *International Energy Conservation Code adopted by reference.* Certain documents in book form, two copies of which are on file in the office of the City Clerk of the City of La Vista and being marked and designated as the *International Energy Conservation Code*, 2018 Edition, are hereby adopted; and each and all of the regulations, provisions, conditions and terms of such *International Energy Conservation Code*, and all amendments, revisions or editions thereto on file or hereafter placed on file in the office of the City Clerk of the City of La Vista, are hereby referred to, adopted and made a part hereof as if fully set out herein.

(G) *Life Safety Code adopted by reference. NFPA 101 Life Safety Code 2012 Edition*

adopted. Certain documents in book or pamphlet form, two copies of which are on file in the office of the City Clerk of the City of La Vista and being marked and designated as the *NFPA 101 Life Safety Code, 2012 Edition* ("LSC"), modified as described below, are hereby incorporated herein and adopted, and each and all of the regulations, provisions, conditions and terms of such LSC, and all amendments, revisions or editions thereto on file in the office of the City Clerk of the City of La Vista, are hereby referred to, incorporated, adopted and made a part hereof as if fully set out herein. The LSC is hereby adopted as amended, altered, modified and changed in the following respects: all provisions set forth within the *Nebraska Administrative Code Title 153 - State Fire Marshal* shall control except for those provisions set forth in Title 153, Chapter 20: "Fees for Inspection for Fire Safety," which fees instead shall be as determined and set forth from time to time by the Mayor and City Council in the La Vista Master Fee Ordinance.

(H) *International Fire Code adopted by reference. International Fire Code 2018 Edition adopted.* Certain documents in book or pamphlet form, two copies of which are on file in the office of the City Clerk of the City of La Vista and being marked and designated as the *International Fire Code, 2018 Edition* ("IFC"), modified as described below, are hereby incorporated herein and adopted, and each and all of the regulations, provisions, conditions and terms of such IFC, and all amendments, revisions or editions thereto on file in the office of the City Clerk of the City of La Vista, are hereby referred to, incorporated, adopted and made a part hereof as if fully set out herein. The IFC is hereby adopted as amended, altered, modified and changed in the following respects:

(1) Specifically adopted are:

- (a) The IFC, Chapters 1 through 67, inclusive, and Chapter 80.
- (b) The IFC, Appendices B, E, F, G, H, and I.

(2) Specifically not adopted are the IFC, Appendices A, C, D, J, K, L, M, and N.

(3) The IFC shall apply to the construction, alteration, enlargement, replacement or repair of all buildings and structures, and any new construction required as a result of moving any building.

(4) *Amendments.*

(a) **101.1 Title.** These provisions shall be known as the *International Fire Code* of the City of La Vista, Sarpy County, Nebraska, shall be cited as such and will be referred to herein as "this code."

(b) **Section 307 Open Burning, Recreational Fires and Portable Outdoor Fireplaces.**

(Page 46-47) Sections 307.1 through 307.5 of the IFC are hereby deleted in their entirety. Sections 307.6 through 307.7 are hereby added as set forth below:

(1) **307.6 Definitions.**

(A) For the purposes of this section, the following terms shall have the meanings indicated:

OPEN BURNING

Using fire to burn material which is not contained within a fully enclosed firebox or structure and from which the products of combustion are permitted directly to the open atmosphere without passing through a stack, duct or chimney or burning that is conducted in a noncombustible container sufficiently vented to induce adequate primary combustion air with enclosed sides, a bottom, and a mesh covering with openings not larger than $\frac{1}{4}$ inch square. Charcoal fires, or fire of other commonly accepted cooking fuels, which are contained within a manufactured hibachi, grill, smoker or gas grill, do not constitute open burning.

(2) **307.7 General.** Except as otherwise provided herein or elsewhere in the municipal code, no person, firm or corporation shall burn or cause to be burned any material, item or thing within the city limits or within its two mile extraterritorial jurisdiction in any residential or

commercially developed areas.

Exceptions.

