MUNICIPAL CODE

OF THE

CITY OF PLATTSMOUTH, NEBRASKA

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MUNICIPAL CODE

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CHAPTER 1

ADMINISTRATION

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SECTION 1-101 ENUMERATED

The electors of the City shall elect a mayor at large and one City Council member from each ward in each city election year; provided that when and if voting by wards is suspended, four Council members shall be elected at large in each election year. A total of eight Council members shall serve the City at all times. Councilmembers shall be electors of the City and residents of the ward from which they were elected. Terms of all elected officials shall commence on the first regularly scheduled City Council meeting in December of the year following their election. (Ref. Neb. Rev. Stat. §16-302.01)

SECTION 1-102 CITY MAYOR; SELECTION AND DUTIES

The mayor of the City shall have the general and immediate control over all property and officials of the City, whether elected or appointed. He/she shall preside at all meetings of the City Council, and may vote when such vote shall be decisive and the Council is equally divided on any pending matter, legislation or transaction; and the mayor shall, for the purpose of such vote, be deemed to be a member of the Council. His/her signature must appear on the city clerk's minutes of all meetings, and he/she must sign all resolutions which have been passed and warrants for the payment of money when ordered by the City Council; provided, any ordinance vetoed by the mayor may be passed over his/her veto by a two-thirds (2/3) vote by the members of the City Council. However, if the mayor neglects or refuses to sign any ordinance and returns it to the Council with his/her objections in writing at the next regular Council meeting, the same shall become a law without his/her signature.

The mayor shall from time to time communicate to the Council such information and recommendations as, in his/her opinion, may improve the City. He/she may require any city official at reasonable intervals to exhibit his/her accounts and make reports to the Council on any subject pertaining to his/her office. He/she shall have the power to remit fines or pardon any offense arising under the ordinances of the City. He/she may remove at any time an appointed police officer of the City, subject to the provisions of Section 1-1304 herein.

The mayor's territorial authority for the enforcement of health and quarantine ordinances shall extended two miles beyond the City’s corporate limits. He/she shall also have such other duties as the City Council may by resolution confer upon him/her, or in any other matters which the laws of the State of Nebraska repose in him/her. He/she shall be elected at the city election, and shall serve a four-year term of office. Any candidate for mayor must have resided within the City for 40 days prior to filing for the said office and must in addition be a qualified taxpayer.

The mayor shall require all city officials and employees to give him/her a receipt for any and all articles belonging to the City now in their charge and all that may hereafter come under their charge. All outgoing city officers and employees shall deliver over to the mayor or account to him/her for all articles used by them in the duties of their office whenever their term of office or employment with the City ceases. (Ref. Neb. Rev. Stat. §16-312 through 16-316)

SECTION 1-103 CITY COUNCIL; ACTING PRESIDENT

The City Council shall elect one of its own body each year who shall be styled the president of the Council, and who shall preside at all meetings of the City Council in the absence of the mayor. In the absence of the mayor and the president of the Council, the council members shall elect one of their own body to occupy the mayor's place temporarily, who shall be styled acting president of the Council. Both the president of the Council and the acting president of the Council, when occupying the position of the mayor, shall have the same privileges as the other members of the City Council; and all acts of the president of the Council or acting president of the Council, while so acting, shall be as binding upon the City Council and upon the City as if done by the elected mayor. (Ref. Neb. Rev. Stat. §16-402)

SECTION 1-104 CITY COUNCIL; SELECTION AND DUTIES

The members of the City Council shall be elected and serve for a four-year term. One council member from each ward shall be elected at each election so that terms are staggered. The City Council shall be the legislative division of the city government, and shall perform such duties and have such powers as may be authorized by law. The City Council shall maintain the peace, regulate business, protect the public health and safety, and assess such taxes and fees as are necessary and appropriate in the exercise of these functions. (Ref. Neb. Rev. Stat. §16-302.01)

SECTION 1-105 CITY COUNCIL; ORGANIZATION

City Council members of this City shall take office and commence their duties on the first regular meeting in December following their election. The newly elected council members who have qualified as prescribed by law, together with the members of the City Council holding over, shall assemble in a regular meeting at the hour and place hereinafter prescribed and perfect the reorganization of the City Council as herein provided, and all appointive offices in which the terms of incumbents are expired shall be filled by appointment. After the said meeting has been called to order, the city clerk shall report to the City Council the names of all City Council members-elect who have qualified for their respective offices, and this report shall be spread upon the minutes of the meeting preceding the roll call. Each ward of the City shall be represented by two council members. No person shall be eligible who is not at the time of his/her election an actual resident of the ward for which he/she is qualified; and should any council member move from the ward from which he/she was elected, his/her office shall thereby become vacant. (Ref. Neb. Rev. Stat. §16-302.01)

SECTION 1-106 RESIGNATIONS

All resignations of the mayor and council members shall be in writing and submitted to the City Council for acceptance. Resignations shall not be effective until accepted by formal action of the City Council. No resignations shall be accepted unless a quorum for conducting business will remain after such acceptance of such resignation. (Ref. Neb. Rev. Stat. §32-562)

SECTION 1-107 ELECTED OFFICIALS; VACANCY

Vacancies in city elected offices shall be filled by the mayor and Council for the balance of the unexpired term except as provided in this section. Notice of a vacancy, except a vacancy resulting from the death of the incumbent, shall be in writing and presented to the Council at a regular or special meeting and shall appear as a part of the minutes of such meeting.

The City Council shall at once give public notice of the vacancy by causing to be published in a newspaper of general circulation within the City or by posting in three public places in the City the office vacated and the length of the unexpired term.

The mayor shall, within four weeks after the regular meeting at which such notice has been presented, or upon the death of the incumbent, call a special meeting of the City Council, at which time the mayor shall submit the name of a qualified elector to fill the vacancy for the balance of the unexpired term.

No officer who is removed at a recall election or resigns after the initiation of the recall process shall be appointed to fill the vacancy resulting from his/her removal or the removal of any other member of the City Council during the remainder of his/her term of office.

Upon a majority vote of approval by the City Council, the vacancy shall be filled. If a majority vote is not reached, the nomination shall be rejected and the mayor shall, at the next regular meeting, submit the name of another qualified elector. If the vote on the nominee fails to carry by majority vote, the mayor shall continue at such meeting to submit the names of qualified electors and the City Council shall continue to vote upon such nominations until the vacancy is filled.

The mayor shall cast his/her vote only in case of a tie vote of the City Council. All City Council members shall cast a ballot for or against each nominee. The mayor and Council may, in lieu of filling a vacancy in a city office as provided above in this section, call a special city election to fill such vacancy.

If there are vacancies in the offices of a majority of the members of the City Council, there shall be a special municipal election conducted by the Secretary of State to fill such vacancies. (Ref. Neb. Rev. Stat. §32-568, 32-569)

SECTION 1-108 MAYOR; VACANCY

Whenever a vacancy occurs in the office of mayor, or in case of his/her disability or absence, the president of the Council shall exercise the office of mayor until such vacancy is filled or such disability is removed, or in case of temporary absence, until the mayor returns.

When the successful candidate for mayor shall be prevented from assuming office, the incumbent mayor shall not be entitled to hold over the term, but such office shall automatically become vacant and the president of the Council shall exercise the office of mayor until such vacancy is filled.

If the president of the Council shall for any cause assume the office of mayor for the remainder of the unexpired term, there shall be a vacancy on the Council which shall be filled as provided in Section 1-106. (Ref. Neb. Rev. Stat. §32-568)

SECTION 1-109 ELECTED OFFICIALS; QUALIFICATIONS; RESTRICTIONS ON OTHER EMPLOYMENT OR ELECTIVE OFFICE

Elected officials shall be residents and registered voters of the City.

A. The mayor and members of the Council shall hold no other elective or appointive office or employment with the City.

B. For purposes of this section, (1) "elective office" means any office which has candidates nominated or elected at the time of a statewide primary election; any office which has candidates nominated at the time of a statewide primary election and elected at the time of a statewide general election; any office which has candidates elected at the time of a statewide general election; any office which has candidates nominated or elected at a city election; and any office created by an act of the Legislature which has candidates elected at an election and includes an office which is filled at an election held in conjunction with the annual meeting of a public body created by an act of the Legislature; and (2) "high elective office" means a member of the Legislature, an elective office described in Article IV, Sections 1 or 20, or Article VII, Sections 3 or 10 of the Constitution of Nebraska, or a county, city or school district elective office.

C. No candidate for member of the Legislature or an elective office described in Article IV, Sections 1 or 20, or Article VII, Sections 3 or 10 of the Constitution of Nebraska shall be eligible to file as a candidate, to petition on the ballot as a candidate, to accept nomination by a political party or by party convention, caucus or committee to fill a vacancy or to be declared a write-in candidate for more than one elective office to be filled at the same election, except for the position of delegate to a county, state or national party convention. No candidate for any other high elective office shall be eligible to file as a candidate, to petition on the ballot as a candidate, to accept a nomination by a political party or by party convention, caucus or committee to fill a vacancy or to be declared a write-in candidate for more than one elective office to be filled at the same election.

D. Except as provided in subsection E or G of this section, no person shall be precluded from being elected or appointed to or holding an elected office for the reason that he/she has been elected or appointed to or holds another elected office.

E. No person serving as a member of the Legislature or in an elective office described in Article IV, Sections 1 or 20 or Article VII, Sections 3 or 10 of the Constitution of Nebraska shall simultaneously serve in another elective office which is filled at an election held in conjunction with the annual meeting of a public body.

F. Whenever an incumbent serving as a member of the Legislature or in an elective office described in Article IV, Sections 1 or 20 or Article VII, Sections 3 or 10 of the Constitution of Nebraska assumes another elective office, except an elective office filled at an election held in conjunction with the annual meeting of a public body, the office first held by the incumbent shall be deemed vacant.

G. No person serving in a high elective office shall simultaneously serve in any other high elective office.

H. Notwithstanding subsections E through G of this section, any person holding more than one high elective office on September 13, 1997, shall be entitled to continue to serve the remainder of all terms for which he/she was elected or appointed. (Ref. Neb. Rev. Stat. §16-305, 16-311, 32-109, 32-603, 32-604)

SECTION 1-110 COMPENSATION OF CITY OFFICIALS AND EMPLOYEES AND ELECTED OFFICIALS

All salaries for city officials and employees shall be set by ordinance of the City Council and will be available for public inspection at the office of the city clerk. The emoluments of any elective officer shall not be increased or diminished during the term for which he was elected, except that when there are officers elected to the council, or to a board or commission having more than one member and the terms of one or more members commence and end at different times, the compensation of all members of such council, board, or commission may be increased or diminished at the beginning of the full term of any member thereof. No person who shall have resigned or vacated any office shall be eligible to the same during the time for which he was elected when, during the same time, the emoluments have been increased. (Ref. Neb. Rev. Stat. §16-310, 16-326)

Amended – Ordinance No. 1786 4/20/2009

SECTION 1-111 COMPENSATION; CONFLICT OF INTEREST

For purposes of this section, "officer" shall mean (a) any member of any board or commission of the City, (b) any appointed official if such city official (i) serves on a board or commission which spends and administers its own funds and (ii) is dealing with a contract made by such board or commission, or (c) any elected city official. Unless specified otherwise, volunteer firefighters and ambulance drivers shall not be considered officers for purposes of this section with respect to their duties as firefighters and ambulance drivers.

No officer of the City shall be permitted to benefit from any contract to which the City is a party. The existence of such an interest in any contract renders the contract voidable by decree of a court of competent jurisdiction as to any person who entered into the contract or took assignment thereof with actual knowledge of the prohibited conflict. An action to have a contract declared void under this section may be brought by the City or by any resident thereof and must be brought within one year after the contract is signed or assigned. Any such decree may provide

for the reimbursement of any person for the reasonable value of all money, goods, material, labor or services furnished under the contract to the extent that the City has benefited thereby.

The prohibition in this section shall apply only when the officer or his/her parent, spouse, or child (a) has a business with which the individual is associated or a business association which shall mean a business: (1) in which the individual is a partner, director, or officer or (2) in which the individual or a member of the individual's immediate family is a stockholder of a closed corporation stock worth $1,000.00 or more at fair market value or which represents more than 5% equity interest, or is a stockholder of publicly traded stock worth $10,000.00 or more at fair market value or which represents more than 10% equity interest or (b) will receive a direct pecuniary fee or commission as a result of the contract; provided, however, if such officer (a) is an employee of the business involved in the contract and (b) has no ownership interest or will not receive a pecuniary fee, such officer shall not be deemed to have an interest within the meaning of this section.

