

**AN ORDINANCE OF THE CITY OF PLATTSMOUTH, NEBRASKA ENACTING CHAPTER 9, ARTICLE 3, SECTION 9-305 GOVERNING THE PRESERVATION OF LANDMARKS AND HISTORIC DISTRICTS; TO REPEAL ALL ORDINANCES IN CONFLICT; TO PROVIDE FOR PUBLICATION IN PAMPHLET FORM; AND TO PROVIDE AN EFFECTIVE DATE.**

BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF PLATTSMOUTH, NEBRASKA:

**SECTION 1.** Chapter 9, Article 3, Section 9-305, of the Plattsmouth City Code is enacted as follows:

**SECTION 9-305: LANDMARK HERITAGE PRESERVATION**

1. For the purposes of this Ordinance, the words and phrases below shall have the following definitions:

a. Board: The Historic Preservation Board of the City of Plattsmouth.

b. Planning Commission: The Planning Commission of the City of Plattsmouth.

c. Cumulative Effect: This Ordinance shall be cumulative to all other provisions of adopted Codes and including Codified Ordinances relating to building, electricity, plumbing or any other technical requirements or provisions; and once work has been approved on a landmark or in a historical district, all other appropriate permits and inspections shall be obtained, and fees therefore shall be paid in accordance with the Land Development Ordinance of the City of Plattsmouth.

d. Design Guidelines: Design criteria for new construction, alterations and renovations of properties designated as landmarks and in historic districts.

e. Landmark: An individual structure, or an integrated group of structures on a single lot or site, or a site having a special character or special historical, cultural, educational, architectural, engineering or geographic interest of value.

f. Historic District: An area or section of the City of Plattsmouth containing a number of structures having a special character of

historical, cultural, educational, architectural, engineering or geographic interest or value.

g. Owner: A real estate owner or owner's authorized agent, officer of a corporation which owns real estate, partner of a partnership owning real estate, or member of an LLC or other similar organization owning real estate.

h. Private: All bodies, groups, organizations, associations, corporations, clubs and individuals of whatever nature which are not included in the definition of "public".

i. Public: The state, or any agency thereof; a municipality; a county or any board appointed by or acting for same; a township; a commission or other authority established by law; any district, or other political subdivision of the state or public body recognized by law.

j. Structure: Anything constructed or erected, the use of which requires location on the ground or attached to something having location on the ground.

k. Work: Work shall mean and include any alteration, demolition, construction, reconstruction, restoration, remodeling or other material change in the external appearance of the structure.

2. The City Council finds that the protection, enhancement, perpetuation and use of structures, districts and elements of historical, cultural, educational, architectural, engineering or geographic significance, located within the City of Plattsburgh, contribute to the prosperity, civic pride and general welfare of the people; and further finds that the economic, cultural and aesthetic interests of the City of Plattsburgh cannot be maintained or enhanced by disregarding the heritage of the City of Plattsburgh and that people of the City of Plattsburgh have an interest in the maintenance, preservation, demolition or other action regarding such cultural assets.

Therefore, the City Council finds that the purposes of this Ordinance are, among other things, to:

- a. designate, preserve, protect, enhance and perpetuate those structures and districts which reflect significant elements of the City's heritage;
- b. foster civic pride in the beauty and accomplishments of the past;
- c. stabilize or improve the aesthetic and economic vitality and values of such structures and districts;

- d. protect and enhance the City's attraction to tourists and visitors;
- e. promote the use of historical structures or districts for education;  
and
- f. promote and encourage continued private ownership and utilization of such buildings and other structures now owned and used, to the extent that the objectives listed above can be promoted.