1. This section shall not apply to and no permit shall be required for any burning which is necessary for the usual and customary preparation and/or cooking of food, including the use of normal barbecuing devices.
2. The Fire Chief or designee may waive the open burning ban under this section for an area under his or her jurisdiction by issuing an open burning permit to a person requesting permission to conduct open burning. The permit issued by the Fire Chief or designee to a person desiring to conduct open burning shall be in writing, signed by the Fire Chief or designee and on a form approved by the State Fire Marshal.
3. The Fire Chief or designee may waive the open burning ban in his or her jurisdiction when conditions are acceptable to the Fire Chief or designee.
4. The burning of dry wood in a small container manufactured for the purpose of containing small recreational fires may be allowed on the property of one- or two-family residential dwellings, in accordance with the following standards:
 - 4.1 Such fires shall be under constant supervision while burning.
 - 4.2 The fire and/or burning must be of such limited size as to allow the person in charge to have complete control over it.
 - 4.3 The fire and/or burning must not create a nuisance or a hazard to the health or the safety of persons or property in the area. Fires producing smoke that is a nuisance shall be extinguished. The Fire Chief or designee is authorized to order the extinguishment by the attendant in charge or by the Fire Department of open burning that creates or adds to a hazardous or objectionable situation.
 - 4.4 The burning of garbage, trash, leaves or other refuse shall not be permitted.
 - 4.5 The burning or igniting of highly flammable, toxic or explosive materials shall not be permitted.

(c) **503.2.1 Dimensions.** Fire apparatus access roads shall have an unobstructed width of not less than 24 feet, exclusive of shoulders, except for approved security gates in accordance with § 503.6, and an unobstructed vertical clearance of not less than 13 feet six inches.

(d) **503.2.7 Grade.** The grade of the fire apparatus access road shall be a maximum of 10% or within the limits established by the Fire Code Official based on the Fire Department's apparatus.

(e) **510.1 Emergency responder radio coverage in new buildings.** New buildings shall have approved radio coverage for emergency responders within the building based on the existing coverage levels of the public safety communication system utilized by the jurisdiction, measured at the exterior of the building. This section shall not require improvement of the existing public safety systems.

Exceptions.

1. Where approved by the building official and the fire code official a wired communication system in accordance with § 907.2.12.2 shall be permitted to be installed or maintained instead of an

approved of an approved radio system.

2. Where it is determined by the Fire Code Official that the radio coverage is not needed.
3. In facilities where emergency responder radio coverage is required and such systems, components or equipment could have a negative impact on the normal operations of that facility, the Fire Code Official shall have the authority to accept an automatically activated emergency responder radio coverage system.
4. Any new buildings under 35,000 square feet.

(f) 903.2.8 Group R.

Exceptions. A sprinkler system is not required when all of the following conditions exist:

1. The building is R-2 occupancy and contains eight or fewer apartment units.
2. Separation is maintained between living units by means of one-hour fire partitions creating a complete vertical separation from foundation to roof.
3. Each living unit has its own separate exit access independent of other living units.

(g) 1103.2 Emergency responder radio coverage in existing buildings.

Existing buildings other than Group R-3, that do not have approved radio coverage for emergency responders in the building based on existing coverage for levels of the public safety communication systems, shall be equipped with such coverage according to one of the following:

1. Where an existing wired communication system cannot be repaired or is being replaced, or where not approved in accordance with § 510.1, Exception 1.
2. Within a time frame established by the adopting authority.

Exceptions.

1. Where it is deemed by the Fire Code Official that the radio coverage system is not needed.
2. If the building or structure is under 35,000 square feet.

(h) CHAPTER 56 Explosives and fireworks. Sections 5601.1 through 5609.1 of the *International Fire Code* are hereby deleted in their entirety. Section 5610.1 is hereby added as set forth below:

5610.1 General. The possession, storage, sale, handling, and use of 'consumer fireworks,' shall meet the requirements defined by Neb. RS 28-1241 as amended, and applicable provisions of the La Vista Municipal Code.

(I) Uniform Code for the Abatement of Dangerous Buildings adopted by reference. Certain documents in book form, two copies of which are on file in the office of the City Clerk of the City of La Vista and being marked and designated as the *Uniform Code for the Abatement of Dangerous Buildings*, 1985 Edition, are hereby adopted; and each and all of the regulations, provisions, conditions and terms of such *Uniform Code for the Abatement of Dangerous Buildings*, and all amendments, revisions or editions thereto on file or hereafter placed on file in the office of the City Clerk of the City of La Vista, are hereby referred to, adopted and made a part hereof as if fully set out herein.