The provisions of this section shall not apply if the interested officer:

A. Makes a declaration on the record to the City Council regarding the nature and extent of his/her interest, prior to official consideration of the contract;

B. Does not vote on the matter of granting the contract, except that if the number of members of the Council declaring an interest in the contract would prevent the Council, with all members present, from securing a quorum on the issue, then all members may vote on the matter; and

C. Does not act for the City as to inspection or performance under the contract in which he/she has an interest.

The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of any city by a financial institution shall not be considered a contract under the provisions of this section. The ownership of less than 5% of the outstanding shares of a corporation shall not constitute an interest within the meaning of this section. Notwithstanding the provisions of subsections A through C above, if an officer's parent, spouse or child is an employee of the City, the officer may vote on all issues of the contract which are generally applicable to all employees or all employees within a classification and do not single out his or her parent, spouse, or child for special action. If an officer has the power to employ personnel and he/she hires his/her parent, spouse, or child, such officer shall disclose the hiring pursuant to subsections 1 through 5 below, except that if the parent, spouse, or child is already employed in the position at the time the officer takes office and such position does not change, no disclosure need be made. Notwithstanding any other provision of this section, any contract entered into with an interested officer shall be subject to applicable competitive bidding requirements and shall be fair and reasonable to the City.

The city clerk shall maintain, separately from other records, a ledger containing the information listed in subsections 1 through 5 of this section about every contract entered into by the City in which an officer has an interest as specified above for which disclosure is made as provided in

subsections A through C above. Such information shall be kept in the ledger for five years from the date of the officer's last day in office and shall include:

1. Names of the contracting parties;
2. Nature of the interest of the officer in question;
3. Date that the contract was approved;
4. Amount of the contract; and
5. Basic terms of the contract.

The information supplied relative to the contract shall be provided to the clerk not later than ten days after the contract has been signed by both parties. The ledger kept by the clerk shall be available for public inspection during the normal working hours of the office in which it is kept.

An open account established for the benefit of any City or entity thereof with a business in which an officer has an interest shall be deemed a contract subject to the provisions of this section. The statement required to be filed pursuant to this section shall be filed within ten days after such account is opened. Thereafter, the clerk shall maintain a running account of all amounts purchased on the open account. Purchases made from petty cash or a petty cash fund shall not be subject to the provisions of this section.

Any officer who knowingly violates the provisions of Neb. Rev. Stat. §49-14,103.01 through 49-14,103.03 shall be guilty of a Class III misdemeanor. Any officer who negligently violates Neb. Rev. Stat. §49-14,103.01 through 49-14,103.03 shall be guilty of a Class V misdemeanor.

All contracts involving $100.00 or less in which an officer of such City may have an interest are exempt from the above and foregoing provisions.

No officer, including volunteer firefighters and ambulance drivers, shall receive any pay or perquisites from the City other than his/her salary. The City Council shall not pay or appropriate any money or other valuable thing to pay a person who is not an officer for the performance of any act, service or duty, which shall come within the proper scope of the duties of any officer of the City. (Ref. Neb. Rev. Stat. §16-502, 18-305 through 18-312, 49-14,103.01 through 49-14,103.03, 70-624.04)

ARTICLE II - APPOINTED OFFICIALS

SECTION 1-201 APPOINTMENT; REMOVAL

The mayor, with the consent of the City Council, may appoint such officers as shall be required by ordinance or otherwise required by law. The mayor, by and with the consent of the City Council, shall appoint a number of regular police officers as may be necessary. The City Council may establish and provide for the appointment of members of a law enforcement reserve force as provided by law.

All police officers and other appointed officials may be removed at any time by the mayor with the approval of a majority of the Council; except that if the City has a city water commissioner, he or she may at any time, for sufficient cause, be removed from office by a two-thirds (2/3) vote of the City Council. Removal of police officers may be appealed pursuant to Section 1-1304. (Ref. Neb. Rev. Stat. §16-308, 16-309)

SECTION 1-202 MERGER OF OFFICES

The City Council may, at its discretion, by ordinance, combine and merge any elective or appointive office or employment or any combination of duties of any such office(s) or employment(s), except mayor and Council members, with any other elective or appointive office or employment so that one or more such office(s) or employment(s) or any combination of duties of any such office(s) or employment(s) may be held by the same officer or employee at the same time. The office(s) or employment(s) so merged and combined shall always be construed to be separate and the effect of the combination or merger shall be limited to a consolidation of official duties only. The salary or compensation of the officer or employee holding the merged or combined office(s) or employment(s) shall not be in excess of the maximum amount provided by law for the salary or compensation of the office(s) or employment(s) so merged and combined. For purposes of this section, volunteer firefighters and ambulance drivers shall not be considered officers. (Ref. Neb. Rev. Stat. §16-305, 16-318.01)

SECTION 1-203 CLERK-TREASURER POSITION CREATED

The appointive offices of city clerk and city treasurer are hereby combined and merged in accordance with the authority granted to the City Council by Section 1-202. The office so merged and combined shall always be construed to be separated, and the effect of the combination or merger shall be limited to a consolidation of official duties only. The salary of the officer holding the merged offices shall not be in excess of the maximum amount provided by law for the salary of the offices so combined. (Ref. Neb. Rev. Stat. §16-318.01)

SECTION 1-204 CITY CLERK

The city clerk shall attend the meetings of the City Council and keep a correct journal of the proceedings of that body. He/she shall keep a record of all outstanding bonds against the City

and when any bonds are sold, purchased, paid or cancelled, said record shall show the fact. At the end of the fiscal year, he/she shall make a report of the business of the City transacted through the clerk's office for the year. That record shall describe in particular the bonds issued and sold during the year and the terms of the sale with each and every item and expense thereof. He/she shall file all official bonds after the same shall have been properly executed and approved. He/she shall make the proper certificate of passage which shall be attached to original copies of all bond ordinances hereafter enacted by the City Council.

The city clerk shall issue all licenses, permits and occupation tax receipts authorized by law and required by the city ordinances. He/she shall collect all occupation taxes and license money, except where another city officer is specifically charged with that duty. He/she shall keep a register of all licenses granted in the City and the purpose for which they have been issued.

The city clerk shall permit no records, public papers or other documents of the City kept and preserved in the office to be taken therefrom, except by such officers of the City as may be entitled to the use of the same, but only upon their leaving a receipt therefor. He/she shall keep all the records of his or her office, including a record of all licenses issued by him or her in a blank book with a proper index. He/she shall include as part of his/her records all petitions under which the City Council shall order public work to be done at the expense of the property fronting thereon, together with references to all resolutions and ordinances relating to the same. He/she shall endorse the date and hour of filing upon every paper or document so filed in his/her office. All such filings made shall be properly docketed. Included in his/her records shall be all standard codes, amendments thereto, and other documents incorporated by reference.

The city clerk shall keep an accurate and complete account of the appropriation of the several funds and draw, sign and attest all warrants ordered for the payment of money on the particular fund from which the same is payable. At the end of each month, he/she shall then make a report of the amounts appropriated to the various funds and the amount of the warrants drawn thereon. Nothing herein shall be construed to prevent any citizen, official, or other person from examining any public records during the time that the clerk's office is regularly open for business.

The city clerk shall deliver all warrants, ordinances and resolutions under his/her charge to the mayor for his/her signature. He/she shall also deliver to officers, employees and committees all resolutions and communications which are directed at said officers, employees or committees. With the seal of the City, he/she shall duly attest the mayor's signature to all ordinances, deeds and papers required to be attested to when ordered to do so by the City Council. Within 30 days after any meeting of the City Council, the city clerk shall prepare and publish the official proceedings of the City Council in a legal newspaper of general circulation in the City, and which was duly designated as such by the City Council. Said publication shall set forth a statement of the proceedings thereof and shall also include the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as one item. Between July 15 and August 15 of each year, the employee job titles and the current annual, monthly or hourly salaries corresponding to such job titles shall be published. Each job title published shall be descriptive and indicative of the duties and functions of the position. The charge for such publication shall not exceed the rates provided by the statutes of the State of Nebraska. Said publication shall be charged against the

General Fund. He/she shall then keep in a book with a proper index copies of all notices required to be published or posted by the city clerk by order of the City Council or under the ordinances of the City. To each of the file copies of said notices shall be attached the printer's affidavit of publication, if the said notices are required to be published, or the city clerk's certificate under seal where the same are required to be posted only.

The city clerk shall receive all objections to creation of paving districts and other street improvements. He/she shall receive the claims of any person against the City, and in the event that the said claim is disallowed in part or in whole, the city clerk shall notify such claimant, his or her agent, or attorney by letter within five days after such disallowance, and the city clerk shall then prepare transcripts on appeals of any disallowance of a claim in all proper cases.

The city clerk may charge a reasonable fee for certified copies of any record in the office as set by resolution of the City Council. He/she shall destroy city records under the direction of the State Records Board pursuant to Sections 84-1201 through 84-1220; provided, the City Council shall not have the authority to destroy the minutes of the city clerk, the permanent ordinances and resolution books, or any other records classified as permanent by the State Records Board. (Ref. Neb. Rev. Stat. §16-317, 19-1102 through 19-1104, 84-1201 through 84-1220, 84-712)

SECTION 1-205 CITY TREASURER

The city treasurer shall be the custodian of all money belonging to the City. He/she shall keep a separate account of each fund or appropriation and the debits and credits belonging thereto. He/she shall issue duplicate receipt for all moneys received by him/her for the City. He/she shall give to every person paying money into the city treasury a receipt therefor, specifying the date of payment and the account paid. One of the receipts shall be filed with his/her monthly report, and the last copy of the said receipt shall be kept on file in his/her office. His/her books and accounts shall always be open for inspection by any citizen of the City whenever any city fiscal record, audit, warrant, voucher, invoice, purchase order, requisition, payroll check, receipt or other record of receipt, cash or expenditure involving public funds is involved. He/she shall cancel all bonds, coupons, warrants and other evidences of debt against the City, whenever paid by him/her, by writing or stamping on the face thereof, "Paid by the city treasurer," with the date of payment written or stamped thereon. He/she shall collect all special taxes, allocate special assessments to the several owners, and shall obtain from the county treasurer a monthly report as to the collection of delinquent taxes. The treasurer's daily cashbook shall be footed and balanced daily and he/she shall adopt such bookkeeping methods as the City Council shall prescribe. He/she shall invest and collect all money owned by, or owed to, the City as directed by the City Council. (Ref. Neb. Rev. Stat. §16-318, 77-2210 through 77-2212, 84-712)

SECTION 1-206 TREASURER'S MONTHLY REPORT

The city treasurer shall, at the end of each and every month, and such other times as the City Council may deem necessary, render an account to the City Council under oath showing the financial state of the City at that date, the amount of money remaining in each fund and the amount paid therefrom, and the balance of money remaining in the treasury. He/she shall accompany the said account with a statement of all receipts and disbursements, together with all

warrants redeemed and paid by him/her. He/she shall also produce depository evidence that all city money is in a solvent and going bank in the name of the City. If the city treasurer shall neglect or fail for the space of ten days from the end of each and every month to render his/her accounts as aforesaid, the City Council shall, by resolution, declare the office vacant, and appoint some person to fill the vacancy. The city treasurer shall be present at each regular meeting of the City Council at which time he/she shall read and file his/her monthly report. (Ref. Neb. Rev. Stat. §16-318))

SECTION 1-207 TREASURER'S ANNUAL REPORT

The city treasurer shall publish in a legal newspaper having general circulation within the City, within 60 days following the close of the municipal fiscal year, a report of the activities of his/her office, which said report shall show in detail all receipts, disbursements, warrants outstanding, and the debit or credit balance of the City. (Ref. Neb. Rev. Stat. §19-1101)

SECTION 1-208 CITY ATTORNEY

The city attorney is the City's legal advisor, and as such he/she shall commence, prosecute and defend all suits on behalf of the City. When requested by the City Council, he/she shall attend meetings of the City Council and shall advise any city official in all matters of law in which the interests of the City may be involved. He/she shall draft such ordinances, bonds, contracts and other documents as may be required in the administration of the affairs of the City. He/she shall examine all bonds, contracts and documents on which the City Council will be required to act. He/she shall prepare complaints, attend and prosecute violations of the city ordinances when directed to do so by the City Council. Without direction, he/she shall appear and prosecute all cases for violation of the city ordinances that have been appealed to and are pending in any higher court. He/she shall also examine the ordinance records when requested to do so by the City Council and shall advise and assist the city clerk as much as may be necessary to the end that each procedural step will be taken in the passage of each ordinance to insure that they will be valid. The City Council shall have the right to compensate the city attorney for legal services on such terms as the City Council and the city attorney may agree, and to employ any additional legal assistance as may be necessary out of the funds of the City. (Ref. Neb. Rev. Stat. §16-319)

SECTION 1-209 CITY POLICE CHIEF

The City Police Chief shall direct the police work of the City and shall be responsible for the maintenance of law and order. When requested to do so, he/she shall act as sergeant-at-arms at council meetings. He/she shall file the necessary complaints in cases arising out of violations of city ordinances and shall make all necessary reports required by the city ordinances or the laws of the State of Nebraska.