3. There is hereby created the Historic Preservation Board of the City of Plattsmouth.

a. The Board shall be composed of seven (7) members, consisting of citizens who have a demonstrated interest in preservation, architecture, engineering, interior design, historical or cultural matters or are owners of real estate within the historic district. The Board shall consist of residents or property owners of Plattsmouth, Nebraska.

b. The members of the Board shall be appointed by the Mayor, subject to confirmation by the City Council.

c. Initially, three (3) members of the Board shall be appointed for a one (1) year term, two (2) members shall be appointed for a two (2) year term, and two (2) members shall be appointed for a three (3) year term. Members shall serve until their successors are appointed and qualified, and may be appointed to successive terms.

d. In the event of a vacancy occurring in the membership of the Board for any reason, an appointment shall be made to fill the vacancy in the same manner as the original appointments for the unexpired term.

e. The members of the Board shall serve without compensation.

f. The Board shall elect its chairperson from among its members.

g. The Board shall establish its own rules of procedure.

h. Four (4) members of the Board shall constitute a quorum for the transaction of business.

i. Except as otherwise provided herein, four (4) affirmative votes shall be required for final action on any matter acted upon by the Board.

j. The Board shall meet at minimum quarterly or at times and in such places as it may determine, or upon the call of the chairperson. If a

member has 3 consecutive unexcused absences, the position will become vacant and the Mayor with the consent of the City Council shall fill the vacancy.

k. The Board shall adopt design guidelines based on the Secretary of the Interior's Guidelines for Rehabilitation and Guidelines for Rehabilitating Historic Buildings and other appropriate sources. In doing so, the ordinances recommended by the Board shall provide for the consideration of economic factors and provide for the recognition of weighing potential economic detriments against preservationist objectives and shall strive to effect a fair balance in all instances.

4. All plans, projects, proposals, evaluations, specifications, and sketches and other information necessary for the review of the Board, or colors, building materials, signs, or other features subject to public view, shall be made available to the Board by the applicant or appropriate department of the City of Plattsburgh, along with a copy of the application for the building or demolition permit.

5. The City Administrator shall be the Director of the Board, without the right to vote, and he/she or members of staff shall be the custodian of records, conduct official correspondence and generally to supervise the clerical and technical work of the Board as required to administer this Ordinance. In addition, the Director, for and on behalf of the Board and with the approval and direction of the Board, shall:

a. Carry out, assist and collaborate in studies and programs designed to identify and evaluate structures, sites and areas worthy of preservation;

b. Consult with and consider the ideas and recommendations of civic groups, public agencies and citizens interested in historical preservation;

c. Inspect and investigate structures, sites and areas which are believed worthy of preservation;

d. Disseminate information to the public concerning those structures, sites and areas deemed worthy of preservation and encourage and advise property owners in the protection, enhancement, perpetuation and use of property of historical interest; and

e. Make recommendations and do such other acts pursuant to this Ordinance as the Board shall direct.

6. The duties of the Board shall include:

a. Submit to the Planning Commission for public hearing and approval, for further submission to the Mayor and City Council for public hearing and approval, and subsequently maintain (and resubmit as required) a list of structures and other features deemed deserving of official recognition although not designated as landmarks or historic districts and take appropriate measures of recognition, and maintain a documentary inventory;

b. Consider methods other than those provided for in this Ordinance for encouraging and achieving historical preservation, and make appropriate recommendations to the Planning Commission, City Council, and other bodies and agencies, both public and private;

c. Taking into consideration the Cass County Nebraska Historic Building Survey and similar such surveys, make an inventory of all sites, structures, and districts within the zoning jurisdiction of the City of Plattsmouth which are designated as, or which it deems deserving of designation as, historic landmarks on or before December 31, 2005, and from this inventory make recommendations of such sites, structures and districts for such designation by Ordinance;

d. Upon request of the property owner or nomination by the Board and with approval of property owner, any property nominated to the National register must be reviewed by Board and forwarded with comments to the Chief elected official (Mayor) for review and comment prior to consideration by the State Historic Preservation Office (SHPO); and

e. Upon request of the property owner, assist with paperwork for consideration for National Register nomination.