(J) Unsafe buildings. In addition to any applicable provisions of the Building Code, the Municipal Code or other laws, regulations or rules, all buildings and structures existing

in violation of any provisions of the *International Building Code*, *International Fire Code* or *NFPA Life Safety Code 101*, as adopted in this § 150.01, upon determination by an applicable enforcement official that the violation represents a significant risk of damage or loss to persons or property, shall constitute an unsafe building or structure.

(‘79 Code, § 9-301) (Am. Ord. 517, passed 1-15-91; Am. Ord. 723, passed 4-7-98; Am. Ord. 966, passed 1-3-06; Am. Ord. 1061, passed 6-17-08; Am. Ord. 1089, passed 4-7-09; Am. Ord. 1128, passed 8-17-10; Am. Ord. 1270, passed 3-15-16; Am. Ord. 1439, passed 2-1-22)“

Repeal of Conflicting Provisions. Section 150.01 and all ordinances and any parts of ordinances as previously enacted that are in conflict with this ordinance or any part hereof are hereby repealed.

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 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.

Publication and Effective Date. This ordinance shall be in full force and effect from and after passage, approval and publication in book, pamphlet or electronic form in accordance with applicable law.

PASSED AND APPROVED THIS 18TH DAY OF FEBRUARY 2025.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Rachel D. Carl, CMC
City Clerk

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTION 150.55 OF THE LA VISTA MUNICIPAL CODE, REGARDING CLOSING OF PRIVATE SWIMMING POOLS; AND TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES PREVIOUSLY ENACTED, SEVERABILITY, PUBLICATION AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AS FOLLOWS:

Amendment of Section 150.55. Section 150.55 of the La Vista Municipal Code is hereby amended to read as follows:

“§ 150.55 CLOSING OF PRIVATE SWIMMING POOLS.

The City Building Inspector is authorized to close any private swimming pool which in his or her opinion is in violation of the provisions of this subchapter. No person shall use a pool during the time it is closed. (“79 Code, § 9-811) Penalty, see § 150.99”

Repeal of Conflicting Provisions. Section 150.55 and all other ordinances and any parts of ordinances as previously enacted that are in conflict with this ordinance or any part hereof are hereby repealed.

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 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.

Publication and Effective Date. This ordinance shall be in full force and effect from and after passage, approval and publication in book, pamphlet or electronic form in accordance with applicable law.

PASSED AND APPROVED THIS 18TH DAY OF FEBRUARY 2025.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Rachel D. Carl, CMC
City Clerk

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND RECODIFY SECTION 150.73 OF THE LA VISTA MUNICIPAL CODE AS SECTION 155 REGARDING APPEALS; AND TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES PREVIOUSLY ENACTED, SEVERABILITY, PUBLICATION AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AS FOLLOWS:

Amendment and Recodification of Section 150.73 as Section 155. Section 150.73 of the La Vista Municipal Code is hereby amended and recodified as Section 155 to read as follows:

“§ 155 APPEALS.

Except as expressly provided in Title XV to the contrary, any order or decision of the Building Inspector or other City official under Title XV with respect to any real property or real property improvements may be appealed by the owner of such real property or improvements or his or her agent or occupant by filing a notice of appeal pursuant to subsection 32.03. The Board of Adjustment shall hear all appeals specified for the Board of Adjustment in subsection 32.03. The Board of Appeals appointed pursuant to 32.03 shall hear appeals from orders or decisions of the Building Inspector under standard codes adopted, or modified and adopted, pursuant to subsections 150.01 through 150.05 above and Neb. Rev. Stat. subsections 19-902(4), 18-132(c), and 71-6406(2) and (7). Appeals shall be filed and proceed in the manner specified in subsection 32.03.”

Repeal of Conflicting Provisions. Section 150.73 and all ordinances and any parts of ordinances as previously enacted that are in conflict with this ordinance or any part hereof are hereby repealed.

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 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.