The Police Chief, or his/her designee, shall be responsible for maintaining and properly policing nuisance violations in the City and within the extraterritorial jurisdiction of the City, shall have the full authority to execute notices and issue citations for violations of such nuisance ordinances of the City. The Police Chief, or his/her designee, also shall be responsible for maintaining and properly policing animal control violations in the City, and shall have the full authority to

execute notices and issue citations for violations of such animal control ordinances of the City. (Ref. Neb. Rev. Stat. §16-225, 16-323)

Amended – Ordinance No. 1775 9/15/2008

SECTION 1-210 CITY POLICE OFFICERS

City police officers shall be expected to be conversant with city and state laws and shall have the duty to file such complaints and reports as may be required by the city ordinances and the laws of the State of Nebraska. The city police, whether regular or special, shall have the power to arrest all offenders against the laws of the State of Nebraska or the City, by day or by night, and keep the said offenders in the city jail or some other place to prevent their escape until trial can be held before the proper official of the State of Nebraska or the City. It shall be the duty of every city police officer making a lawful arrest to search all persons in the presence of some other person, whenever possible, and shall carefully keep and produce to the proper judicial official upon the trial everything found upon the person of such prisoners. All personal effects other than contraband or evidence of criminal activity so taken from prisoners aforesaid shall be restored to them upon their release. Any city police officer who shall willfully fail, neglect or refuse to make an arrest, or who purposely and willfully fails to make a complaint after an arrest is made, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined. Police officers shall have full power and authority to call on any person whenever necessary to assist them in performing public duties; and failure, neglect or refusal to render such assistance shall be deemed a misdemeanor punishable upon conviction by a fine. It shall be unlawful for the City Council to retain any city police officer in that position after he/she shall have been duly convicted of the willful violation of any law of the United States of America, the State of Nebraska or any ordinance of the City, except minor traffic violations. No law enforcement official shall have any interest in any establishment having a liquor license. Suitable uniforms and badges shall be furnished to the city police by the City. Any member who shall lose or destroy the same shall be required to pay the replacement costs, and in the event that any member shall leave the force, he/she shall immediately deliver his/her badge to the police chief. The City Council may from time to time provide the city police with such equipment and transportation as may be essential in the performance of their official duties. (Ref. Neb. Rev. Stat. §16-225, 16-323)

SECTION 1-211 CITY ENGINEER

The city engineer shall make a record of the minutes of his/her surveys and all other work done for the City. He/she shall, when directed by the City Council, accurately make all plats, sections, profiles and maps as may be necessary in the judgment of the City Council. He/she shall, upon request of the City Council, make estimates of the costs of labor and material which may be done or furnished by contract with the City, and make all surveys, estimates and calculations necessary for the establishment of grades, bridges, building of culverts, sewers, electric light system, waterworks, power plant, public heating system, curbing and gutters, and the improvement of streets and erection and repair of buildings, and shall perform such other duties as the City Council may require. All records of the special engineer shall be public records

which shall belong to the City and shall be turned over to his/her successor. (Ref. Neb. Rev. Stat. §16-320, 16-321)

SECTION 1-212 SPECIAL ENGINEER

The City Council may, whenever they deem it expedient, employ a special engineer to make or assist in making any particular estimate or survey. Any such estimate or survey shall have the same validity and serve in all respects as though the same had been made by the city engineer. (Ref. Neb. Rev. Stat. §16-322)

SECTION 1-213 RECREATION DIRECTOR

1. There is hereby created the position of Recreation Director. The Recreation Director shall be appointed by the Mayor, and his/her appointment shall be subject to confirmation by the City Council. The Recreation Director, as a Mayoral appointee, is subject to removal only as set forth in Section 1-201. The Mayor shall set the compensation for the Recreation Director, subject to confirmation by the City Council.

2. The Recreation Director, subject to the specific direction of the City Council through the Mayor and subject to the general supervision of the City Administrator, shall have the following duties and responsibilities:

    a. to have general charge of all recreation programs at the Community Center, Aquatic Park, Senior Center, and other recreational facilities;

    b. to develop a comprehensive community recreation program, and to coordinate and administer all such recreation programs, including those at the Community Center, Aquatic Park, Senior Center, and other recreational facilities;

    c. to make detailed reports to the Mayor and City Council regarding the comprehensive community recreation program and the operations of the Community Center, Aquatic Park, Senior Center, and other recreational facilities;

    d. supervise the full-time and part-time staff of the Community Center, Aquatic Park, Senior Center, and other recreational facilities;

    e. prepare and maintain all necessary and required reports and records pertaining to public works;

    f. coordinate screening and interviewing of all candidates for recreation facilities jobs and make recommendations regarding hiring to the City Administrator;

    g. coordinate capital improvement projects with the Public Works Director; and

h. participate in the preparation of the budget for the comprehensive community recreation program.

SECTION 1-214 ~~CODE ENFORCEMENT OFFICER~~

Repealed – Ordinance No. 1775 9/15/2008

SECTION 1-215 ~~STREET AND PROPERTY MAINTENANCE SUPERINTENDENT~~

Repealed – Ordinance No. 1776 9/15/2008

SECTION 1-216 CITY ADMINISTRATOR

The city administrator is the non-elected head of city government under the direction and control of the mayor and City Council. The city administrator is appointed by the mayor upon approval of a majority of the City Council and may be removed at any time upon notice given by the mayor after approval by a majority of the City Council.

The city administrator is the administrative supervisor of all city departments. Except for purposes of inquiry and except as managed by the mayor and City Council through its liaison committee, the mayor and City Council shall manage the affairs of the City through the city administrator.

The city administrator shall direct the affairs of the City through planning and coordination of functions. He/she will coordinate the operations of the departments with the department heads. He/she will also ensure compliance with city procedures and policies; promote training programs; and foster good employee relations.

The city administrator shall:

1. Keep the mayor and City Council fully advised about the City's financial condition and the City's needs, prepare the annual estimates of revenues and expenditures, and prepare a proposed budget to present a complete financial plan to the mayor and City Council prior to the Council's consideration and adoption of the annual appropriation ordinance; and supervise and control the budgeted expenditures.

2. Initially review the department heads' proposed discipline and discharge of an employee to ensure compliance with legal requirements and to determine if it is necessary to refer the matter to the city attorney for review before department heads take action. The city administrator shall also ensure that the City complies with the city Civil Service laws. The city administrator may also temporarily transfer employees between departments, divisions and services to meet emergencies.

3. Attend all meetings of the City Council and report any matter concerning city affairs; and attend such other meetings of departments and officials as these duties require or as directed by the mayor and Council.

4. Investigate the affairs of the City and make recommendations to the mayor and Council for action deemed necessary or expedient for the good of the city government.

5. Investigate, or have investigated, all complaints filed against any employee, department, division or service of the City and to report such investigation with recommendations to the mayor and Council.

6. Serve as purchasing agent of the City; to purchase or contract or supervise the same for all supplies and contractual services needed by any department or agency of the City which derives its support wholly or in part from the City, in accordance with purchasing procedures as prescribed by this subsection, and such rules and regulations as the Administrator shall adopt for the internal management and operation of his or her duties as purchasing agent, and such other rules and regulations as shall be prescribed by the Mayor and/or the City Council.

7. Perform such other duties and exercise such other powers as required by ordinance or prescribed by resolution of the mayor and Council.

The city administrator shall not participate in any political activity on behalf of candidates or issues involving public trust except for the casting of an individual ballot. The administrator shall be an officer of the City within the meaning of Neb. Rev. Stat. §16-502, and shall be subject to and bound by its provisions. (Ref. Neb. Rev. Stat. §16-308)

Amended – Ordinance No. 1762 3/17/2008

SECTION 1-217 UTILITIES SUPERINTENDENT

The utilities superintendent shall be the official who shall have the immediate charge of the sewer and water departments of the City. The utilities superintendent shall be under the direction and control of the city administrator at all times. He/she shall be appointed by the mayor in the manner of other appointed officials and may be removed by a majority vote of the City Council for any good and sufficient cause. The utilities superintendent shall have the immediate control of the water plant, pump house and machinery and appliances used in connection with producing and distributing water to inhabitants of the City and the sewerage systems of the City. The utilities superintendent shall read or cause to be read the water meters of the customers of the water department. He/she shall supervise and inspect repairs and maintenance work on the city water and sewer systems. He/she shall enforce the laws of the City relating to the water and sewer departments as well as carry out any order or directive of the city administrator. All employees under his/her direction shall obey his/her orders. The utilities superintendent or his/her duly authorized agent shall have free access at proper hours of the day to all parts of each

premises and building to or in which water or sewer service is furnished to examine the pipes and fixtures and ascertain whether there is any disrepair or violation of city law. (Ref. Neb. Rev. Stat. §16-308, 17-541, 17-543)

SECTION 1-218 BUILDING INSPECTOR

The building inspector is hereby authorized and directed to enforce all the provisions of the city code pertaining to building construction and repair. For such purpose, he/she shall have the powers of the city police. Whenever any building or construction work is being done contrary to the provisions of the building code, electrical code, plumbing code or gas code, it shall be the duty of the building inspector to order the work stopped by notice in writing served on any persons engaged in doing or causing the work to be done. Any such person shall immediately stop, or cause to be stopped, said work until authorization is received from the building inspector to continue the work. When any structure is in a dangerous condition or the building is being used contrary to the provisions of the laws of the City, the building inspector may order such use discontinued or the structure or portion thereof in violation vacated. The building inspector, acting in good faith and without malice in the discharge of his/her duties, shall not thereby render himself/herself personally liable and is hereby relieved from all personal liability for any damage that may accrue to persons or property as the result of any act or omission in the discharge of his/her duties. Any suit brought against the building inspector because of an alleged act or omission performed by him/her in the enforcement of any provisions of the city codes relating to buildings or building construction shall be defended by the legal department of the City until final termination of the proceedings. The building inspector may request the assistance and cooperation of other officials of the City and shall receive the same insofar as may be necessary in the discharge of his/her duties. The inspector shall have such other additional duties and make such reports as the City Council may prescribe from time to time. (Ref. Neb. Rev. Stat. §16-308)

SECTION 1-219 ELECTRICAL INSPECTOR

The electrical inspector shall be appointed in the manner of other appointed officials and shall hold office at the pleasure of the City Council. He/she may be removed from office for cause only after a full hearing before the City Council. It shall be unlawful for the electrical inspector to engage in the business of installing or selling electrical supplies or materials, either directly or indirectly, and he/she shall have no financial interest in any concern engaged in such business at any time while he/she holds the office of electrical inspector. All records of the electrical inspector shall be filed and preserved in the office of the city clerk unless some other place is specifically provided for the keeping of such records. All records of the electrical inspector shall be public records and shall remain the property of the City at all times. The electrical inspector shall have the duty and authority to order electrical service shut off and service disconnected during any period when the use of such service appears hazardous to the occupant of the premises served. It shall be unlawful for the owner of any premises or property to neglect or fail to properly repair or replace any defective electrical work, appliance or appurtenance to the electrical system of the City after notice to do so has been served upon said owner by the electrical inspector. When acting within the scope of his/her duties and without malice or gross negligence, the electrical inspector shall not render himself/herself personally liable for damage caused by him/her and is hereby relieved from all personal liability for any damage that may

accrue to persons or property as the result of any act or omission. Any suit brought against the electrical inspector because of an alleged act or omission performed by him/her in the enforcement of any provision of the city code relating to electrical work shall be defended by the legal department of the City until final termination of the proceedings. The electrical inspector may request, and shall receive insofar as may be necessary in the discharge of his/her duties, the assistance and cooperation of other officials of the City. The electrical inspector shall have the duty of inspecting and approving all connections with the city electrical system. (Ref. Neb. Rev. Stat. §16-308)

