

ORDINANCE NO. _____

1 AN ORDINANCE amending Title 20 of the Lincoln Municipal Code, the
 2 Building Code, by adding a new Chapter 20.02, entitled Neglected Building Registration, to
 3 require registration of neglected, deteriorated and/or abandoned buildings, to require the filing of
 4 plans for restoration or demolition of abandoned buildings, and to establish penalties for
 5 violations thereof.

6 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

7 Section 1. That Title 20 of the Lincoln Municipal Code be amended by adding a
 8 new section numbered 20.02.010 to read as follows:

9 **20.02.010** **Purpose.**

10 Neglected buildings are a major cause and source of blight in both residential and non-
 11 residential neighborhoods, especially when the owner of the building fails to actively maintain
 12 and manage the building to ensure that it does not become a liability to the neighborhood.
 13 Neglected buildings discourage economic development and negatively impact property values. It
 14 is the responsibility of property owners to prevent buildings from becoming a detriment to the
 15 neighborhood and community and a threat to the public health, safety, and welfare.

16 Neglected buildings constitute a nuisance, and to adequately protect public health, safety
 17 and welfare, the establishment and enforcement of a registration system to monitor such
 18 buildings and to develop a means to decrease the number of neglected buildings within the city is
 19 necessary. Therefore, the City Council authorizes the Director to administer and enforce this

1 chapter within the city and within three miles of the corporate limits of the city and outside of
2 any other organized city or village.

3 Section 2. That Title 20 of the Lincoln Municipal Code be amended by adding a
4 new section numbered 20.02.020 to read as follows:

5 **20.02.020 Public Nuisance.**

6 Neglected buildings shall constitute a public nuisance.

7 Section 3. That Title 20 of the Lincoln Municipal Code be amended by adding a
8 new section numbered 20.02.030 to read as follows:

9 **20.02.030 Enforcement of Chapter; Applicability of Chapter.**

10 The Director of the Department of Building and Safety or his or her authorized
11 representative is designated to administer and enforce this chapter.

12 Section 4. That Title 20 of the Lincoln Municipal Code be amended by adding a
13 new section numbered 20.02.040 to read as follows:

14 **20.02.040 Violation Not Exclusive.**

15 Violations of this chapter are in addition to any other violations enumerated within the
16 Lincoln Municipal Code. This chapter in no way limits the enforcement of, penalties, actions or
17 abatement procedures which may be taken by the City for any action or inaction which is also a
18 violation of any section of the Lincoln Municipal Code.

19 Section 5. That Title 20 of the Lincoln Municipal Code be amended by adding a
20 new section numbered 20.02.050 to read as follows:

21 **20.02.050 Inspection of Buildings.**

22 All officers authorized to enforce this chapter are hereby authorized and directed to make
23 inspections to determine the condition of buildings as may be required by this chapter for the

1 purpose of safeguarding the welfare and safety of the general public and to ascertain that
2 buildings as set forth in this chapter are properly maintained.

3 Section 6. That Title 20 of the Lincoln Municipal Code be amended by adding a
4 new section numbered 20.02.060 to read as follows:

5 **20.02.060 Definitions.**

6 **Building** shall mean a building or structure or any part thereof used or intended for
7 supporting or sheltering any use or occupancy for residential, public, institutional, business,
8 industrial or storage purposes.

9 **City** shall mean the City of Lincoln.

10 **Deterioration** shall mean a lowering in quality of the condition or appearance of a
11 building, structure or parts thereof characterized by holes, breaks, rot, crumbling, cracking,
12 peeling, rusting or any other evidence of physical decay or neglect or excessive use or lack of
13 maintenance over a substantial or widespread area as opposed to a limited or concentrated area.

14 **Director** shall mean the Director of the Department of Building and Safety of the City of
15 Lincoln or his or her authorized representative.

16 **Neglected building** shall mean a neglected occupied building and a neglected
17 unoccupied building .

18 **Neglected occupied building** shall mean an occupied building in which one or more of
19 the following events have occurred within the preceding eighteen months:

20 (a) The building is the subject of two or more notices of violation of the provisions of
21 this chapter or Chapters 20.04 and/or 21.01 of the Lincoln Municipal Code, and the owner has
22 failed to demonstrate that due diligence is being exercised in abating the violation;

1 **(b)** The owner has failed to appear and a warrant has been issued in county court for a
2 violation of this chapter or Chapters 20.04 and/or 21.01 of the Lincoln Municipal Code.

3 **(c)** The owner has refused to accept service of notices of violations of the provisions
4 of this chapter or Chapters 20.04 and/or 21.01 of the Lincoln Municipal Code.

5 **(d)** The building has sustained deterioration.