Publication and Effective Date. This ordinance shall be in full force and effect from and after passage, approval and publication in book, pamphlet or electronic form in accordance with applicable law.

PASSED AND APPROVED THIS 18TH DAY OF FEBRUARY 2025.

CITY OF LA VISTA

Douglas Kindig, Mayor

Ordinance No.

ATTEST:

Rachel D. Carl, CMC
City Clerk

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTION 150.65 OF THE LA VISTA MUNICIPAL CODE REGARDING RENTAL LICENSE APPLICATION REQUIREMENTS; AND TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES PREVIOUSLY ENACTED, SEVERABILITY, PUBLICATION AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AS FOLLOWS:

Amendment of Section 150.65. Section 150.65 of the La Vista Municipal Code is hereby amended to read as follows:

“§ 150.65 RENTAL LICENSE APPLICATION REQUIREMENTS.

(A) *General rule.* Application for a rental license satisfying the requirements of this subchapter shall be filed with the city and be accompanied by all applicable licensing and inspection fees as described herein and/or established by the master fee ordinance from time to time.

(B) License application deadline.

(1) *General rule.* Except as provided in division (B)(2) immediately following, an application for a rental license and applicable fees shall be filed and paid by the first day of March, annually.

(2) *Special rule.* Application for a rental license for a rental dwelling completed or converted to a rental dwelling after the effective date of subchapter, as defined in § 150.63, shall be filed and the applicable fees paid within 30 days after the completion of or conversion to a rental dwelling and prior to occupancy. Subsequent applications and fees shall be filed and paid within the time specified in division (B)(1) immediately above.

(C) *Required license application information.* Application for a rental license shall be made in such manner as determined from time to time by the Building Official and include the following information:

(1) Name, street address, telephone number, and e-mail address (if applicable) of the property owner of the rental dwelling (and rental property, if different);

(2) If different than division (C)(1) above, name, street address and telephone number of the property manager of the rental dwelling (or rental property, if different), as defined in § 150.63.

(3) Name, street address, telephone number, and e-mail address (if applicable) of the property owner's agent, if applicable. Unless otherwise specified by the property owner in writing, the property manager shall be deemed to be the property owner's agent for purposes of this subchapter.

- (4) Legal address of the premises;
- (5) Number of rental dwellings in each building within the rental property;
- (6) The name and address of the registered agent, if the property owner is not an individual and is required by applicable law to have a registered agent;
- (7) Proof of pest extermination, pursuant to Section 308.2 of the IPMC; and
- (8) Such other information as the Building Official from time to time determines necessary in accordance with the purpose and intent of this subchapter.

(D) License fees. Rental license fees shall be in such amounts as provided in the master fee ordinance from time to time. If a rental license is required for a rental dwelling under this subchapter and the city does not receive a properly completed application for the license within 30 days after the required filing date for said application as provided in this section, an additional administrative processing fee as set forth in the master fee ordinance shall apply. This additional fee shall be in addition to the regular license fee. (Ord. 1095, passed 10-20-09)"

Repeal of Conflicting Provisions. Section 150.65 and all ordinances and any parts of ordinances as previously enacted that are in conflict with this ordinance or any part hereof are hereby repealed.

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 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.

Publication and Effective Date. This ordinance shall be in full force and effect from and after passage, approval and publication in book, pamphlet or electronic form in accordance with applicable law.

PASSED AND APPROVED THIS 18TH DAY OF FEBRUARY 2025.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Rachel D. Carl, CMC
City Clerk

NOTE: Redlines/bluelines below show parts of Municipal Code provisions containing changes. Remaining provisions of lengthy sections are omitted if unchanged.

§ 32.03 BOARD OF ADJUSTMENT AND BOARD OF APPEALS.

(A) The Mayor shall appoint, with the consent of the City Council, a Board of Adjustment which shall consist of five regular members plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason. Each member of the Board shall serve a term of three years, unless reappointed, and shall be removable only for cause by the Mayor, with the consent of the City Council, upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Adjustment shall be appointed from the membership of the Planning Commission, and the loss of membership on the Planning Commission by such member shall also result in his or her immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commissioner to the Board of Adjustment. After the effective date of this section, the first vacancy occurring on the Board of Adjustment shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the city at such time as more than 200 persons reside within such area. Thereafter, at all times, at least one member of the Board of Adjustment shall reside outside the corporate boundaries of the city but within its extraterritorial zoning jurisdiction.