SECTION 1-220 PLUMBING INSPECTOR

The plumbing inspector shall be appointed in the manner of other appointed officials and shall hold office at the pleasure of the City Council. He/she may be removed from office for cause only after a full hearing before the City Council. It shall be unlawful for the plumbing inspector to engage in the business of installing or selling plumbing fixtures, supplies or materials, either directly or indirectly, and he/she shall have no financial interest in any concern engaged in such business at any time while he/she holds the office of plumbing inspector. All records of the plumbing inspector shall be filed and preserved in the office of the city clerk unless some other place is specifically provided for the keeping of such records. All records of the plumbing inspector shall be public records and shall remain the property of the City at all times. Whenever the plumbing inspector shall determine that any premises or property is unfit for human habitation by reason of a defective plumbing, heating, water treatment, sewage or drainage system, appliance or accessory, he/she may order the property vacated by posting a copy of his/her order of vacation in a conspicuous place on such premises and by serving a copy thereof upon every person owning or occupying such premises or property. It shall be unlawful for any person to fail or refuse to comply with such notice. The plumbing inspector shall have the duty and authority to order water and sewer service shut off and service disconnected during any period when the use of such service appears hazardous to the occupant of the premises served. It shall be unlawful for the owner of any premises or property to neglect or fail to properly repair or replace any defective plumbing or heating appliance or appurtenance to the utility systems of the City after notice to do so has been served upon said owner by the plumbing inspector. When acting within the scope of his/her duties and without malice or gross negligence, the plumbing inspector shall not render himself/herself personally liable for damage caused by him/her and is hereby relieved from all personal liability for any damage that may accrue to persons or property as the result of any act or omission. Any suit brought against the plumbing inspector because of an alleged act or omission performed by him/her in the enforcement of any provision of the city code relating to plumbing shall be defended by the legal department of the City until final termination of the proceedings. The plumbing inspector may request, and shall receive insofar as may be necessary in the discharge of his/her duties, the assistance and cooperation of other officials of the City. The plumbing inspector shall have the duty of inspecting and approving all connections with the city water and sewer systems. (Ref. Neb. Rev. Stat. §16-308)

SECTION 1-221 ZONING INSPECTOR

The zoning inspector shall be appointed in the manner of other appointed officials and shall hold office at the pleasure of the City Council. He/she shall enforce the various provisions of the city

code that relating to zoning. He/she shall act in an advisory capacity to the Planning Commission. (Ref. Neb. Rev. Stat. §16-308)

SECTION 1-222 ZONING DIRECTOR

The zoning director shall be appointed in the manner of other appointed officials and shall hold office at the pleasure of the City Council. He/she shall enforce the various provisions of the city code that relating to zoning.

SECTION 1-223 CITY INSPECTOR POSITION CREATED

The appointive offices of building inspector, electrical inspector, plumbing inspector, zoning inspector and zoning director are hereby combined and merged, in accordance with the authority granted to the City Council by Section 1-202. The title for the merged office is city inspector. The offices so merged and combined shall always be construed to be separate, and the effect of the combination or merger shall be limited to a consolidation of official duties only. In addition to the official duties of the merged or combined offices, the city inspector also has the duty to view and inspect all lots and parcels of land for weeds and worthless vegetation and to view and inspect all sidewalks contiguous to public property within the City to ascertain if any snow, ice, mud or other obstructions encroach upon the sidewalks. The salary of the officer holding the merged offices shall not be in excess of the maximum amount provided by law for the salary of the offices so combined.

The city inspector has the power to enforce all city ordinances which he/she has the duty to enforce. In enforcing these ordinances, the city inspector is authorized to issue citations, on oath, for any violation of these city ordinances following training on the issuance of citations. The city inspector shall not have the power to arrest or detain any person for any alleged violation. The city inspector, or any other official authorized, is empowered to serve notices pertaining to these matters.

SECTION 1-224 *(BLANK)*

SECTION 1-225 PUBLIC WORKS DIRECTOR

1. There is hereby created the Department of public works and the position of Public Works Director. The Public Works Director shall be appointed by the Mayor, and his/her appointment shall be subject to confirmation by the City Council. The Public Works Director, as a Mayoral appointee, is subject to removal only as set forth in Section 1-201. The Mayor shall set the compensation for the Public Works Director, subject to confirmation by the City Council.

2. The Public Works Director shall also be the Utilities Superintendent.

3. The Public Works Director, subject to the specific direction of the City Council through the Mayor and subject to the general supervision of the City Administrator, shall have the following duties and responsibilities:

a. to have general charge, direction, supervision and control of all improvements to and maintenance of the City's streets, sidewalks, culverts and bridges, gutters and drains, real property, buildings, cemetery, grounds, parks (with park improvements as planned by the Park Board), recreational areas, water system, and sewerage system;

b. to have general charge of the management and daily operations of the Public Works Department through the development, coordination, direction and administration of maintenance, repair and operational activities for all functions relating to public works;

c. to have general charge, direction, supervision and control of all maintenance of all City equipment;

d. to make detailed reports to the Mayor and City Council on the condition of the City's streets, sidewalks, culverts and bridges, gutters and drains, real property, buildings, parks, recreational areas, water system, and sewerage system, and equipment;

e. to issue such permits as the Mayor shall direct in implementing the policies adopted by the City Council;

f. supervise assistant public works director(s), streets, public works shop, water department, wastewater department, cemetery, property maintenance, and administrative staff in the making of such improvements and in performing such maintenance as is set forth above;

g. oversee contractual projects with private contractors and other governmental agencies;

h. inspect and determine approval of improvements made by Sanitary and Improvement Districts (SID's) and other developments within the City's zoning jurisdiction to ensure compliance with applicable city codes and ordinances;

i. prepare and maintain all necessary and required reports and records pertaining to public works;

j. coordinate screening and interviewing of all candidates for public works jobs and make recommendations regarding hiring to the City Administrator;

k. participate in the preparation of the budget for public works, including for the water system and sewer system.

Enacted – Ordinance No. 1776 9/15/2008

SECTION 1-226 STREET COMMISSIONER

1. There is hereby created the position of Street Commissioner. The Street Commissioner shall be appointed by the Mayor, and his/her appointment shall be subject to confirmation by the City Council. The Street Commissioner is under the immediate supervision of the City Administrator. The Mayor shall set the compensation for the Street Commissioner, subject to confirmation by the City Council.

2. The Street Commissioner shall be subject to the orders of the Mayor and City Council by resolution, and shall have general charge over the "One (1) and Six (6) Year Highway and Street Improvement Plan." (Ref. *Neb. Rev. Stat*. §16-324)

Enacted – Ordinance No. 1776 9/15/2008

ARTICLE III - ADMINISTRATION

SECTION 1-301 BONDS; FORM

Official bonds of the City shall be in form, joint and several, and shall be made payable to the City in such penalty as set by Nebraska law or as the City Council may set by resolution; provided, the penalty amount on any bond shall not fall below the legal minimum, when one has been set by the State of Nebraska, for each particular official. All official bonds of the city officials shall be executed by the principal named in such bonds and by at least two sufficient sureties who shall be freeholders of the county, or by the official as principal and by a guaranty, surety, fidelity or bonding company; provided no city official, while still in his/her official term of office, shall be accepted as surety on any other official's bond, contractor's bond, license bond or appeal bond under any circumstances. Only companies that are legally authorized to transact business in the State of Nebraska shall be eligible for suretyship on the bond of an official of the City. All said bonds shall obligate the principal and sureties for the faithful discharge of all duties required by law of such principal, and shall insure to the benefit of the City and any persons who may be injured by a breach of the conditions of such bonds. No bond shall be deemed to be given or complete until the approval of the City Council, and all sureties are endorsed in writing on the said instrument by the mayor and city clerk pursuant to the said approval of the City Council. The premium on any official bond required to be given may be paid out of the General Fund or other proper city fund upon a resolution to that effect by the City Council at the beginning of any city year. All official bonds meeting the conditions herein shall be filed with the city clerk for his/her official records, and it shall be the duty of the city clerk to furnish a certified copy of any bond so filed upon the payment of a fee which shall be set by resolution of the City Council. In the event that the sureties on the official bond of any officer of the City become insufficient in the opinion of the City Council, the Council may, by resolution, fix a reasonable time within which the said officer may give a new bond or additional sureties as directed. In the event that the officer should fail, refuse or neglect to give a new bond or additional sureties to the satisfaction and approval of the City Council, then the office shall, by such failure, refusal or neglect, become vacant, and it shall be the duty of the City Council to appoint a competent and qualified person to fill the said office. Any official who is re-elected to office shall be required to file a new bond after each election. [Ref. Neb. Rev. Stat. §11-103 through 11-118, 16-219]

SECTION 1-302 OATH OF OFFICE; CITY OFFICIALS

All officials of the City, whether elected or appointed, except when a different oath is specifically provided herein, shall take and subscribe the following oath which shall be endorsed upon their respective bonds:

"I, _____, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Nebraska against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely and without mental reservation or for the purpose of evasion; and that I will faithfully and impartially perform the duties of the office of _____ according to law and to the best of my ability. And I do further swear that I do not advocate, nor am I a member of

any political party or organization that advocates, the overthrow of the government of the United States or of this State by force or violence; and that during such time as I am in this position I will not advocate, nor become a member of any political party or organization that advocates, the overthrow of the government of the United States or of this State by force or violence. So help me God." [Ref. Neb. Rev. Stat. §11-101]

SECTION 1-303 SEAL; OFFICIAL CORPORATE

The official corporate seal of the City shall be kept in the office of the city clerk, and shall bear the following inscription: "Corporate Seal, City of Plattsmouth, Nebraska, Incorporated 1855." The city clerk shall affix an impression of the said official seal to all warrants, licenses, permits, ordinances and all other official papers issued by order of the City Council and countersigned by the city clerk. [Ref. Neb. Rev. Stat. §16-115]

SECTION 1-304 MEETINGS; DEFINED

Meetings, as used in this article, shall mean all regular, special or called meetings, formal or informal, of a public body for the purposes of briefing, discussion of public business, formation of tentative policy or the taking of any action. [Ref. Neb. Rev. Stat. §84-1409(2)]

SECTION 1-305 MEETINGS; PUBLIC BODY DEFINED

"Public body" as used in this article shall mean:

A. The City Council of the City;
B. All independent boards, commissions, bureaus, committees, councils, subunits or any other bodies, now or hereafter created by Constitution, statute, ordinance or otherwise pursuant to law; and
C. Advisory committees of the bodies listed above.

This article shall not apply to subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy or taking formal action on behalf of their parent body. [Ref. Neb. Rev. Stat. §84-1409(1)]

SECTION 1-306 MEETINGS; PUBLIC

All meetings shall be held in the public building in which the City Council usually holds such meetings, unless the publicized notice hereinafter required shall designate some other public building or other specified place. Council meetings shall normally be held within the corporate limits of Plattsmouth but may be held outside of the City if proper notice is given as set forth below. The advance publicized notice of all public, convened meetings shall be simultaneously transmitted to all members of the City Council and to the public by a method designated by the City Council or by the mayor if the City Council has not designated a method. Such notice shall contain the time and specific place for each meeting and either an enumeration of the agenda subjects known at the time of the notice, or a statement that such an agenda, kept continually current, shall be readily available for public inspection at the office of the city clerk. Except for

items of an emergency nature, the agenda shall not be altered later than (a) 24 hours before the scheduled commencement of the meeting or (b) 48 hours before the scheduled commencement of a meeting of the City Council scheduled outside the corporate limits of the City. The City Council shall have the right to modify the agenda to include items of an emergency nature only at such public meetings. The minutes of the city clerk shall include the record of the manner and advance time by which the publicized notice was given, a statement of how the availability of an agenda of the then known subjects was communicated, the time and specific place of each meeting, and the names of all members of the City Council present or absent at each convened meeting. The minutes of the City Council shall be a public record open to inspection by the public upon request at any reasonable time at the office of the city clerk. Any official action on any question or motion duly moved and seconded shall be taken only by roll call vote of the City Council in open session. The record of the city clerk shall show how each member voted, or that the member was absent and did not vote. [Ref. Neb. Rev. Stat. §84-1408, 84-1409, 84-1411, 84-1413]

SECTION 1-307 MEETINGS; RULES OF ORDER.

