

# ORDINANCE RECORD

No. 728-REFFIELD & COMPANY INC., OMAHA

## ORDINANCE NO. 1407

AN ORDINANCE TO REPEAL AND REPLACE MUNICIPAL CODE SECTION 150.80 ENACTED BY ORDINANCE NO. 1317; TO ADOPT AND CODIFY A VACANT PROPERTY REGISTRATION PROGRAM; TO REPEAL ORDINANCE NO. 1317; 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I. Section 150.80 of the La Vista Municipal Code, including all subsections, is hereby repealed and replaced in its entirety by the following.

### SECTION 150.80: VACANT PROPERTY REGISTRATION PROGRAM

Section

- 150.80.1 Establishment of Vacant Property Registration Program.
- 150.80.2 Findings.
- 150.80.3 Purpose and Intent of the Vacant Property Registration Program.
- 150.80.4 Definitions.
- 150.80.5 Scope.
- 150.80.6 Administration and Enforcement.
- 150.80.7 Registration Database; Registration and Supplemental Registration of Vacant Residential Buildings; Duties of Owners and Subsequent Owners; Information Required; Fees; Civil Actions; Liens; Owner's Agent.
- 150.80.8 Exemptions.
- 150.80.9 Rights to Prior Notice and Appeal.
- 150.80.10 Inspections; Citations; Inspection Warrants.
- 150.80.11 Criminal Violations; Penalties.
- 150.80.12 Supplemental Provisions; Subchapter Not Exclusive.

#### Section 150.80.1 ESTABLISHMENT OF VACANT PROPERTY REGISTRATION PROGRAM.

A Vacant Property 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 sections 19-5401 through 19-5408 (the Vacant Property Registration Act) and 16-246 of the Nebraska Revised Statutes. The Vacant Property Registration Program shall be applicable to vacant residential properties exhibiting evidence of vacancy, generally meaning for purposes of the Program conditions or circumstances that would lead a reasonable person to believe that a residential building is vacant and neglected, as described below in this subchapter.

#### Section 150.80.2 FINDINGS.

The Mayor and Council make the following findings:

(1) In the Vacant Property Registration Act, the Nebraska Legislature has recognized, and the Mayor and Council recognize:

(A) Vacant properties have the potential to create a host of problems for Nebraska communities, including a propensity to foster criminal activity, create public health problems, and otherwise diminish quality of life;

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- (B) Vacant properties have the potential to reduce the value of area properties, increase the risk of property damage through arson and vandalism, and discourage neighborhood stability;
- (C) Vacant properties represent unrealized economic growth in Nebraska communities;
- (D) A vacant property registration ordinance allows a municipality to discourage property vacancy and neglect, maintain unoccupied buildings, provide a data base of vacant properties and their owners, and assess fees for the increased public costs associated with vacant properties;
- (E) Fees imposed under a vacant property registration ordinance have the potential to benefit the owners of vacant properties by helping to finance additional government services to protect the value and security of such properties; and
- (F) Enactment of a vacant property registration ordinance is a proper exercise of governmental authority to protect the public health, safety, and welfare of community residents and a valid regulatory scheme. Such an ordinance will allow the City to identify and register vacant properties, collect fees to compensate for the public costs of vacant properties, plan for the rehabilitation of vacant properties, and encourage the occupancy of vacant properties.

(2) The Mayor and Council further recognize and find:

- (A) A program that establishes and enforces a registration system to monitor vacant residential buildings 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.
- (B) Livable housing and neighborhoods sustain the City's property tax base.

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

## **Section 150.80.3 PURPOSE AND INTENT OF THE VACANT PROPERTY REGISTRATION PROGRAM**

The purpose of this program is to provide for registration and inspection of vacant residential buildings and to promote compliance with the municipal code and other applicable laws. The intent of this 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 City and its residents, including without limitation the persons living near vacant residential properties;
- (3) Promoting the repair and rehabilitation of vacant residential properties;

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- (4) Promoting the occupancy of vacant residential properties;
- (5) Preserving 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 150.80.4 DEFINITIONS.