(Neb. RS 19-908)

(B) The members of the Board shall serve without compensation and may be required, in the discretion of the Mayor and City Council, to give a bond in a sum set by resolution of the Mayor and City Council and conditioned upon the faithful performance of their duties. The Board shall conduct an organizational meeting in January of each year and elect from its membership a Chairperson and a Secretary. It shall be the duty of the Secretary to keep complete and accurate minutes of all Board membersmeetings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the City Clerk and shall be public record. All meetings of the Board shall be open to the public and shall be held at such times as the Chairperson may, in his or her discretion, call a meeting, and at such other times as the Board may determine. Special meetings may also be held upon the call of any three members of the Board. At least four members majority of the Board shall constitute a quorum for the purpose of doing business. The Board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to Neb. RS 19-901 to 19-914.

(C) It shall be the duty of the Board

(1) To hear and decide appeals pursuant to Neb. Rev. Stat. Section 19-910 where it is alleged there is error in any order, requirement, decision or determination made by a city official based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures; provided, however, any order or decision of the Building Inspector under any standard code adopted, or modified and adopted, in Title XV (“Standard Codes”), shall be appealed to the Board of Appeals as provided in subsection (F) below.

(2) To hear and decide, in accordance with the provisions of the zoning regulations, requests for interpretation of any map; and

(3) Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or

hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolutionzoning regulation.

(4) No such variance shall be authorized by the Board unless it finds that:

(a) The strict application of the zoning regulation would produce undue hardship;

(b) Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;

(c) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and

(d) The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.

No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

(D) In exercising the above-mentioned powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all powers of the officer from whom the appeal is taken. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such city official or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variance in such regulation. (Neb. RS 19-910)

(E) The Board shall be responsible for making such reports and performing such other duties as the Mayor and City Council may designate. Neither the Mayor nor any member of the City Council shall serve as a member of the Board of Adjustment. No member of the Board of Adjustment shall serve in the capacity of both Chairperson and Secretary of the Board.

(F) The Board shall also act as the Board of Appeals for purposes of building regulations contained in Chapter 150 of this Code in order to hear and decide appeals of orders, decisions, or determinations made by the Building Official relative to the application and interpretation of said building regulations. If at any time there is any conflict, inconsistency or ambiguity between or among the provisions of divisions (A) and (B) above and Chapter 150, or any code thereunder, as adopted or amended from time to time, the provisions of divisions (A) and (B) above shall govern. ('79 Code, § 2-203) (Ord. 201, passed ____; Am. Ord. 308, passed 6-15-82; Am. Ord. 673, passed 6-17-97; Am. Ord. 1088, passed 4-7-09) Statutory reference: Powers and duties, see Neb. RS 16-907 through 16-91. Board of Appeals. Notwithstanding any provisions of Chapter 150 or any standard codes, as modified or referenced therein, (together "Chapter 150 and Standard Codes") to the contrary that are applicable to a particular appealMembers of the Board of Adjustment also shall constitute and serve as the members of the Board of Appeals for purposes of appeal of any decisions of the Building Inspector under Standard Codes; specifically:

(F)(1) The Board of Appeals shall have the same number of members and alternate members, qualification requirements for membership, and term of office as provided in subsection (A) above. Each appointment to the Board of Adjustment pursuant to subsection (A) also shall constitute appointment of such person to the Board of Appeals for purposes of hearing and deciding appeals of orders or decision by the Building Official pursuant to Chapter 150 and Standard Codes, and