The conduct of City Council meetings shall be governed by the Rules of Order adopted by resolution of the City Council.

Adopted – Resolution 22-001 2/21/2022; Amended – Ordinance No. 1992 2/21/2022

SECTION 1-308 MEETINGS; CLOSED SESSIONS

1. Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. Closed sessions may be held for, but shall not be limited to, such reasons as:

    a. Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;

    b. Discussion regarding deployment of security personnel or devices;

    c. Investigative proceedings regarding allegations of criminal misconduct; or

    d. Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting.

2. Nothing in this section shall permit a closed meeting for discussion of the appointment or election of a new member to any public body. The city administrator, city attorney and city clerk shall attend all closed sessions unless the Council votes to enter closed session without such officials.

3. To hold a closed session, a member of the council shall make a motion which includes the purpose for the same. Upon a second, the Mayor shall restate the motion including the purpose and the vote on the motion shall be taken in open session. If passed by an affirmative vote of a majority of all elected officials, the Mayor shall restate the purpose for the closed session while still in open session. The vote of each member on the question of holding a closed session, the reason for the closed session, the Mayor's restatement of the purpose of the closed session and the time when the closed session commenced and concluded shall be recorded in the minutes. The public body holding such a closed session shall restrict its consideration to matters during the closed portions to only those purposes set forth in the minutes as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action shall mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order or ordinance or formation of a position or policy, but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under subdivision (a) of this section.

4. Any member of the public body shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for (a) the protection of the public interest or (b) the prevention of needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the members of the public body. Such challenge and its disposition shall be recorded in the minutes.

5. Nothing in this section shall be construed to require that any meeting be closed to the public. No person or public body shall fail to invite a portion of its members to a meeting and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing the provisions of this article. No closed session, informal meeting, chance meeting, social gathering, or electronic communication shall be used for the purpose of circumventing the provisions of this article.

6. The provisions of this article shall not apply to chance meetings, or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened and there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction or advisory power. (Ref. Neb. Rev. Stat. §84-1410)

7. All matters discussed in closed session shall remain confidential and the members of the Council and other parties present at such a closed session shall not reveal the discussions undertaken or statements made by any person in the closed session.

SECTION 1-309 MEETINGS; EMERGENCY MEETINGS

When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of Section 1-312 of this article shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day. (Ref. Neb. Rev. Stat. §84-1411)

SECTION 1-310 MEETINGS; MINUTES

Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.

The minutes shall be public records and open to public inspection during normal business hours. Minutes shall be written and available for inspection within ten working days or prior to the next convened meeting, whichever occurs earlier. (Ref. Neb. Rev. Stat. §84-1412, 84-1413)

SECTION 1-311 MEETINGS; VOTES

Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted, or if the member was absent or not voting.

The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes. (Ref. Neb. Rev. Stat. §16-503, 84-1413)

SECTION 1-312 MEETINGS; NOTICE TO NEWS MEDIA

The city clerk, secretary or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting. (Ref. Neb. Rev. Stat. §84-1411)

SECTION 1-313 MEETINGS; PUBLIC PARTICIPATION

Subject to the provisions of this article, the public shall have the right to attend and the right to speak at meetings of public bodies and all or any part of a meeting of a public body, except for closed meetings called pursuant to Section 1-308, may be videotaped, televised, photographed, broadcast or recorded by any person in attendance by means of a tape recorder, camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

It shall not be a violation of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting or recording its meetings. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings. No public body shall require members of the public to identify themselves as a condition for admission to the meeting. The body may require any member of the public desiring to address the body to identify himself or herself. No public body shall for the purpose of circumventing the provisions of this article hold a meeting in a place known by the body to be too small to accommodate the anticipated audience. No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this State. An agency which contracts with municipalities outside the State of Nebraska may hold meetings of any committee outside the State of Nebraska if such meetings are held only in such contracting municipalities. Final action on any agenda item shall only be taken by the agency at a meeting in the State of Nebraska, which meeting shall comply with Sections 84-1408 to 84-1414 RS Neb. The public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at the meeting. Public bodies shall make available at the meeting, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting. (Ref. Neb. Rev. Stat. §84-1412, 18-2438)

SECTION 1-314 MEETINGS; CITY COUNCIL

Regular meetings of the Mayor and City Council shall be held on the first and third Monday of each month. All regular meetings will commence at the hour of 7:00 P.M.

At all meetings of the Council a majority of the Council Members shall constitute a quorum to do business. (Ref. Neb. Rev. Stat. §16-401)

Amended – Ordinance No. 1750 – 5/21/2007

SECTION 1-315 MEETINGS; ORDER OF BUSINESS

All meetings of the City Council shall be open to the public. Promptly at the hour set by law on the day of each regular meeting, the members of the City Council, the city clerk, the mayor and such other city officials that may be required shall take their regular stations in the meeting place, and the business of the City shall be taken up for consideration and disposition in the manner prescribed by the official agenda on file at the office of the city clerk.

SECTION 1-316 MEETINGS; CHANGE IN OFFICE

The change in office shall be made as follows: The mayor and Council shall meet on the first regular meeting date in December of each year in which a city election is held and the outgoing officers and the outgoing members of the Council shall present their reports, and upon the old Council having completed its business up to the said time, the outgoing members of the Council shall surrender their offices to the incoming members, and the outgoing officers shall thereupon

each surrender to his/her successor in office all property, records, papers and monies belonging to the same. (Ref. Neb. Rev. Stat. §16-302.01)

SECTION 1-317 MEETINGS; ORGANIZATIONAL

The newly elected Council shall convene at the regular place of meeting in the City on the first regular meeting in December of each year in which a city election is held immediately after the prior Council adjourns and proceed to organize themselves for the ensuing year. The mayor elected for the new municipal year shall call the meeting to order. The Council shall then proceed to examine the credentials of its members and other elective officers of the City to see that each has been duly and properly elected, and to see that such oaths and bonds have been given as are required. After ascertaining that all members are duly qualified, the Council shall then elect one of its own body who shall be styled as "President of the Council." The mayor shall then nominate his/her candidates for appointive offices. He/she shall then proceed with the regular order of business. It is hereby made the duty of each and every member of the Council, or his/her successor in office, and of each officer elected to any office to qualify prior to the first regular meeting in December following his/her election. All appointive officers shall qualify within two weeks following their appointments. Qualification for each officer who is not required to give bond shall consist in his/her subscribing and taking an oath to support the Constitution of the United States, the Constitution of the State of Nebraska, the laws of the City and to perform faithfully and impartially the duties of his/her office, said oath to be filed in the office of the city clerk. Each officer who is required to give a bond shall file the required bond in the office of the city clerk with sufficient sureties, conditioned on the faithful discharge of the duties of his/her office, with the oath endorsed thereon. (Ref. Neb. Rev. Stat. §16-302.01)

SECTION 1-318 MEETINGS; SPECIAL MEETINGS

Special meetings may be called by the mayor or by four members of the City Council, the object of which shall be submitted to the Council in writing. The call and object, as well as the disposition thereof, shall be entered upon the journal by the city clerk. On filing the call for a special meeting, the city clerk shall notify the Councilmembers of the special meeting, stating the time and its purpose. Notice of a special meeting need not be given to a Councilmember known to be out of the state or physically unable to be present. A majority of the members of the City Council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from day to day and compel the attendance of the absent members. Whether a quorum is present or not, all absent members shall be sent for and compelled to attend.

At the hour appointed for the meeting, the city clerk shall proceed to call the roll of members and announce whether a quorum is present. If a quorum is present, the Council shall be called to order by the mayor, if present, or if absent, by the president of the Council. In the absence of both the mayor and the president of the Council, the City Councilmembers shall elect a president pro tempore. All ordinances passed at any special meeting shall comply with procedures set forth in Chapter I, Article IV herein. (Ref. Neb. Rev. Stat. §16-401)

SECTION 1-319 MEETINGS; QUORUM

A majority of all the members elected to the City Council shall constitute a quorum for the transaction of any business, but a fewer number may adjourn from time to time and compel the attendance of absent members. Unless a greater vote is required by law, an affirmative vote of at least one-half of the elected members shall be required for the transaction of any business. (Ref. Neb. Rev. Stat. §16-401)

SECTION 1-320 MEETINGS; VIDEOCONFERENCING, WHEN ALLOWED

1. A meeting of an organization created under the Interlocal Cooperation Act or the Municipal Cooperative Financing Act or of the governing body of a risk management pool or advisory committee organized in accordance with the Intergovernmental Risk Management Act may be held by means of videoconferencing if:
   (a) Reasonable advance publicized notice is given;
   (b) Reasonable arrangements are made to accommodate the public's right to attend, hear and speak at the meeting, including seating, recordation by audio or visual recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if videoconferencing was not used;
   (c) At least one copy of all documents being considered is available to the public at each site of the videoconference;
   (d) At least one member of the governing body or advisory committee is present at each site of the videoconference; and
   (e) No more than one-half of the governing body's or advisory committee's meetings in a calendar year are held by videoconference.

Videoconferencing shall not be used to circumvent any of the public government purposes established in this article.

2. For purposes of this section, “videoconferencing” shall mean conducting a meeting involving participants at two or more locations through the use of audio-video equipment which allows participants at each location to hear and see each meeting participant at each other location, including public input. Interaction between meeting participants shall be possible at all meeting locations. (Ref. Neb. Rev. Stat. §84-1409, 84-1411)

ARTICLE IV - ORDINANCES

SECTION 1-401 ORDINANCES, RULES, AND RESOLUTIONS; GRANT OF POWER

The City Council may make all ordinances, bylaws, rules, regulations and resolutions, not inconsistent with the laws of the State of Nebraska, as may be expedient for maintaining the peace, good government and welfare of the City and its trade, commerce and manufactures, for preserving order and securing persons or property from violence, danger and destruction, for protecting public and private property, and for promoting the public health, safety, convenience, comfort and morals and the general interests and welfare of the inhabitants of the City. (Ref. Neb. Rev. Stat. §16-246)

SECTION 1-402 INTRODUCTION

Ordinances and resolutions may be introduced by any member of the City Council. Such introduction shall be followed by a reading by title of such ordinance or resolution by the city administrator or city attorney.

The Council may immediately consider passage of any ordinance and proceed to do so pursuant to Section 1-406 set forth hereafter or may, by majority vote, table consideration of the ordinance until a later date.

Resolutions, once introduced, may be immediately acted upon by vote of the City Council or may, by motion and majority vote of the Council, be tabled for later consideration.

SECTION 1-403 RESOLUTIONS AND MOTIONS; PROCEDURE

A majority vote shall be required to pass any resolution or motion. The vote on any resolution or motion shall be by roll call vote.

SECTION 1-404 STYLE

The style of all city ordinances shall be:

"Be it ordained by the mayor and Council of the City of Plattsmouth, Nebraska." (Ref. Neb. Rev. Stat. §16-405)

SECTION 1-405 TITLE

No ordinance shall contain a subject not clearly expressed in its title. (Ref. Neb. Rev. Stat. §16-404)

SECTION 1-406 ORDINANCES, RESOLUTIONS, ORDERS, BY- LAWS; READING; PASSAGE

Ordinances of a general or permanent nature, except annexation ordinances, shall be read by title on three different days unless three-fourths (3/4) of the City Council vote to suspend this

requirement. Any ordinance for the annexation of territory shall be read on three separate occasions. In case such reading requirement is suspended, the ordinance shall be read by title and then moved for final passage. Prior to passage, all ordinances to be considered shall be read by title unless ¾ of the Council vote to have the entire ordinance read prior to passage.