Except as otherwise indicated, expressly or by the context, the following definitions apply for purposes of this subchapter:

- (1) **Building Official** means the Chief Building Official of the City and, in the event of the absence, disability, or other unavailability of the Chief Building Official, any individual designated by the City Administrator to perform the duties of the Chief Building Official of the City.
- (2) **City** means the City of La Vista, in Sarpy County, Nebraska.
- (3) **City Code** means the Municipal Code of the City.
- (4) **County** means the County of Sarpy in Nebraska, as defined in the Nebraska Revised Statutes.
- (5) **Director** means the Community Development Director of the City.
- (6) **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 and residences, townhomes, duplexes and other multiplexes, apartment buildings, and other similar buildings and structures.
- (7) **Dwelling unit** means a single unit, with one or more rooms, providing independent living facilities for residential purposes of one or more persons.
- (8) **Effective date** of this subchapter means February 1, 2021.
- (9) **Evidence of vacancy** means any condition or circumstance that on its own or in combination with other conditions or circumstances would lead a reasonable person to believe that a residential building is vacant and neglected. Such conditions or circumstances may include, but are not limited to:
  - (A) Overgrown or dead vegetation, including grass, shrubbery, and other plantings;
  - (B) An accumulation of abandoned personal property, trash, or other waste;

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- (C) Visible deterioration or lack of maintenance of any building or structure on the property;
- (D) Graffiti or other defacement of any building or structure on the property;
- (E) Within the preceding six months, due to some condition of or upon the property, the property has been 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;
- (F) The dwelling is unsecured for thirty or more days, meaning that persons, animals or the elements of weather, using little or no effort, may access or enter the dwelling, which is not being actively used as a dwelling, including without limitation, by way of any open, unlocked, damaged, broken, weakened, compromised, or missing doors, windows, or other building components;
- (G) The dwelling has sustained significant fire, wind, water, or other damage, is uninhabitable, and diligent, consistent efforts to repair, rehabilitate, renovate, demolish, or remove the building are not evident within 60 days after the occurrence resulting in such damage;
- (H) The dwelling has been declared a nuisance pursuant to applicable Nebraska law or regulation, or ordinances or regulations of the City, including without limitation, Nebraska Revised Statutes section 18-1722 and Chapter 92 of the City Code;
- (I) The dwelling has been boarded up for a period of more than sixty days, meaning that one or more 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 persons, animals, or the elements of weather from entering into the building;
- (J) The dwelling has been declared and placarded by the Building Official as a dangerous building or an unsafe structure pursuant to applicable Nebraska law or regulation or ordinances or regulations of the City, including without limitation section 92.15 or Chapter 150 of the City Code;
- (K) The dwelling has sustained substantial deterioration due to lack of maintenance, replacement, or repair and the owner has failed to comply with a previous notice to correct a violation of applicable Nebraska law or regulation or ordinances or regulations of the City;
- (L) The owner has failed to appear and a warrant or citation has been issued by a court of law for a violation of federal, state or local law or regulation, including without limitation, Chapter 50, 91, 92, 93, 133, or 150 of the City Code, regarding an unoccupied building or structure exhibiting any violation of any such law or regulation;

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- (M) 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; or
- (N) Any other condition or circumstance reasonably indicating that the property is not occupied for residential purposes and is not being maintained or is being allowed to deteriorate, as determined by the Building Official.

(10) **Owner** means any person who, alone or with another or others, holds legal title to a vacant residential building, as shown by the records of the register of deeds of the county, or who holds an equitable interest in such property, or who otherwise has care, custody, or control of the property as guardian, conservator, receiver, trustee, executor, administrator, beneficiary, or in any other representative capacity, to the extent proof of such control to the satisfaction of the Building Official is presented to or obtained by the Building Official. All holders of any legal or equitable title or interest in a vacant residential building shall be jointly and severally liable under this subchapter as owners of such vacant residential building.

(11) **Owner's agent** means a person designated by the owner as an agent to act on behalf of and to bind the owner in matters arising under this subchapter, except to the extent the owner otherwise advises the Building Official in writing.