- (G)(2) Resignation, removal or other termination of any member from the Board of Adjustment also shall constitute resignation, removal or termination of such member from the Board of Appeals.
- (3) Provided however, members of the Board of Appeals shall serve at the pleasure of the Mayor, and may be removed at any time by the Mayor, with or without cause, subject to approval of the City Council. Any vacancy resulting from removal of a member of the Board of Appeals pursuant to this subsection (3) shall be filled for the remaining term by appointment by the Mayor, subject to approval of the City Council, with a person having such qualifications as the Mayor determines appropriate.
- (4) Unless otherwise specified by the Board of Appeals, the Chairperson and Secretary of the Board of Adjustment from time to time also shall serve as the Chairperson and Secretary of the Board of Appeals. The Secretary shall keep complete and accurate minutes of all Board of Appeals meetings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and further shall keep records of its examinations and other official actions, all of which shall be promptly filed in the office of the City Clerk and shall be public record. All regular and special meetings of the Board of Appeals shall be open to the public and shall be held at such times as the Chairperson, Secretary, Board of Appeals or City Clerk may determine in his, her or its discretion.
- (5) Any The owner of real property or improvements, or his or her agent or occupant may appeal any order or decision of the Building Inspector under the Standard Codes to the Board of Appeals. Appeal to the Board of Appeals shall not stay any order or decision of the Building Inspector, unless otherwise specified by the Board of Appeals.
- (6) Provisions of this subsection (F), 32.03 or this Code that are applicable to the Board of Appeals shall apply notwithstanding any provisions of any standard codes adopted, adopted and modified, or referenced in Chapter 150, (together "Standard Codes") to the contrary. If there is any conflict, inconsistency or ambiguity between or among the provisions of subsection (F), 32.03 or this Code and provisions of any Standard Codes with respect to the Board of Appeals, the provisions of subsection (F), 32.03 or this Code shall govern and control, in that order.

(H)(G) Except as otherwise provided in Neb. Rev. Stat. Sections 19-907 through 19-912 to the contrary in connection in Neb. Rev. Stat. Sections 19-907 through 19-912 with for meetings or hearings of appeals to the Board of Adjustment, the following rules shall apply to appeals of any order or decision of the Building Inspector or any other City official to meetings and hearings of the Board of Adjustment or Board of Appeals.

- (1) All regular and special meetings of the Board shall be open to the public and shall be held at such times as the Chairperson, Secretary, Board or City Clerk may determine in her, his or its discretion. The Secretary or Secretary's designee shall keep complete and accurate minutes of all Board meetings and records of all Board examinations and other official actions in accordance with applicable law, all of which may be filed in the office of the City Clerk and shall be public record.
- (2) The number of Members constituting a quorum for purposes of holding a meeting or hearing shall be equal to at least two-thirds of the number of membership positions of the Board.
- (3) Appeal of any order or decision of a City official shall be perfected within twenty days after the date of such order or decision by filing a written notice of appeal with such City official and the Secretary of the Board specifying the grounds for such appeal. Hearing on such appeal shall be held by the Board within a reasonable time after the appeal is filed, as determined by the Chairperson, Secretary, Board or City Clerk. The City Clerk or City Clerk's designee shall transmit to the Board such papers, documents or other

information constituting the record upon which the City official's order or decision was based.