All ordinances, resolutions and motions require a majority vote of the Council for passage. The city clerk shall record the yeas and nays of all votes taken and the names of the councilmembers, and how they voted on each issue. (Ref. Neb. Rev. Stat. §16-404)

SECTION 1-407 PUBLICATION OR POSTING

All ordinances of a general nature shall be published one time within 15 days after they are passed in some newspaper published in the City or, if no paper is published in the City, then by posting a written or printed copy in each of three public places in the City. (Ref. Neb. Rev. Stat. §16-405)

SECTION 1-408 CERTIFICATE OF PUBLICATION OR POSTING

The passage, approval, and publication or posting of all ordinances shall be sufficiently proven by a certificate under the seal of the City from the city clerk showing that the said ordinance was passed and approved, and when and in what paper the same was published, or when, by whom and where the same was posted. (Ref. Neb. Rev. Stat. §16-403)

SECTION 1-409 EFFECTIVE DATE; EMERGENCY ORDINANCES

1. Except as provided in subsection 2 of this section, an ordinance for the government of the City which has been adopted by the City Council without submission to the voters of the City shall not go into effect until published as required by Nebraska law.

2. In the case of riot, infectious or contagious diseases, or other impending danger, failure of a public utility, or any other emergency requiring its immediate operation, an ordinance shall take effect upon the proclamation of the mayor and the posting thereof in at least three of the most public places in the City. Such emergency ordinance shall recite the emergency, be passed by a three-fourths (3/4) vote of the City Council, and be entered of record on the city clerk's minutes. (Ref. Neb. Rev. Stat. §16-405, 19-3701)

SECTION 1-410 AMENDMENTS AND REVISIONS

No ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended and the ordinance or section so amended is repealed, except that an ordinance revising all the ordinances of the City and modifications to zoning or building districts may be adopted as otherwise provided by law. (Ref. Neb. Rev. Stat. §16-404)

ARTICLE V - FISCAL MANAGEMENT

SECTION 1-501 FISCAL YEAR

The fiscal year of the City and any public utility of the City commences on October 1 and extends through the following September 30 except as provided in the Municipal Proprietary Function Act. (Ref. Neb. Rev. Stat. §16-701)

SECTION 1-502 PROPOSED BUDGET STATEMENT; FILING

1. The City Council shall, not later than the first day of August of each year, on forms prescribed and furnished by the Nebraska State Auditor, prepare in writing and file with the city clerk a proposed budget statement containing the following:

    (a) For the immediate two prior fiscal years, the revenue from all sources, other than revenue received from taxation, allocated to each of the several funds and separately stated as to each such source and for each fund: The unencumbered cash balance of such fund at the beginning and end of the year; the amount received by taxation allocated to each fund; and the amount of actual expenditure for each fund;

    (b) For the current fiscal year, actual and estimated revenue from all sources, allocated to each of the several funds and separately stated as to each such source and for each fund: The actual unencumbered cash balance available for such fund at the beginning of the year; the amount received from taxation allocated to each fund; and the amount of actual and estimated expenditure, whichever is applicable.

    (c) For the immediately ensuing fiscal year, an estimate of revenue from all sources, other than revenue to be received from taxation, separately stated as to each such source to be allocated to each of the several funds, and for each fund: The actual or estimated unencumbered cash balances, whichever is applicable, to be available at the beginning of the year; the amounts proposed to be expended during the year; and the amount of cash reserve, based on actual experience of prior years, which cash reserve shall not exceed fifty percent (50%) of the total budget adopted exclusive of capital outlay items;

    (d) A statement setting out separately the amount sought to be raised from the levy of a tax on the taxable value of real property (i) for the purpose of paying the principal or interest on bonds issued by the City Council and (ii) for all other purposes;

    (e) A uniform summary of the proposed budget statement which shall include a separate total for each fund, including each proprietary function fund included in a separate proprietary budget statement prepared pursuant to the Municipal Proprietary Function Act, and a grand total of all funds maintained by the City Council; and

(f) A list of the proprietary functions which are not included in the budget statement if a separate proprietary budget statement has been prepared for such proprietary functions pursuant to the Municipal Proprietary Function Act.

2. The actual or estimated unencumbered cash balance of each fund required to be included in the budget statement by this section shall include deposits and investments of the City as well as any funds held by the county treasurer for the City and shall be accurately stated on the proposed budget statement.

3. The estimated expenditures plus the required cash reserve for the ensuing fiscal year less all estimated and actual unencumbered balances at the beginning of the year and less the estimated income from all sources other than taxation shall equal the amount to be received from taxes, and such amount shall be shown on the proposed budget statement filed pursuant to this section. The amount to be raised from taxation, as determined above, plus the estimated revenue from sources other than taxation and the unencumbered balances shall equal the estimated expenditures, plus the necessary required cash reserve, for the ensuing year. (Ref. Neb. Rev. Stat. §13-504, 13-505)

SECTION 1-503 BUDGET HEARING

Subsequent to the filing of the proposed budget statement, the City Council shall publish a proposed budget and conduct a public hearing on the proposed budget statement. Notice of the place and time of the said hearing, as well as a copy of the proposed budget, shall be published at least five days prior to the date set for the hearing in a newspaper of general circulation in the City. After such hearing, the statement shall be adopted, or amended and adopted as amended, and a written record shall be made of such hearing. If the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of such changes shall be published within 20 days after its adoption. (Ref. Neb. Rev. Stat. §13-506)

SECTION 1-504 ADOPTED BUDGET STATEMENT; FILING

The City Council shall file with and certify to the levying board on or before September 20th of each year, and file with the Nebraska State Auditor, a copy of the adopted budget statement, together with the amount of tax to be levied, setting out separately the amount to be levied for the payment of principal or interest on bonds issued by the City Council and the amount to be levied for all other purposes. Proof of publication shall be attached to the statements. The City Council shall not certify any tax that exceeds the maximum levy prescribed by State law, except that in certifying the amount to be so levied, allowance may be made for delinquent taxes not exceeding 5% of the amount to be levied plus the actual percentage of delinquent taxes for the preceding tax year. (Ref. Neb. Rev. Stat. §13-508)

SECTION 1-505 EXPENDITURES PRIOR TO ADOPTION OF BUDGET

1. On and after the first day of its fiscal year until the adoption of the budget by the City Council in September, the City Council may expend any balance of cash on hand for the current expenses of the City. Except as provided in subsection 2 of this section, such expenditures

shall not exceed an amount equivalent to the total amount expended under the last budget in the equivalent period of the prior budget year. Such expenditures shall be charged against the appropriations for each individual fund or purpose as provided in the budget when adopted.

2. The restriction on expenditures in subsection 1 of this section may be exceeded upon the express finding of the City Council that expenditures beyond the amount authorized are necessary to enable the City to meet its statutory duties and responsibilities. The finding and approval of the expenditures in excess of the statutory authorization shall be adopted by the City Council in open public session. Expenditures authorized by this section shall be charged against appropriations for each individual fund or purpose as provided in the budget when adopted, and nothing in this section shall be construed to authorize expenditures by the City in excess of that authorized by any other statutory provision. (Ref. Neb. Rev. Stat. §13-509.01, 13-509.02)

SECTION 1-506 BUDGET PROCEDURE

The *Manual of Instructions for City/Village: Budgets*, prepared by the Auditor of Public Accounts, State Capitol, Lincoln, Nebraska 68509 is incorporated by reference for the purpose of proper budget preparation.

SECTION 1-507 APPROPRIATIONS

The City Council shall adopt a budget statement pursuant to the Nebraska Budget Act, to be termed "The Annual Appropriation Bill", in which are appropriated such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the City. (Ref. Neb. Rev. Stat. §16-704)

SECTION 1-508 GENERAL PROPERTY TAX

The City Council shall cause to be certified to the county clerk the amount of tax to be levied upon the assessed value of all the taxable property of the City for the requirements of the adopted budget for the ensuing year, including all special assessments and taxes. The maximum amount of tax which may be certified and assessed shall not require a tax levy in excess of the legal maximum as prescribed by state law. (Ref. Neb. Rev. Stat. §16-702)

SECTION 1-509 EXPENDITURES

No city official shall have the power to appropriate, issue or draw any order or warrant on the city treasury for money, unless the same has been appropriated or ordered by ordinance. No expenditure for any improvement to be paid for out of the general fund of the City shall exceed in any one year the amount provided for that improvement in the adopted budget statement. (Ref. Neb. Rev. Stat. §16-706, 16-726 through 16-729)

SECTION 1-510 CONTRACTS AND PURCHASING

1. Purchasing Authority.

a. Except as provided in *Neb. Rev. Stat.* § 18-412.01 and as provided below, the City Council shall, before making any contract in excess of the dollar limitation imposed by state law, as estimated by the city engineer, for general improvements, such as water extensions, sewers, public heating system, bridges, or work on streets, or any other work or improvement where the cost of such improvement shall be assessed to the property, advertise for bids.

b. The city electric utility may enter into a contract for the enlargement or improvement of the electric system or for the purchase of equipment used for such enlargement or improvement without advertising for bids if the price is: (a) $20,000.00 or less; (b) $40,000.00 or less and the city electric utility has gross annual revenue from retail sales in excess of $1,000,000.00; (c) $60,000.00 or less and the city electric utility has gross annual revenue from retail sales in excess of $5,000,000.00; or (d) $80,000.00 or less and the city electric utility has gross annual revenue from retail sales in excess of $10,000,000.00.

c. Except as otherwise provided in regard to emergencies, all contracts and purchases in excess of $20,000.00 shall require City Council approval prior to inviting bids or proposals.

d. Except as otherwise provided in regard to emergencies, all non-budgeted purchases (those items with a value remaining within the budgeted amount, but not specifically set forth in the budget detail) in excess of $5,000.00 shall require City Council approval prior to inviting bids or proposals.

e. Except as otherwise provided in regard to emergencies, budgeted purchases (those items specifically set forth in the budget detail) between the value of $1,001 and $20,000.00 shall require prior written approval of the City Administrator.

f. Except as otherwise provided in regard to emergencies, all non-budgeted purchases (those items with a value remaining within the budgeted amount, but not specifically set forth in the budget detail) between the value of $1,001 and $5,000.00 shall require prior written approval of the City Administrator.

g. Purchases of $1,000 or less may be approved by the Department Head. In circumstances when more strict budget controls are necessary, the City Administrator may impose more stringent spending requirements, which shall be communicated to all department heads.

2. Formal Contract Procedure

a. When the estimated cost of construction projects, supplies, equipment or contractual services exceeds twenty thousand dollars ($20,000.00), no

invitation for bids, nor any formal contract for purchase or sale, shall be authorized without prior approval of the city council. All construction, supplies, equipment, and contractual services in this category shall be purchased or sold by formal written contract, from the lowest responsible and responsive bidder, after due notice inviting bids, which notice shall be published or solicited as provided below.

b. In advertising for bids as provided below, the Council may publish the amount of the estimate.

c. Supplies, equipment and/or contractual services from single source suppliers may be exempted from the requirement for publication and sealed bids, provided that there is no statutory obligation to publish for sealed bids related to construction of certain improvements or the purchase of equipment related to such construction.

d. Professional services are exempt from this procedure.

e. Bid specifications for any construction project in the public right of way for which the cost exceeds $5,000.00 shall include the requirement of a "payment bond" equal to the contract price.

f. Bid specifications, the notice to bidders, bidding instructions and the bid sheet (if any) shall be required for all purchases pursuant to paragraph (1), and the same shall be reviewed and approved by the purchasing agent and city attorney before being published. The contract for the purchase or services shall be prepared prior to the advertisement for bids and shall be included in the plans and specifications.

g. The advertisement provided for herein shall be published at least seven days prior to the bid closing in a legal newspaper published in or of general circulation in the City; provided that in case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, an exigency or pressing necessity or unforeseen need calling for immediate action or remedy to prevent a serious loss of or serious injury or damage to life, health or property, or war, estimates of costs and advertising for bids may be waived in the emergency ordinance when adopted by a three-fourths (3/4) vote of the City Council and entered of record. In the event the purchasing agent is more than temporarily unavailable, the department head may authorize such purchases in the following departments: Water, Sewer, or Street and Property Maintenance. In such event, the department head shall notify the purchasing agent as soon as possible, and thereafter promptly submit a written report regarding the nature of the emergency.

(1) The notice shall include, in addition to other language required by the city attorney, a general description of the articles to be

purchased or sold, and shall state where bid sheets and, plans and specifications, may be secured, and the date, time and place for opening bids.

(2) The purchasing agent shall also endeavor to distribute bid documents to responsible prospective suppliers of whom the purchasing agent may be aware.