(12) **Program** means the Vacant Property Registration Program established by this subchapter.

(13) **Property manager** means any person responsible for the management of a property other than the owner. A property manager shall be deemed to be the owner's agent for purposes of this subchapter unless the owner otherwise advises the Building Official in writing.

(14) **Residential building** means a house, a condominium, a townhouse, an apartment unit or building, a trailer house, and any other dwelling.

(15) **Residential purposes** means occupancy, use, or intended use for residential or living quarters, including without limitation shelter, cooking, eating, sanitation, or sleeping by one or more persons.

(16) **Subchapter** means sections 150.80.0 through 150.80.12 of the City Code.

(17) **Vacant** means that a residential building exhibits evidence of vacancy. If a vacant residential building becomes occupied for a period of thirty days or less, and immediately following such period of occupancy the building again becomes unoccupied, the building shall be deemed for purposes of this subchapter to have remained vacant during such period of occupancy.

(18) **Vacant property registration form** means the form described in subsection 150.80.7(1) of this subchapter.

## Section 150.80.5 SCOPE.

(1) This subchapter shall apply to and respecting any residential building located within the corporate limits of the City. If more than one residential

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building is located upon a single lot, piece or parcel of land, such as an apartment complex comprised of more than one residential building, this subchapter shall apply separately to each such building. If a residential building is comprised of more than one dwelling unit and not all of such dwelling units are owned by the same owner, such as a condominium comprised of more than one dwelling unit, this subchapter shall apply separately to each dwelling unit.

- (2) This subchapter shall apply to any residential building that becomes vacant after the effective date of this subchapter.
- (3) This subchapter shall not apply to any property owned by the federal government, the State of Nebraska, or any political subdivision thereof.
- (4) This subchapter shall not apply to any lot, piece or parcel of land that has not been or is not being improved with a residential building, but this subchapter shall apply to any lot, piece or parcel of land on which construction of a residential building commenced, even if such construction is subsequently halted.

## **Section 150.80.6 ADMINISTRATION AND ENFORCEMENT.**

(1) The Building Official shall serve as the administrator of the program, and shall be primarily responsible for administration and enforcement of this subchapter, including without limitation, interpretation of this subchapter. The name and telephone number of the Building Official of the City, and his or her email address (or a hyperlink to his or her email address) shall be displayed on the City's website. The Building Official shall be authorized to designate any other individual to assist in carrying out any task or function pursuant to this subchapter.

(2) The Director, in consultation with the Building Official, is authorized to promulgate policies, procedures and regulations for the administration and enforcement of this subchapter.

(3) If visual observation from the street, a public sidewalk, any other public area, or any other place at which the observer is lawfully present, causes the Building Official reasonably to suspect that a building may be a vacant residential building, or if any employee or official of the City or member of the public makes a verbal, written, or electronic report to the City that causes the Building Official reasonably to suspect that a building may be a vacant residential building, the Building Official may investigate the matter to determine whether the building is a vacant residential building. In conducting such investigation, the Building Official may interview persons having knowledge of the circumstances (such as individuals who reside in the vicinity or neighborhood of the building, law enforcement officers and other public officials), examine public records, and contact and interview other persons including without limitation the owner, property manager, or owner's agent.

- (A) If the Building Official determines that the building is a vacant residential building, but that it has been vacant for less than one hundred eighty days, the Building Official shall provide a copy of the vacant property registration form to the owner, property manager, or owner's agent, and shall notify the owner, property manager, or owner's agent that unless the property is exempt from the registration requirements of this subchapter, the vacant property must be registered when it has been vacant for one hundred eighty days. The notification may be given verbally, in writing, or electronically. Failure of the Building Official to provide a copy of the vacant

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property registration form or to give such notification shall not be jurisdictional and shall not bar enforcement of this subchapter respecting the property.