- (4) The Mayor, City Council, City Administrator or Board shall be authorized to appoint a hearing officer ("Hearing Officer") to assist, advise and take such actions on behalf of the Board in connection with procedural or technical aspects of a hearing on an appeal. Provided, however, the Board at any time may elect to perform any action designated in this Code for the Hearing Officer. In all events the Board will decide an appeal; the Hearing Officer shall not decide any appeal.
- (5) The Hearing Officer will convene the meeting and hearing and act on any initial procedural or administrative matters. The hearing will be conducted by the Hearing Officer in open session, except for any closed session in accordance with the Open Meetings Act. The hearing shall be recorded by a qualified court reporter and by stenographic means. A transcript of the proceeding shall be made available to all parties upon request and upon payment of the fees to transcribe the proceeding. The Hearing Officer or any Board Member or notary public is authorized to administer oaths. The Hearing Officer will rule on any objections, evidentiary or procedural matters. The hearing will follow a format similar to civil trials and shall include:
- a. Each of the following, first by the City official or such official's representative ("Appellee"), followed by the party appealing the official's order or decision, or such party's representative ("Appellant"), unless otherwise indicated:
 - i. Opening statement by each party.
 - ii. Presentation of evidence, including, examination of witnesses and introduction of exhibits by each party.
 - iii. Cross examination, objections by opposing party to any examination, testimony or exhibits, and Hearing Officer rulings on any such objections.
 - b. Appellee's rebuttal of Appellant's evidence.
 - c. Closing argument of Appellee and Appellant, and Appellee rebuttal of Appellant's closing argument.
- (6) Unless otherwise elected by the Board, a hearing will be conducted as an informal hearing. The Board may admit and give probative effect to relevant evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs, and exclude incompetent, irrelevant, immaterial, or unduly repetitious evidence, and shall give effect to the privilege rules of evidence in Neb. Rev. Stat. sections 27-501 through 27-513 but shall not otherwise be bound by usual common-law or statutory rules of evidence. Fees and costs of a court reporter shall be paid by the party or parties against whom a final order or decision is rendered. Informality in the proceeding or manner of taking testimony shall not invalidate any decision of the Board.
- (7) Upon the conclusion of all evidence, the Board shall deliberate and decide the appeal based on whether the order or decision of the City official was within the City official's authority and whether there was sufficient relevant evidence presented at the hearing to support the order or decision of the City official. Evidence is sufficient if the City official could reasonably find the facts as the City official did, and the action of the City official was not arbitrary or capricious. An action is "arbitrary and capricious" if it is taken in disregard of the facts or circumstances of the case, without some basis which would lead a reasonable and honest person to the same conclusion. The Board shall have the power and authority to affirm, modify or reverse the City official's order or decision, subject to any conditions the Board determines necessary or appropriate. The affirmative vote of at least four members of the Board shall be required to reverse or modify an order

or decision of the City official. Notwithstanding anything in this paragraph to the contrary, the Hearing Officer may provide the Board a proposed decision that the Board in its sole discretion may elect to accept, modify and accept as modified, or reject. Any order or decision of the Board shall be final. A copy of any order or decision of the Board reduced to writing shall be available for inspection in the office of the City Clerk

- (8) The Board shall be authorized to adopt any additional rules as the Board determines necessary or appropriate.]

§ 150.01 BUILDING CODE.

(A) Portions of standard codes and additional requirements, rules and regulations specified in subsections 150.01 through 150.05 below, with the modifications specified in such subsections, section 155 or other provisions of this Code or City Ordinances, are hereby adopted pursuant to Neb. Rev. Stat. subsections 19-902(4), 18-132, and 71-6406(2) and (7) as the Building Code of the City of La Vista for regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings or structures within the jurisdiction of the City of La Vista and providing for the issuance of permits and collection of fees therefor. Provisions of the standard codes and additional requirements, rules and regulations adopted herein, as modified, shall be applied, interpreted and construed together and consistently to the extent possible. Unless otherwise indicated by context or otherwise, references to any table, section or subsection shall mean the corresponding provision of the relevant standard code, with such modifications as adopted by the City. Appeal of any order or decision of the Building Inspector under any standard code shall be to the Board of Appeals as provided in section 155 below and subsection 32.03, notwithstanding provisions of any standard code to the contrary.

(B) (1) *International Building Code provisions adopted by reference.* Two copies of certain documents in book form, being marked and designated as the *International Building Code*, 2012 Edition, and ("IBC") are on file in the Office of the City Clerk of the City of La Vista. With the exception of portions of § 105.2 preceding § 105.2.1, and 3401.3 the following portions of said IBC are hereby adopted: Chapters 1 thru 35 inclusive, and Appendix "E" Supplemental Accessibility Requirements , "I", Patio Covers and "J" Grading ("adopted IBC provisions"); and each and all of the regulations, provisions, conditions and terms as such adopted IBC provisions, and all amendments, revisions or editions thereto on file or hereafter placed on file in the Office of the City Clerk of the City of La Vista, are hereby referred to, adopted and made a part hereof as if fully set out herein.

(2) *Additional requirements, rules and regulations adopted.*

(a) *Work exempt from permit (adopted in lieu of portions of IBC § 105.2 preceding § 105.2.1).* Exemptions from permit requirements of the adopted IBC provisions shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of said adopted IBC provisions or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

1. *Building:*

a. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 79 square feet.

b. Oil derricks.

c. Retaining walls which are not over four feet (1,219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, 11 or 111-A liquids.

d. Water tanks supported directly on grade if the capacity does not

§ 150.55 CLOSING OF PRIVATE SWIMMING POOLS.