(3) The purchasing agent shall also advertise all pending purchases or sales by a notice posted for public view at a prominent location in City Hall.

h. When deemed necessary by the purchasing agent, bid deposits shall be prescribed in the public notice inviting bids. When so required, the notice shall state that the bid security shall be sent in a separate sealed envelope, in the form of a certified check on a solvent bank or a bid bond from a surety company registered to do business in the State of Nebraska in the amount not less than five (5) percent of the total amount of the bid made payable to "Plattsmouth City Clerk." The unsuccessful bidders shall be entitled to a return of surety required by the purchasing agent. The successful bidder shall forfeit his or her bid deposit upon failure on his or her part to enter a contract within ten (10) days after receiving the previously prepared contract.

i. The bid notice shall require that all bids be submitted in sealed envelopes to the purchasing agent and shall be identified as bids, specifying the project, on the envelope. Bids shall be opened in public on the date and at the time and place stated in the published notice. A tabulation of all bids received shall be available for public inspection.

(1) The City Council shall have the authority to reject all bids, parts of all bids, or all bids for any one or more supplies or contractual services included in the proposed contract, when the public interest will be served thereby.

(2) The City Council shall have the authority to reject the bid of a contractor who is in default on the payment of taxes, licenses, or other monies due the city.

j. Contracts shall be awarded to the lowest responsible and responsive bidder. In determining "lowest responsible bidder," in addition to price, the following shall be considered:

(1) The ability, capacity, and skill of the bidder to perform the contract required;

(2) The experience and efficiency of the bidder;

(3) Whether the bidder can perform the contract within the time specified;

(4) The quality of performance of previous contracts;

(5) The previous and existing compliance by the bidder with laws and ordinances relating to contracts;

(6) The life-cost of the personal property in relation to the purchase price and specific use of the item;

(7) The performance of the personal property, taking into consideration any commonly accepted tests and standards of product usability and user requirements;

(8) Energy efficiency ratio as stated by the bidder for alternative choices of appliances or equipment;

(9) The information furnished by each bidder, when deemed applicable by the purchasing agent, concerning life-cycle costs between alternatives for all classes of equipment, evidence of expected life, repair and maintenance costs, and energy consumption on a per-year basis; and

(10) Such other information as may be secured having a bearing on the decision to award the contract.

k. A "responsive bidder" shall be defined as a person or company who has submitted a bid which conforms in all material respects to the "Invitation for Bids."

l. When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the purchasing agent and filed with other papers relating to the transaction. No recommendation for an award to other than the lowest bidder shall be made without first having the matter reviewed by the purchasing agent and the city attorney.

m. All contracts for bid awards (formal and informal) shall be prepared for the Mayor's signature and shall be submitted to the City Attorney for review prior to requests for City Council approval.

n. No contract in excess of twenty thousand dollars ($20,000.00) for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, works on streets, or any other work or improvement when the

cost of such enlargement or improvement is assessed to the property shall be awarded by the City Council until an estimate of the cost shall be made by the City Engineer and submitted to the Council.

o. Except in the case of tie bids, there shall be neither formal nor tacit local vendor's preference policies. The City shall neither impose nor condone any bidding or procurement policies that result in exclusionary or anti-competitive bidding or violate state or federal antitrust laws. If all bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to a local bidder. Where there is no local bidder or when two (2) or more local bidders are equal, the City Council shall award the contract to one of the tie bidders by drawing lots in public.

p. The formal bid requirements as set forth in this section "may be waived by the city council or board of public works (1) when materials or equipment are purchased at the same price and from the same seller as materials or equipment which have formerly been obtained pursuant to the state bidding procedure in sections 81-145 to 81-162 or (2) when the contract is negotiated directly with a sheltered workshop pursuant to section 48-1503."

q. Except as otherwise provided in this policy and by law, pursuant to *Neb. Rev. Stat.* §49-14,102, no public official or public employee, a member of that individual's immediate family, or business with which the individual is associated shall enter into a contract valued at two thousand dollars or more, in any one year, with a government body unless the contract is awarded through an open and public process.

(1) For purposes of this section, an open and public process includes prior public notice and subsequent availability for public inspection during the regular office hours of the contracting government body of the proposals considered and the contract awarded.

(2) No contract may be divided for the purpose of evading the requirements of this section.

(3) This section shall not apply to a contract when the public official or public employee does not in any way represent either party in the transaction.

(4) This section prohibits public officials and public employees from engaging in certain activities under circumstances creating a substantial conflict of interest. This section is not intended to penalize innocent persons, and a contract shall not be absolutely void by reason of this section.

r. If, after advertising for bids as provided in this section, the Council receives fewer than two bids on a contract or if bids received by the Council contain a price which exceeds the estimated cost, the mayor and Council may negotiate a contract in an attempt to complete the proposed enlargement or general improvements at a cost commensurate with the estimate given.

s. If the materials are of a nature that, in the opinion of the manufacturer and with the concurrence of the City Council, no cost can be estimated until the materials have been manufactured or assembled to the specific qualifications of the purchasing city, the City Council may authorize the manufacture and assemblage of such materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer.

t. Notwithstanding any other provisions of law or a home rule charter, if the City has established, by an interlocal agreement with any county, a joint purchasing division or agency may purchase personal property without competitive bidding if the price for the property has been established by the Federal General Services Administration or the material division of the Department of Administrative Services. For purposes of this subsection: (a) Personal property includes, but is not limited to, supplies, materials and equipment used by or furnished to any officer, office, department, institution, board or other agency; and (b) Purchasing or purchase means the obtaining of personal property by sale, lease or other contractual means. (Ref. Neb. Rev. Stat. §16-321, 16-321.01 and 18-1756)

3. Informal Bidding

a. When the estimated cost of supplies, equipment or contractual services is less than twenty thousand dollars ($20,000.00), or except in the event of an emergency as detailed above, the purchase shall be made in the open market, without newspaper advertisement and without observing the procedure prescribed for the award of formal contracts and shall be referred to as open market purchases. All such purchases shall be awarded by the purchasing agent.

b. All open market purchases in an amount greater than one thousand dollars ($1,000.00), but less than twenty thousand dollars ($20,000.00) shall, whenever possible, be based on at least three (3) competitive bids, and shall be awarded to the lowest responsible and responsive bidder in accordance with the same criteria established in this article for the formal contract procedure. When informally bidding for competitive bids, all procedures for formal bidding will be followed except for the publication requirement. All such purchases shall be awarded by the purchasing agent.

c. All open market purchases greater than two hundred dollars ($200.00) and not more than one thousand dollars ($1,000.00) may be acquired after solicitation

of three (3) informal quotes without following the publication requirement and without obtaining competitive sealed bids. Prior to soliciting the informal quotes, the purchasing agent or his or her designee shall have assigned a purchase order. If a repair of equipment or facilities is time sensitive for providing services to the public for water, sewer, police protection and street maintenance, this provision is waived and the department head may proceed with the repair.

d. Purchases provided for under this subsection should be made from the lowest responsible and responsive bidder in accordance with the same criteria established in this article for the formal contract procedure.

e. All open market purchases of two hundred dollars ($200.00) or less may be made by utilizing open monthly purchase orders or by purchasing from available sources without the necessity of a formal or informal bid.

f. When obtaining sealed bids for informal bidding, the purchasing agent shall mail all bid documents, and post a notice in City Hall, to all local persons who might have an interest in bidding, and to others in the industry.

g. The purchasing agent may solicit informal quotes from prospective vendors, by notice posted for public view at a prominent location in City Hall, by telephone, by facsimile transmission, by electronic mail or other electronic means.

h. The purchasing agent shall keep a record of all open market orders, and the bids submitted in competition thereon, and such records shall also be open to public inspection.

4. Surplus Stock

a. All departments shall submit to the purchasing agent, at such time and in such form as he or she shall prescribe, reports showing stocks of all supplies which are no longer used or which have become obsolete, worn out or scrapped.

b. The purchasing agent shall have the authority to sell or dispose of all surplus supplies and equipment of less than twenty thousand dollars ($20,000.00) in value which have become unsuitable or unnecessary for public use. The purchasing agent shall sell or dispose of the property by any method which is most advantageous to the city, including auction, sealed bid, private or public sale, or trade-in for other property. All sales of equipment or supplies of twenty thousand dollars ($20,000.00) or more in value shall require the prior approval of the City Council and shall be sold by way of auction or sealed bid.

Amended – Ordinance No. 1763 3/17/2008; Ordinance No. 1789 7/20/2009; Ordinance No. 1805 5/5/2010

SECTION 1-511 ANNUAL AUDIT

The City Council shall cause an audit of the city accounts to be made by a qualified accountant as expeditiously as possible following the close of the fiscal year. The said audit shall be completed, and the annual audit report made not later than six months after the close of the fiscal year. The accountant making the audit shall submit not less than three copies of the audit report to the City Council. All public utilities or other enterprises which substantially generate their own revenue shall be audited separately, and the results of such audits shall appear separately in the annual audit report, and such audits shall be on an accrual basis and shall contain statements and materials which conform to generally accepted accounting principles. The audit report shall set forth the financial position and results of financial operations for each fund or group of accounts of the City as well as an opinion by the accountant with respect to the financial statements. Two copies of the annual audit report shall be filed with the city clerk and shall become a part of the public records of the city clerk's office, and will at all times thereafter be open for public inspection. One copy shall be filed with the Auditor of Public Accounts. The City Council shall provide and file with the city clerk, not later than August 1 of each year, financial statements showing its actual and budgeted figures for the most recently completed fiscal year. (Ref. Neb. Rev. Stat. §19-2901 through 19-2909)

SECTION 1-512 CLAIMS

All claims against the City shall be presented to the City Council in writing with a full account of the items, and no claim or demand shall be audited or allowed unless presented as provided for in this section. Upon the filing of any claim, the party shall state therein his/her post office address; and upon the disallowance of any such claim, it will be the duty of the city clerk to notify the claimant, his/her agent or attorney by letter mailed to such address within five days after such disallowance. No costs shall be recovered against the City in any action brought against it for an unliquidated claim which has not been presented to the City Council to be audited, nor upon claims allowed in part, unless the recovery shall be for a greater sum than the amount allowed, with the interest due. (Ref. Neb. Rev. Stat. §16-726)

SECTION 1-513 WARRANTS

All warrants drawn upon the city treasury must be signed by the mayor and countersigned by the city clerk, stating the particular fund to which the warrant is chargeable, the person to whom it is payable, and the purpose of the expenditure. No money shall be otherwise paid than upon warrants so drawn. Each warrant shall specify the amount included in the adopted budget statement for the fund upon which it is drawn, and the amount already expended of such fund. No order or warrant shall be drawn in excess of 85% of the current levy for the purpose for which it is drawn unless there shall be sufficient money in the city treasury for the appropriate fund against which it is to be drawn; provided that in the event there exists obligated funds from the federal and/or state government for the general purpose of such warrant, then such warrant may be drawn in excess of 85%, but not more than 100% of the current levy for the purpose for which said warrant is drawn. (Ref. Neb. Rev. Stat. §16-718)

SECTION 1-514 TRANSFER OF FUNDS

The City Council may, whenever during the current fiscal year it becomes apparent due to unforeseen emergencies that there is temporarily insufficient money in a particular fund to meet the requirements of the adopted budget of expenditures for that fund, by a majority vote transfer money from other funds to such fund. No expenditure during any fiscal year shall be made in excess of the amounts indicated in the adopted budget statement, except as authorized herein. If, as the result of unforeseen circumstances, the revenue of the current fiscal year shall be insufficient, the City Council may propose to supplement the previously adopted budget statement and shall conduct a public hearing at which time any taxpayer may appear or file a written statement protesting the application for additional money. A written record shall be kept of all such hearings. Notice of a place and time for the said hearing shall be published at least five days prior to the date set for the hearing in a newspaper of general circulation in the City. The published notice shall set forth the time and place of the proposed hearing, the amount of additional money required, the purpose of the required money, a statement setting forth the reasons why the adopted budget of expenditures cannot be reduced to meet the need for additional money, and a copy of the summary of the originally adopted budget previously published. Upon the conclusion of the public hearing on the proposed supplemental budget and the approval by the City Council, the City Council shall file with the county clerk and the Nebraska State Auditor a copy of the supplemental budget and shall certify the amount of additional tax to be levied. The City Council may then issue warrants in payment for expenditures authorized by the adopted supplemental budget. The said warrants shall be referred to as "registered warrants," and shall be repaid during the next fiscal year from funds derived from taxes levied therefor. (Ref. Neb. Rev. Stat. §13-510, 13-511)