6 **Neglected unoccupied building** shall mean an unoccupied building (whether or not
7 boarded) in which one or more of the following events have occurred within the preceding
8 eighteen months:

9 **(a)** The property is the subject of two or more notices of violation of the provisions of
10 this chapter or Chapters 20.04 and/or 21.01 of the Lincoln Municipal Code, and the owner has
11 failed to demonstrate that due diligence is being exercised in abating the violation;

12 **(b)** The building has been boarded for a period of more than ninety days.

13 **(c)** The building has sustained deterioration.

14 **(d)** The owner has failed to appear and a warrant has been issued in county court for a
15 violation of this chapter or Chapters 20.04 and/or 21.01 of the Lincoln Municipal Code; or

16 **(e)** The owner has refused to accept service of notices of violations of this chapter or
17 Chapters 20.04 and/or 21.01 of the Lincoln Municipal Code.

18 **Occupancy** the purpose for which a building or portion thereof is utilized or occupied.

19 **Operator** shall mean any person who has charge, care or control of a building, or part
20 thereof, in which dwelling units or rooming units are let.

21 **Owner** shall mean any person who is a holder of any legal or equitable interest in the
22 premises, and alone or jointly or severally with others,

1 (a) Has record legal title to any dwelling or dwelling unit with or without
2 accompanying actual possession thereof; or

3 (b) Has charge, care or control of any dwelling or dwelling unit which may include
4 all persons who have an interest in a structure and any who are in possession or control thereof
5 as owner or agent of the owner, contract purchaser, or as executor, executrix, administrator,
6 administratrix, trustee or guardian of the estate of the owner. Any person thus representing the
7 actual owner shall be bound to comply with the provisions of this chapter, and the rules and
8 regulations adopted pursuant hereto, to the same extent as if he or she were the owner.

9 In the absence of substantial evidence to the contrary, records of the County Clerk's
10 Office, Register of Deeds, certified copies of court records or judgments of any court, copies of
11 lease agreements, contracts for deed, mortgages, tax records, rental agreements and other
12 financial documents related to the property shall be conclusive evidence of the ownership of the
13 property.

14 **Person**, as used in this chapter, shall mean any individual, firm, association, company,
15 syndicate, partnership, or other legal entity, or a natural person for the purposes of the occupancy
16 standards hereof.

17 **Premises** shall mean a lot, plot or parcel of land including the buildings and structures
18 located thereon.

19 **Resident Agent** shall mean a natural person residing within the City of Lincoln, or a
20 company or agency with a manager or agent who resides in the City of Lincoln who is
21 authorized to make or order repairs, to order or oversee service to a building or buildings, and to
22 receive notices on behalf of the owner.

1 **Unoccupied building** shall mean a building that is unattended and is not actively used as
2 a place of residence or business, or is frequently open or unsecured so that unauthorized
3 admittance may be gained without damaging any portion of the property.

4 **Unsecured** shall mean that access to the building may be obtained through open,
5 unlocked, broken or missing doors or windows of such building.

6 Section 7. That Title 20 of the Lincoln Municipal Code be amended by adding a
7 new section numbered 20.02.070 to read as follows:

8 **20.02.070 Duty to Register Neglected Building.**

9 (a) The owner or operator of a neglected building shall be required, after written
10 notification from the Director, to file a registration of such neglected building with the
11 Department of Building and Safety within thirty (30) calendar days of the date of notification
12 from the Director. Such notification shall be served on the owner or resident agent by personal
13 service or by certified mail, return receipt requested. If the owner is a non-resident, such notice
14 shall be sent by certified mail, return receipt requested, to the last known address of the owner.
15 If no address is known to the Director or if attempts to serve notification by personal service or
16 certified mail are unsuccessful, then notice shall be served by posting the notice on the property.
17 The date of said posting shall then be considered the date of notification from the Director.

18 (b) The registration shall include the following information:

19 (1) A description of the premises, including correct street address and
20 occupancy, as defined in Section 20.02.060;

21 (2) The names and addresses of the owner or owners;

22 (3) The names and addresses of all known lienholders and all other parties
23 with a legal or equitable ownership interest in the building;

1 (4) The name and address of the resident agent designated to act on the behalf
2 of the owner to accept legal processes and notices and to authorize repairs as required,
3 accompanied by a notarized statement signed by the resident agent consenting to the designation;
4 and

5 (5) If such building is unoccupied, the period of time the building is expected
6 to remain unoccupied and/or a plan and timetable to comply with applicable city codes.

7 Section 8. That Title 20 of the Lincoln Municipal Code be amended by adding a
8 new section numbered 20.02.080 to read as follows:

9 **20.02.080 Registration Fee.**

10 A registration fee of \$25.00 per building shall be collected, at the time of application, by
11 the Director.

12 Section 9. That Title 20 of the Lincoln Municipal Code be amended by adding a
13 new section numbered 20.02.090 to read as follows:

14 **20.02.090 Resident Agent.**

15 (a) The owner or operator of any neglected building, which is subject to the
16 registration requirements of Section 20.02.070 shall designate a resident agent for the building.
17 The owner or operator shall obtain from the resident agent a notarized statement, accepting the
18 designation. Any owner who lives within the City of Lincoln may designate himself or herself
19 as the resident agent.