- (B) If the Building Official determines that a building is a vacant residential building that has been vacant for one hundred eighty days or longer, the Building Official shall provide a copy of the vacant property registration form to the owner, property manager, or owner's agent, and shall notify the owner, property manager, or owner's agent by certified United States mail that the vacant property must be registered as a vacant property within fifteen days after the mailing of the notice, unless within such fifteen days period the owner, property manager, or owner's agent provides to the Building Official information showing to the satisfaction of the Building Official either that the building is not a residential building that has been vacant for one hundred eighty days or longer or that the building is exempt from the registration requirements of this subchapter.
- (C) For purposes of determining the number of days of any vacancy under this subchapter, the period of any vacancy occurring before, on or after the effective date of this subchapter shall be included and counted.

## **Section 150.80.7      REGISTRATION DATABASE; REGISTRATION AND SUPPLEMENTAL REGISTRATION OF VACANT RESIDENTIAL BUILDINGS; DUTIES OF OWNERS AND SUBSEQUENT OWNERS; INFORMATION REQUIRED; FEES; CIVIL ACTIONS; LIENS; OWNER'S AGENT.**

(1) The Building Official shall maintain or cause to be maintained a City-wide vacant property registration database. The Building Official shall also develop or cause to be developed a vacant property registration form, in paper format (or electronic format). The registration form and registration process shall require such information as the Building Official may specify, which at a minimum shall include:

- (A) The name, street address, mailing address, telephone number, and, if applicable, the facsimile number and email address, of the property owner and, if applicable, of the property manager and owner's agent;
- (B) The parcel identification number of the vacant property as shown in the records of the county assessor, and the street address of the vacant property;
- (C) The transfer date of the instrument conveying the property to the owner;
- (D) The date on which the property became vacant; and
- (E) The plan of the owner to eliminate evidence of vacancy and bring about the occupancy of the property.

(2) An owner of a property on which there is a vacant residential building shall register the property with the Building Official as a vacant residential property, or cause the property to be so registered, if the building has been vacant for one hundred eighty days or longer. If the property owner fails to register the property, the Building Official may register it, which shall have the same effect as registration by the property owner. One hundred eighty days after the initial registration of the vacant residential building pursuant to this subsection, or three hundred sixty days after the building became vacant, whichever is earlier, the owner shall pay an initial registration fee of two hundred fifty dollars. Every

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six months thereafter, for as long as the property remains on the City's vacant property registration data base, the owner shall pay a supplemental registration fee. Each supplemental registration fee shall be double the dollar amount of the immediately preceding registration fee or supplemental registration fee, as the case may be, *provided*, that no single supplemental registration fee shall exceed two thousand five hundred dollars. If any fees are not paid when due, interest shall accrue and be payable on such unpaid amounts at the rate specified in Neb. Rev. Stat. section 45-104.02, as adjusted from time to time.

(3) For purposes of calculating the registration fees and supplemental registration fees imposed under the preceding subsection, an initial registration fee shall be due from the owner on the three hundred sixtieth day after the residential building became vacant and, for that purpose, the building shall be deemed to have been vacant for three hundred sixty days and listed continuously on the City's vacant property registration database from the one hundred eightieth day of vacancy through the three hundred sixtieth day of vacancy. Every six months after such three hundred sixtieth day, and continuing for as long as the building remains vacant, the building shall be deemed to have been listed continuously on the City's vacant property registration database, and a supplemental registration fee shall become due from the owner. The registration fees and supplemental registration fees shall be imposed upon and be payable by the owner regardless of whether or not the owner formally registers or causes the property to be registered with the Building Official, and regardless whether or not the City elects to register the property, as a vacant residential building. The Building Official is authorized to place on the vacant property registration database any residential building that Building Official deems to be a vacant residential building under the provisions of this subchapter.

(4) The City may collect any vacant property registration fee imposed under this subchapter, or which ought to have been paid under this subchapter or which became due under this subchapter, by civil action in any court of competent jurisdiction.

(5) Any vacant property registration fee imposed under this subchapter, or which ought to have been paid under this subchapter or which became due under this subchapter, and any unpaid fine for any violation of this subchapter, and any interest on any unpaid fees or fines, shall become a lien on the applicable property upon the recording of a notice of such lien by the Building Official in the office of the register of deeds of the county. The lien created under this subchapter shall be subordinate to all liens on the applicable property that were recorded prior to the time the notice of such lien under this subchapter is recorded.