7. Properties may be designated as Landmarks and Historic Districts may be created as set forth below, and when so designated, the same shall be subject to this ordinance.

a. All landmarks and property within a historic district shall be subject to the controls, standards and procedures set forth in this ordinance.

b. A particular site, structure or area may be designated for preservation as a landmark or historic district if it has:

(1) Historic importance or cultural significance, interest or value as part of the development, history, heritage or culture of the City, state or nation or is associated with the life of a person significant in the

past; or is the site of an historic event, or exemplifies the cultural, political, economic, educational, social or historic heritage of the community;

(2) Architectural and engineering importance, portraying the historical setting or environment of a distinctive characteristic of an architectural or engineering type, period, style, or method of construction; or is the work of a resident, builder or designer whose individual work is significant in the development of the City; or contains elements of design, detail, materials or craftsmanship of distinctive quality, or which represents a significant innovation;

(3) Geographic importance, by being a part of or related to a city center, park or other distinctive area, which should be developed or preserved according to a plan based on a historic, cultural or architectural motif; or owing to its unique location or singular physical characteristic, represents an established and familiar visual feature of a neighborhood, community, or the City of Plattsburgh; or

(4) Archeological importance has yielded or is likely to yield information important regarding the history of the area prior to the establishment of the City of Plattsburgh.

c. A landmark or historic district may be proposed by the City Council, the Board or upon petition of the owner. Any such proposal shall be filed with the Director on forms prescribed by the Board.

d. Designation of a potential historical district may be proposed on the application of the owners of fifty-one (51%) percent of the front footage of the real property in the proposed district.

e. Each proposal of a landmark or historical district shall first be considered by the Board at a public hearing.

f. Notice of the time, place and purpose of the public hearing to be held upon the proposal of a landmark or historical district shall be given by the Board in the official newspaper of the City of Plattsburgh not less than ten (10) days prior to the date of the hearing and by mail to the owners of all property included in the proposed designation, using for that purpose the names and addresses of the

last-known owners as shown by the county real property tax records. Failure to send notice by mail to any such property owner where the address of the owner is not so recorded shall not invalidate any proceedings in connection with the proposed designation. The Board may also give such other notice as may be deemed desirable and practicable.

g. A record of the pertinent information presented at the hearing upon the proposal of a proposed landmark or historical district shall be made and maintained as a permanent public record.

h. The Board may approve, disapprove or modify the proposal of a landmark or historical district and shall notify the applicant of the action taken within sixty (60) days of the referral thereof to the Board.

i. The recommendation of the Board for approval of a proposal for a proposed landmark or historic district shall state the particular standards for such designation, as set out in this section, which are applied in each designation.

j. In the case of a proposed landmark, recommendation for designation shall require six (6) affirmative votes if the owner or owners thereof do not concur in the designation or a simple majority if the owner or owners of a landmark site concur in the designation.

k. In the case of a proposed historic district, recommendation for designation shall require the concurrence in such designation by the owners of fifty-one (51%) percent of the front footage of the real property within the proposed district.

8. The Board shall transmit the proposal for the designation of a landmark or historical district to the Planning Commission for recommendation to the Mayor and City Council. The Board shall consider the degree of conformity or nonconformity with the comprehensive development plan of the City.

9. The Mayor and City Council shall consider the designation of property as a Landmark or the designation of an historic district as follows:

a. When a proposal for the designation of a landmark or historical district is presented to the City Council, it shall take into consideration the recommendation of the Board, and shall further give consideration to the economic consequences to the City and the affected property owners.

b. Objection by the owners of twenty (20%) percent of the front

footage of the property within a proposed historical district shall require five (5) affirmative votes by City Council for approval of such district.

c. Objection by the owner or owners of a proposed landmark shall require five (5) affirmative votes for approval of such landmark.

d. Objections as to a landmark or historical district designation must be acknowledged on a form available in the office of the Director and any such objections must be filed with the City Clerk no later than the first reading of the proposed designation ordinance.

e. In order for the owners of a particular parcel of land to validly object to the designation, such objection shall be executed by all those owners who are otherwise required to execute a valid conveyance of a fee simple interest in such parcel and whose names appear in the records of the County Register of Deeds.

f. Pursuant to the provisions of this Ordinance, and the procedures set forth herein, the City Council may, by ordinance, designate a "Landmark", or a "Historical District."