The City Building Inspector is authorized to close any private swimming pool which in his or her opinion is in violation of the provisions of this subchapter. No person shall use a pool during the time it is closed. ~~The owner of any private pool which has been closed may appeal to the Board of Adjustment and have the Board determine the legality of such closing.~~

(‘79 Code, § 9-811) Penalty, see § 150.99

§ 150.65 RENTAL LICENSE APPLICATION REQUIREMENTS.

(A) *General rule.* Application for a rental license satisfying the requirements of this subchapter shall be filed with the city and be accompanied by all applicable licensing and inspection fees as described herein and/or established by the master fee ordinance from time to time.

(B) License application deadline.

(1) *General rule.* Except as provided in division (B)(2) immediately following, an application for a rental license and applicable fees shall be filed and paid by the first day of March, annually.

(2) *Special rule.* Application for a rental license for a rental dwelling completed or converted to a rental dwelling after the effective date of subchapter, as defined in § 150.63, shall be filed and the applicable fees paid within 30 days after the completion of or conversion to a rental dwelling and prior to occupancy. Subsequent applications and fees shall be filed and paid within the time specified in division (B)(1) immediately above.

(C) *Required license application information.* Application for a rental license shall be made in such manner as determined from time to time by the Building Official and include the following information:

(1) Name, street address, telephone number, and e-mail address (if applicable) of the property owner of the rental dwelling (and rental property, if different);

(2) If different than division (C)(1) above, name, street address and telephone number of the property manager of the rental dwelling (or rental property, if different), as defined in § 150.63.

(3) Name, street address, telephone number, and e-mail address (if applicable) of the property owner's agent, if applicable. Unless otherwise specified by the property owner in writing, the property manager shall be deemed to be the property owner's agent for purposes of this subchapter.

(4) Legal address of the premises;

(5) Number of rental dwellings in each building within the rental property;

(6) ~~Occupancy as permitted under the Zoning Ordinance, or as specified in the certificate of occupancy;~~

(7) ~~Signed statement of property owner and property manager indicating that the property owner and property manager are aware of the occupancy requirements of the Zoning Ordinance or Building Code and the legal ramifications for knowingly violating said codes;~~

(8)(6) The name and address of the registered agent, if the property owner is not an individual and is required by applicable law to have a registered agent;

(9)(7) Proof of pest extermination, pursuant to Section 308.2 of the IPMC; and

(10)(8) Such other information as the Building Official from time to time determines necessary in accordance with the purpose and intent of this subchapter.

(D) License fees. Rental license fees shall be in such amounts as provided in the master fee ordinance from time to time. If a rental license is required for a rental dwelling under this subchapter and the city does not receive a properly completed application for the license within 30 days after the required filing date for said application as provided in this section, an additional administrative processing fee as set forth in the master fee ordinance shall apply. This additional fee shall be in addition to the regular license fee. (Ord. 1095, passed 10-20-09)

§ 1550.73 APPEALS.

Except as expressly provided in Title XV to the contrary, any order or decision of the Building Inspector or other City official under Title XV with respect to any real property or real property improvements may be appealed by the owner of such real property or improvements or his or her agent or occupant by filing a notice of appeal within twenty days after such order or decision pursuant to subsection 32.03. The Board of Adjustment shall hear all appeals for variances specified for the Board of Adjustment in Neb. Rev. Stat. Section 19-910 and subsection 32.03 of this Code. Variances only shall be granted as permitted under Neb. RS 19-910, and where it is evident that reasonable safety and sanitation is assured. The Board of Appeals appointed pursuant to 32.03 shall hear appeals from orders or decisions of the Building Inspector under standard codes, as adopted, or modified modified and adopted, pursuant to subsections 150.01 through 150.05 above and Neb. Rev. Stat. subsections 19-902(4), 18-132(c), and 71-6406(2) and (7). Appeals shall be filed and proceed in the manner specified in subsection 32.03. Applications for appeal shall be in writing and shall state the reasons why the requested relief should be granted.