(6) The owner of any vacant residential building shall be available to respond to emergencies twenty-four hours per day, seven days per week. This requirement will be deemed satisfied if:

- (A) the owner or the owner's property manager maintains a residence or operating business office within the county or an adjacent county, at which residence or business office the owner or the property manager is regularly present; or
- (B) the owner appoints an owner's agent who resides within the county or an adjacent county,

any of whom may be contacted twenty-four hours per day, seven days per week.

(7) If a residential building becomes vacant and remains vacant for sixty days, the owner shall provide the Building Official written or electronic notice of the name,

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address, and telephone number of the owner, the address of the vacant residential building, the date on which the building became vacant and, if and to the extent applicable, the name, address, and telephone number of the owner's property manager and the owner's agent. A post office box, mailing address, or toll-free number shall not satisfy this subsection. Upon receipt of such a notice, the Building Official will provide the owner the information specified in subsection 150.80.6(3)(A) or (B), whichever applies.

(8) The owner's designation of a property manager or owner's agent shall not relieve the owner of the obligation to comply with this subchapter, or with any other provision of federal, state, or local law or regulation.

(9) A subsequent owner or owners of property subject to this subchapter assumes the obligations of the previous owner or owners.

(10) If a property is listed on the City's vacant property registration database, an owner of the property, or the property manager or the owner's agent, shall notify the Building Official when the property is no longer vacant. The Building Official shall thereupon conduct an inspection and, if the Building Official determines that the building no longer exhibits evidence of vacancy and that all registration, supplemental registration and inspection fees and all fines and interest imposed under or pursuant to this subchapter have been paid, the Building Official shall remove the property from the vacant property registration database.

## Section 150.80.8 EXEMPTIONS.

(1) A property on which there is a vacant residential building shall be exempt from both registration and payment of registration fees under this subchapter if the property is advertised in good faith for sale or lease. The burden of establishing that a property is advertised in good faith for sale or lease shall be upon the property owner. For purposes of this exemption:

(A) A property on which a vacant residential building is located will be presumed to be advertised in good faith for sale or lease if, for at least the ninety consecutive days immediately preceding the date upon which the relevant registration fee or supplemental registration fee would otherwise have been required respecting the vacant property:

(1) (a) the property has been continuously listed for sale in an active listing with a licensed real estate broker engaged in the real estate business in Sarpy or Douglas County, Nebraska, for a listed sale price of not more than one hundred twenty percent (120%) of the property's assessed value as shown by the records of the county assessor, and (b) a bona fide offer at or above such sale price has not been received by owner; or

(2) (a) the property has been continuously listed for lease in an active listing with a licensed real estate broker engaged in the real estate business in Sarpy or Douglas County, Nebraska, for a listed monthly rental of not more than one percent (1.0%) of one hundred twenty percent (120%) of the property's assessed value as shown by the records of the county assessor, and (b) a bona fide offer at or above such monthly rental has not been received by owner.

(B) If the owner is unable to establish that the property is presumptively advertised in good faith for sale or lease under subsection (1)(A) above,

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the owner may establish that the property is advertised in good faith for sale or lease by producing other evidence, provided, a showing that the property is and has been advertised or available "for sale by owner" or "for lease by owner," or that a "for sale" or "for lease" sign has been displayed on the property, shall not be sufficient, alone or in combination, to establish that the property is advertised in good faith for sale or lease, absent substantial additional evidence that the property is and actually has been advertised for sale or lease over a reasonably broad geographic or market area for a reasonable sale price or a reasonable rental amount, as the case may be. The Building Official shall decide in the first instance whether the owner has provided sufficient evidence to establish that the property is advertised in good faith for sale or lease.