g. A historical district may be designated as such only if the owners of at least fifty-one (51%) percent of the front footage of property within the district concur in such designation, not to include any public right-of-way located in such district.

h. Each ordinance designating a landmark or historical district shall include a description and statement of the significance of the real property or district to justify its designation as such and a description of the particular features that should be preserved, and shall include the legal description of the landmark or historical district.

i. Within ten (10) days after the effective date of an ordinance designating property as a landmark or historical district, the Director shall send a copy of such ordinance and a letter prepared by the Director outlining the basis of such designation and the obligations and restrictions which result from such designation to the owner of record of each property so designated or each property within the designated district by registered or certified mail.

10. The City Council may, by ordinance, amend or rescind the designation of a landmark or historical district at any time pursuant to the same procedures set forth in this article for the original designation.



11. All properties owned by government entities and/or public agencies shall be subject to the provisions of this Ordinance in the same manner as private persons. All visible modifications or additions to public areas within a landmark or historical district, including street furniture, lighting fixtures, and paving materials shall be subject to review by the Board.

12. The Board shall, in the administration of the provisions of this Ordinance, take into account all economic factors presented to it. The Board shall recognize the necessity of weighing potential economic detriments against preservationist objectives and shall strive to effect a fair balance in all instances.

13. No person shall carry out or cause to be carried out any Work on a landmark or structure in a historical district without a certificate of approval first being issued by the Board. For the purposes of this section, any alteration, new or infill construction, restoration, remodeling or other changes shall be deemed to require a certificate of approval where such Work affects any of the characteristics of the landmark or historical district which were deemed to be significant and intended to be preserved as recited in the ordinance designating such landmark or district.

14. Building permits must be obtained prior to any Work being done. A board approved certificate of approval must be presented to the building official prior to any building permit being issued.

15. Whoever violates or fails to comply with any of the provisions of the Code for which no penalty is otherwise provided, shall be, upon conviction, subject to fine of not more than two hundred dollars (\$200.00). A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

16. Applications for certificates of approval shall be processed as follows:

a. All applications for a certificate of approval will be made on forms available at the Director's office and shall be forwarded immediately to the Board.

b. Notwithstanding any other provision of law, the Building Inspector shall not permit any work except as pursuant to a certificate of approval issued by the Board as authorized by the City Council.

c. The Board shall hold a public hearing on applications to it for a certificate of approval.

d. The determination by the Board on an application for a certificate of approval, or report of any action taken, shall be forwarded to the Director for appropriate action not later than forty-five (45) days after

receipt of the application by the Board.

e. The Board, in considering the appropriateness of any work, shall consider, among other things, the purposes of this article, the historical and architectural value and significance of the landmark or historical district, the texture, material and color of the building or structure in question or its appurtenant fixtures, including signs, and the relationship of such features to similar features of other buildings within a historical district, and the position of such building or structure in relation to the street or public way and to other buildings and structures.

f. If, after considering the application for a certificate of approval required by this Section, the Board determines that the proposed changes are consistent with the criteria for historic preservation established by this section, the Board shall recommend to the Director the issuance of the certificate of approval.

g. In the event of determination to deny a certificate of approval, the Board shall request consultation with the owner for a period not to exceed ninety (90) days for the purpose of considering alternatives which achieve preservation in keeping with the criteria. If within that time, an acceptable solution has been achieved, the decision may be amended to approve issuance of a certificate. If at the end of ninety (90) days, an acceptable solution has not been achieved, the certificate of approval shall be deemed finally denied and the applicant so notified by letter and the applicant may appeal to the Council within twenty (20) days of the date of the letter finally denying the application. The Council may, after a public hearing, reverse or modify the recommendation of the Board but only if it finds that owing to special conditions pertaining to the specific piece of property, denial of the certificate of approval will cause undue and unnecessary hardship.