20 (b) The owner of any neglected building who lives outside of the City of Lincoln
21 shall name a resident agent who lives within or whose place of business is within the City of
22 Lincoln.

1 (c) The designation of resident agent shall constitute an authorization by the owner to
2 act on behalf of the owner with regard to all requirements under this chapter including, but not
3 limited to, acceptance of all notices, including all notices pursuant to the Lincoln Municipal
4 Code, all notices of proposed abatements and all compliance orders and administrative orders.

5 (d) The owner's designation of a resident agent shall not relieve the owner or
6 operator of any obligation to comply with the provisions of this chapter or any other provisions
7 of this code.

8 Section 10. That Title 20 of the Lincoln Municipal Code be amended by adding a
9 new section numbered 20.02.100 to read as follows:

10 **20.02.100 Reinspection.**

11 The Director may periodically reinspect neglected buildings to ensure compliance with
12 the provisions of this chapter and all applicable court and administrative orders.

13 Section 11. That Title 20 of the Lincoln Municipal Code be amended by adding a
14 new section numbered 20.02.110 to read as follows:

15 **20.02.110 Removal from Registration.**

16 A neglected building shall be removed from the registration requirements of this chapter
17 by the Director upon such building:

18 (a) Being brought into compliance with all applicable standards set forth in the
19 Lincoln Municipal Code.

20 (b) Being removed or demolished;

21 Section 12. That Title 20 of the Lincoln Municipal Code be amended by adding a
22 new section numbered 20.02.120 to read as follows:

1 **20.02.120 Registration Nontransferable.**

2 If the neglected building is required to be registered pursuant to Section 20.02.070, a new
3 registration shall be required for each change of ownership of the building. The owner or
4 operator of a neglected building which is registered with the Department of Building and Safety
5 pursuant to this chapter, shall notify the Department of Building and Safety within ten (10)
6 business days of the sale or transfer of any registered property. The notice shall contain the name
7 and address of each purchaser of the registered neglected building sold by the owner or operator.

8 Section 13. That Title 20 of the Lincoln Municipal Code be amended by adding a
9 new section numbered 20.02.130 to read as follows:

10 **20.02.130 Duty to File Statement of Intent for Neglected Buildings.**

11 (a) The Director shall create and make available a form entitled “Statement of Intent”
12 to be completed by the owner, operator or resident agent of any neglected unoccupied building
13 required to be registered pursuant to this chapter.

14 (b) The owner, operator or resident agent of a neglected unoccupied building shall
15 complete the information required on the standard Statement of Intent and submit the Statement
16 to the Department of Building and Safety within thirty (30) calendar days of the date the Director
17 orders that the structure be registered.

18 (c) The Director shall determine whether a submitted Statement of Intent is complete,
19 and if not shall return said Statement to the owner for more complete information.

20 (d) When a submitted Statement of Intent has been returned by the Director for lack
21 of information, the owner or registered agent shall, within ten business days, correct and
22 resubmit the Statement of Intent.

23 (e) The Statement of Intent shall include information as to:

1 (1) expected period that the building will remain unoccupied;

2 (2) a schedule for maintenance during the period that the building is
3 unoccupied, including, but not limited to, maintenance to be performed, frequency of
4 maintenance to be performed, person responsible for performing each maintenance item, and
5 maintenance person contact information; and

6 (3) a reasonable plan and time line for the lawful occupancy, rehabilitation or
7 demolition of the building; and

8 (4) any additional information required by the Director.

9 (f) The provisions of this section shall not be applicable to neglected occupied
10 buildings.

11 Section 14. That Title 20 of the Lincoln Municipal Code be amended by adding a
12 new section numbered 20.02.140 to read as follows:

13 **20.02.140 Violations; Penalties.**

14 Any person who shall violate any provisions of this chapter shall be deemed guilty of a
15 misdemeanor and upon conviction thereof shall be fined any sum not to exceed \$500.00, or be
16 imprisoned in the county jail for a period not to exceed six months, or by both such fine and
17 imprisonment, except that each person so convicted shall be fined in a sum of not less than
18 \$200.00 for the first offense, not less than \$250.00 for the second offense, and not less than
19 \$300.00 for the third offense and each offense thereafter. Each day such violation is committed
20 or permitted to continue shall constitute a separate violation and shall be punishable as such
21 hereunder.

22 Section 15. That Sections 1 through 14 hereof be codified in the Lincoln
23 Municipal Code as Chapter 20.02, Neglected Buildings Registration.

1 Section 16. That this ordinance shall take effect and be in force from and after its
2 passage and publication according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2007:

Mayor