(2) A property on which there is a vacant residential building shall be exempt from payment of registration fees (but not registration) under this subchapter if the Building Official determines:

- (A) (1) the building has been damaged by fire, weather, an act of God, vandalism, or other casualty causing it to be uninhabitable and repair or renovation activities designed to restore the building to a habitable condition are or were commenced within sixty (60) days after the damage occurred, or
- (2) the building is a new building under construction or a building undergoing renovation, and
- (B) the repair, construction or renovation activities are being actively implemented or pursued with reasonable diligence and timeliness, and any evidence of vacancy is being minimized to the greatest extent practicable as determined by the Building Official, and
- (C) the building remains vacant for no more than three hundred sixty days (or such longer period as may be approved in writing by the Building Official due to extenuating circumstances that do not result from any fault or neglect of the owner, as determined by the Building Official).

If a property on which there is a vacant residential building, otherwise exempt from payment of registration fees under this subsection 150.80.8(2), is vacant for more than three hundred sixty days (or such longer period as may be approved in writing by the Building Official due to extenuating circumstances that do not result from any fault or neglect of the owner, as determined by the Building Official), this exemption shall not apply and the owner shall pay the registration fee or fees specified in section 150.80.7. Any loss of exemption under this subsection (2) shall relate back to the commencement of such construction or renovation, or to the date the property became vacant due to the damage by fire, weather, an act of God, vandalism, or other casualty, as the case may be.

(3) An unoccupied residential building shall be exempt from both registration and payment of registration fees under this subchapter if it does not exhibit evidence of vacancy, as determined by the Building Official.

## Section 150.80.9     RIGHTS TO PRIOR NOTICE AND APPEAL.

(1) The owner of a residential building shall have the right to reasonable prior notice of an adverse decision of the City or Building Official under this subchapter and an

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opportunity to appeal such decision at a time and place designated by the Building Official. For such purposes, the Building Official, as program administrator, shall make decisions on behalf of the City under this subchapter. The notice shall be sent by certified mail to the registered owner at the address maintained in the register of deeds office of the county, at least ten days prior to any adverse decision. If the register of deeds does not maintain an address for the owner, then the notice may be addressed to the owner at the address maintained by the county assessor. If the owner requests the Building Official in writing or by electronic mail to mail notices to the owner at a specified address, notices to the owner shall be sufficient if mailed to the owner at the specified address.

(2) The owner of a vacant property may appeal any such adverse decision by the City or Building Official to the Director. The appeal shall be in writing and shall be mailed by certified mail or hand delivered to the Director within fourteen calendar days after the adverse decision by the Building Official. The Director will review the matter on the record made by the Building Official and, after providing the owner and the Building Official an informal opportunity to be heard, the Director will make the final decision.

## **Section 150.80.10 INSPECTIONS; CITATIONS; INSPECTION WARRANTS.**

(1) The Building Official or his or her designee is authorized to inspect the interior and exterior of a residential building that is displaying evidence of vacancy, as determined by the Building Official. The Building Official or his or her designee is also authorized to inspect the interior and exterior of a vacant residential building upon registration under this subchapter, or when the property is originally required to be registered under this subchapter, and at one-year intervals thereafter for so long as the property remains on the vacant property registration data base. At least ten days in advance of a proposed inspection under this subchapter, the Building Official shall mail the owner, by certified United States mail, a notice of proposed inspection, advising the owner of the building address, and the date and time of the proposed inspection. In the case of multiple owners of a building, a notice mailed to any owner shall be sufficient. If the owner has provided the Building Official the name and address of a property manager or the owner's agent, the notice of proposed inspection may be mailed to the owner, the property manager, or the owner's agent, at the Building Official's discretion.

(2) It shall be the responsibility of the owner, the property manager, or the owner's agent to be present at the property at the date and time specified by the Building Official for the proposed inspection, to provide access for the inspection. If none of such individuals is present at the time and place of the proposed inspection, the owner, owners, property manager, or owner's agent who were mailed notice of the proposed inspection shall be guilty of a misdemeanor and shall be fined in any sum not to exceed \$500.00.