17. The Director, or one acting in his absence or at his direction, may issue a temporary certificate of approval upon a showing of extreme hardship on the applicant or for the public safety in cases where there is a delay during the interim between hearings by the commission, provided that such temporary certificate of approval shall be ratified or revoked, in whole or in part, by the commission at its next meeting. The director, or one acting in his absence or at his direction, may, upon application of the owner seeking the permit, issue a certificate of approval if the director deems the application not to be for work as defined in this division.

18. The Planning Commission shall review all Board recommendations, and forward its recommendation on the same to the Mayor and City Council.

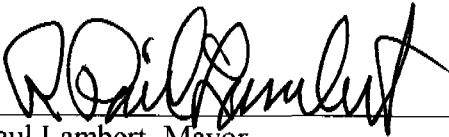
19. The Board may hold public hearings on City of Plattsmouth projects and undertakings affecting landmark sites, structures or historical districts and make recommendations to the City Council concerning same.

20. The Board may, upon request of the property owner, render advice and guidance with respect to any proposed work on a landmark or historical district.

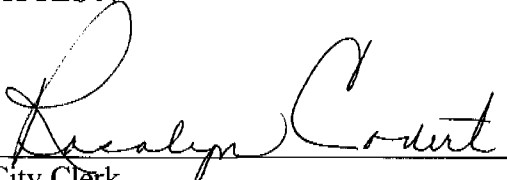
**Section 2.** All other ordinances passed and approved prior to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions are repealed.

**Section 3.** This ordinance is adopted and published in pamphlet form, and shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

Passed and approved this 6<sup>th</sup> day of December 2004.

  
\_\_\_\_\_  
Paul Lambert, Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

Publication: Dec 9, 2004



AFFIDAVIT OF PRINTER

AFFIDAVIT OF PRINTER

STATE OF NEBRASKA)

ss.

County of Cass)

**PUBLIC NOTICE**

CITY OF PLATTSMOUTH  
NOTICE OF PUBLICATION OF  
ORDINANCE IN PAMPHLET FORM  
On the 6th day of December, 2004, the  
Mayor and City Council of the city of  
Plattsmouth, Nebraska adopted an ordi-  
nance entitled:

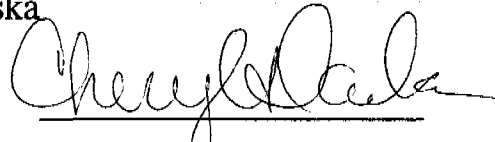
ORDINANCE NO. 1714  
AN ORDINANCE OF THE CITY OF  
PLATTSMOUTH, NEBRASKA ENACTING  
CHAPTER 9, ARTICLE 3, SECTION 9-305  
GOVERNING THE PRESERVATION OF  
LANDMARKS AND HISTORIC DIS-  
TRICTS; TO REPEAL ALL ORDINANCES  
IN CONFLICT; TO PROVIDE FOR PUBLI-  
CATION IN PAMPHLET FORM; AND TO  
PROVIDE AN EFFECTIVE DATE.

Said Ordinance was published in pam-  
phlet form and copies thereof are avail-  
able at the office of the City Clerk, 136  
North 5th Street, Plattsmouth, Nebraska.

Rosalyn Covert  
City Clerk

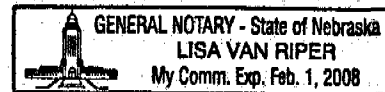
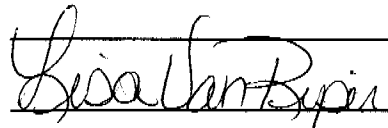
No. 23538: Dec. 9, 2004

I, Cheryl Hamula, of the Plattsmouth  
Journal, a legal newspaper, published  
weekly at Plattsmouth, Nebraska, do  
solemnly swear that a copy of the above  
as per clipping attached was published  
**Thursday** in the regular and entire issue  
of said newspaper and not in any  
supplement thereof for **one** week  
commencing with the issue date of  
**December 9**, ending with the issue date  
on **December 9**, newspaper is a legal  
newspaper under the statutes of the State  
of Nebraska.



**Classified Advertising**

Subscribed and sworn to before  
me this 9<sup>th</sup> day of December  
2004



No. 23538

Printers Fee \$ 14.03