(3) If, upon any such inspection, the Building Official observes any condition that constitutes a violation of, or that causes the building to be out of compliance with, this subchapter, or with any other any law or regulation, or any other provision of the City Code, the Building Official may take such action as may be directed by law or as the Building Official may deem to be appropriate to notify or cite the owner for such condition or violation.

(4) If any owner or individual lawfully in control of a residential building or vacant residential building fails or refuses to consent to access and entry to the property or building under such individual's ownership or control for any inspection pursuant to this subchapter, or if the owner, the property manager, or the owner's agent fails to provide such access and entry at the date and time specified by the Building Official for the inspection, the Building Official may apply for and obtain a warrant or other appropriate court order authorizing such inspection in accordance with applicable law, including but not limited to, Nebraska Revised Statutes sections 29-830 et seq.

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(5) Unless otherwise provided in the City's master fee ordinance or other ordinance of the City:

- (A) An initial inspection of a residential building or vacant residential building shall be conducted at no charge; and
- (B) Inspection of a residential building or vacant residential building after the initial inspection also shall be conducted at no charge if all violations noted in the preceding inspection have been corrected. If any such 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 paid by the owner before a property is removed from the vacant property registration list.

(6) If any claim is made or action brought against an officer, official, or employee of the City charged or assisting with administration or enforcement of this subchapter, because of an act performed by him or her in the reasonable and good faith administration or enforcement of any provision of this subchapter, the claim or action shall be defended by the City or by the City's insurer at its cost until the final termination of the proceedings therein.

## **Section 150.80.11 CRIMINAL VIOLATIONS; PENALTIES.**

(1) Any owner or agent of an owner upon whom a duty is placed by the provisions of this subchapter who fails, neglects, or refuses to perform such duty, or who violates 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 five hundred dollars or be imprisoned in the county jail for a period not to exceed six months, or both, *provided*, each person so convicted shall be fined in a sum not less than two hundred dollars for the first offense, not less than three hundred dollars for a second offense, and not less than four hundred dollars for the third offense and each offense thereafter. The penalties provided herein shall be cumulative. Each day that a violation of this subchapter continues shall constitute a separate and distinct offense and shall be punishable as such.

## **Section 150.80.12 SUPPLEMENTAL PROVISIONS; SUBCHAPTER NOT EXCLUSIVE.**

(1) The provisions of this subchapter shall be supplemental and in addition to any other laws of the State of Nebraska or City. This subchapter does not repeal, modify, or limit the remedies, penalties, actions, or abatement measures that may be taken or imposed at law or in equity by the Building Official or the City for any act or omission that violates any federal, state or local law or regulation, regardless of whether the act or omission is also a violation of this subchapter.

**II. REPEAL.** Ordinance No. 1317, and conflicting provisions of any other previously enacted ordinance, are 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 the City would have enacted and adopted this ordinance and each section, subsection, sentence, clause or phrase hereof, irrespective

# ORDINANCE RECORD

No. 728-REFIELD & COMPANY INC., OMAHA

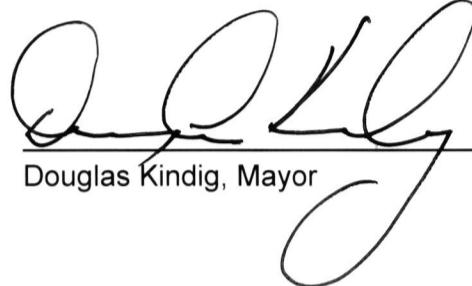
of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

## IV. EFFECTIVE DATE.

This ordinance shall be in full force and effect on and after the effective date, subject to its passage, approval and publication in pamphlet form as provided by law.

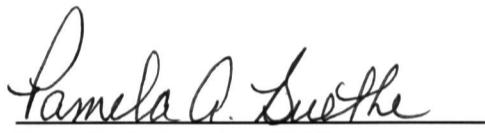
PASSED AND APPROVED THIS 19TH DAY OF JANUARY 2021.

CITY OF LA VISTA, NEBRASKA



Douglas Kindig, Mayor

ATTEST:



Pamela A. Buethe

Pamela A. Buethe, CMC  
City Clerk