SECTION 1-515 SPECIAL ASSESSMENT FUND

All money received on special tax assessments shall be held by the city treasurer as a special fund to be applied to the payment of the improvement for which the assessment was made, and such money shall be used for no other purpose unless to reimburse the City for money expended for any such improvement. (Ref. Neb. Rev. Stat. §17-710)

SECTION 1-516 SINKING FUNDS

The City Council, subject to the limitations set forth herein, shall have the power to levy a tax not to exceed that prescribed by state law upon the assessed value of all taxable property within the City for a term not to exceed that prescribed by State law in addition to the amount of tax which may be annually levied for the purposes of the adopted budget statement of the City, for the purpose of establishing a sinking fund for the construction, purchase, improvement, extension or repair of the approved uses as authorized by state law. To initiate the said sinking fund, the City Council shall declare its purpose by resolution to submit to the qualified electors of the City the proposition to provide the improvement at the next general city election. The resolution shall set forth the improvement, the estimated cost, the amount of the annual levy, the number of years required to provide the required revenue, the name of the sinking fund proposed, and the proposition as it will appear on the ballot. Notice of the said proposition shall be published in its entirety three times on successive weeks before the day of the election in a

legal newspaper of general circulation in the City. The sinking fund may be established after the election if a majority or more of the legal votes were in favor of the establishment of the fund. The City Council may then proceed to establish the said fund in conformity with the provisions of the proposition, and applicable state law. The funds received by the city treasurer shall, as they accumulate, be immediately invested with the written approval of the City Council in the manner provided by state law. No sinking fund so established shall be used for any purpose or purposes contrary to the purpose as it appeared on the ballot unless the City Council is authorized to do so by 60% of the qualified electors of the City voting at a general election favoring such a change in the use of the sinking fund. (Ref. Neb. Rev. Stat. §19-1301 through 19-1304, 77-2337, 77-2339)

SECTION 1-517 GENERAL FUND

All money not specifically appropriated in the annual appropriation bill shall be deposited in and known as the General Fund.

SECTION 1-518 DEPOSIT OF FUNDS

The city treasurer shall deposit, and at all times keep on deposit, for safe keeping, in state or national banks of approved and responsible standing, all money collected, received or held by him/her. Such deposits shall be subject to all regulations imposed by law or adopted by the City Council for the receiving and holding thereof. The fact that a stockholder, director or other officer of such banking institution shall also be serving as mayor, councilmember, member of a Board of Public Works or as any other officer of such city shall not disqualify such bank from acting as a depository for such city funds. (Ref. Neb. Rev. Stat. §16-712)

SECTION 1-519 CERTIFICATES OF DEPOSIT; SECURITY REQUIRED

The city treasurer may, upon resolution of the mayor and Council authorizing the same, purchase certificates of deposit from and make time deposits in banks selected as depositories of city funds under the provisions herein. The certificates of deposit purchased and time deposits shall bear interest, and shall be secured as set forth herein; provided that the penal sum of such bond or the sum of such pledge of assets shall be reduced in the amount of the time deposit or certificate of deposit insured by the Federal Deposit Insurance Corporation. (Ref. Neb. Rev. Stat. §16-713)

SECTION 1-520 BOND ISSUES

The City Council may, after meeting all the requirements of state law, issue bonds, fund bonds, and retire bonds for such purposes as may be permitted by state law. The City Council shall have the authority to levy special assessments for the payment of interest and principal on such bonds, and may spread the payments up to the maximum number of years permitted by state law. (Ref. Neb. Rev. Stat. §10-201 through 10-411, 10-606 through 10-612, 12-1001, 17-529.01, 17-529.08, 17-534, 17-905, 17-908, 17-911, 17-939, 17-958, 17-968, 18-1801 through 18-1805, 23-3513)

SECTION 1-521 DEBT COLLECTION; AUTHORITY TO CONTRACT WITH COLLECTION AGENCY

1. The City may contract to retain a collection agency licensed pursuant to Neb. Rev. Stat. §45-601 to 45-622, within or without this state, for the purpose of collecting public debts owed by any person to the City.

2. No debt owed pursuant to subsection 1 of this section may be assigned to a collection agency unless (a) there has been an attempt to advise the debtor by first-class mail, postage prepaid, at the last-known address of the debtor (i) of the existence of the debt and (ii) that the debt may be assigned to a collection agency for collection if the debt is not paid and (b) at least 30 days have elapsed from the time the notice was sent.

3. A collection agency which is assigned a debt under this section shall have only those remedies and powers which would be available to it as an assignee of a private creditor.

4. For purposes of this section, debt shall include all delinquent fees or payments except delinquent property taxes or real estate. In the case of debt arising as a result of an order or judgment of a court in a criminal or traffic matter, a collection fee may be added to the debt. The collection fee shall $25.00 or 4½% of the debt, whichever is greater. The collection fee shall be paid by the person who owes the debt directly to the person or agency providing the collection service. (Ref. Neb. Rev. Stat. §45-623)

SECTION 1-522 COLLECTION OF SPECIAL ASSESSMENTS; PROCEDURE

The City shall collect the special assessments which it levies and perform all other necessary functions related thereto, including foreclosure. Notice that special assessments are due shall be mailed or otherwise delivered to the last-known address of the person against whom such special assessments are assessed or to the lending institution or other party responsible for paying such special assessments and any interest or penalties accrued thereon. Failure to receive such notice shall not relieve the taxpayer from any liability pay such special assessments and any interest or penalties accrued thereon. (Ref. Neb. Rev. Stat. §18-1216)

ARTICLE VI – EMPLOYEE REGULATIONS AND PENSION PROGRAMS

SECTION 1-601 EMPLOYEE MANUAL

The City Council may, by resolution, from time to time, adopt an employee manual to set forth rules and regulations between the City and its full-time and part-time employees who are not employed in positions governed by a union contract or collective bargaining agreement. Such manual, if the same is adopted, shall be delivered in its current form to each employee and to each new employee at the employee's time of hiring by the City, and shall be made available at all reasonable times to all other city employees or their representatives. The City, through the City Council, reserves the right to modify the contents of such manual as deemed necessary for the best interests of the City. None of the provisions of such manual shall remain in effect if modified by proper Council action. Any modification shall be transmitted by the City in writing to all employees. The terms of the employee manual do not constitute a contract of employment between the City and any city employee unless it is incorporated by the terms of a separate contract.

Amended – Ordinance No. 1786 4/20/2009

SECTION 1-602 PROHIBITIONS

1. No action affecting the employment status of an employee or applicant for a position in the City, including examination, appointment, promotion, demotion, suspension or removal, or other conditions and privileges of employment, shall be taken or withheld by reason of the race, creed, color, sex, disability, national origin, religion or political affiliation of the affected person; provided nothing in this section shall be construed as prohibiting any action affecting the employment status of an employee or applicant in those instances where disability or sex is a bonafide occupational qualification reasonably necessary for the normal operation of the City. No person shall be employed or retained who advocates or belongs to an organization advocating the overthrow or change of our government by force or violence.

2. No non-elective officer or employee in the city's service shall during working hours or while such employee is otherwise engaged in the performance of his/her official duties or while wearing a uniform required by his/her city service, solicit or contribute funds for any candidate in any election for Mayor or City Council; take part in or manage the campaign of any candidate for Mayor or City Council; address or take an active part in any rally or meeting for or in support of any candidate for Mayor or City Council; solicit votes, assist voters at the polls, or help any candidate for Mayor or City Council get voters to the polls; participate in the distribution of campaign literature supporting any candidate for Mayor or City Council; initiate or circulate any petition nominating a candidate for Mayor or City Council; ride in any caravan for any candidate for Mayor or City Council. Nothing in this section shall prohibit any non-elective officer or employee in the city service from exercising the right at a citizen to express opinions, vote, or do partisan or non-partisan political acts not expressly prohibited.

3. Unclassified employees shall not hold any office in, or be employed by, any other public body

which would interfere with the performance of official duties. Unclassified employees shall attempt to avoid, and if it cannot be avoided must disclose to the City, the existence or the possibility of a conflict of interest.

4. No person seeking appointment to or promotion in employment shall give, render or pay any money, service or other valuable thing to any person in connection with testing, appraisal, appointment, promotion or other term or condition of employment. Any person who willfully or corruptly violates any of the provisions of this section shall be subject to discharge and any other available punishment by the City that is provided by law.

5. This section does not apply to any positions which are the subject matter of collective bargaining agreement.

Amended – Ordinance No. 1786 4/20/2009

SECTION 1-603 PENSION PROGRAM; ADMINISTRATION

The City Council or such other committee or person as the Council may from time to time designate by resolution, shall have full responsibility for the administration of the pension program and shall hold, invest, reinvest and distribute all funds or other property received pursuant hereto, in trust, for the purposes of the pension program under a plan or plans adopted by the City Council.

Amended – Ordinance No. 1786 4/20/2009

SECTION 1-604 PENSION PROGRAM; POWERS AND DUTIES OF COUNCIL

1. The Council, in the administration of this program, shall create a General Pension Fund (hereinafter referred to as "Fund") which shall consist of appropriations which this city may from time to time allocate for such purposes and any funds or property obtained from other lawful sources for such purposes, and shall include employee contributions. The Council shall have full power and authority by majority action of its members, either directly or through their designated representative, to do all acts, execute, acknowledge and deliver all instruments and to exercise for the sole benefit of the participants hereunder any and all powers and discretions necessary to implement and effectuate the purposes of this article, including for purposes of illustration but not limitation any and all of the following:

2. To hold, invest and reinvest in any form of property whatsoever without restriction to legal investments all funds received pursuant to Sections 1-603 to 1-608; to enter into contracts or deposit agreements on behalf of this city with one or more insurance companies in order to provide the pension and other benefits hereinbefore set forth and to pay the premiums and deposits required by the purchase of said contracts; to retain or purchase as an investment any form of life insurance, retirement income, annuity or other contracts of similar nature and to exercise with respect thereto any right or incident of ownership to retain any property which may at any time become an asset of the Fund as long as said council may deem it advisable; and to make distribution of the funds in the Fund in accordance with the terms of

this article; provided, however, that the Council's exercise of its power to enter into, acquire or purchase any contracts or agreements which provide pension and other benefits hereinbefore set forth shall be in conformity with a uniform standard and non-discriminatory as between participants hereunder.

Amended – Ordinance No. 1786 4/20/2009

SECTION 1-605 PENSION PROGRAM; FUNDING

The benefits conferred upon city employees by any city pension program may be funded from such appropriations which this city, through the City Council, may from time to time allocate for such purposes, and funds received from any lawful source, including employee contributions.

Amended – Ordinance No. 1786 4/20/2009

SECTION 1-606 PENSION PROGRAM; TRANSFER OF ASSIGNMENT

No participant or beneficiary of such participant shall have the right to alienate, encumber or assign any assets in the Fund held by the Council on his/her behalf, or any of the benefits, payments, proceeds or avails of any contract or agreement purchased or acquired by the City hereunder. Any contract or agreement issued pursuant to Section 1-603 to 1-608 upon the life of such participant shall contain a provision, in substance, that to the extent permitted by law none of the benefits, payments or proceeds of such contract or agreement shall be subject to any legal process by any creditor of such participant or of any beneficiary of such participant.

SECTION 1-607 PENSION PROGRAM; RESERVATION OF RIGHTS

The Council reserves to itself the right any time and from time to time to alter and amend any or all of the provisions of Sections 1-603 to 1-608 and revoke Sections 1-603 through 1-608 in their entirety; provided, however, that in the event of revocation each participating employee shall be entitled to have assigned to him/her all contracts or agreements then held by the City hereunder and in effect which provide annuity or death benefits for such employee.

Amended – Ordinance No. 1786 4/20/2009

SECTION 1-608 POLICE PENSION PROGRAM

Separate and apart from and distinct to any other available pension program created by the City for the benefit of city employees, The City shall initiate a separate system for the pension of members of the police department. The pension program shall be established and administered pursuant to state statute and all provisions of state statute applicable to the pension programs for policemen in cities of the first class shall control and regulate the administration of the program by the City, including but not limited to, the qualifications, payments, funding, options of payments and the amount to be contributed from the salary of the employee policemen. Further, this section shall in no way affect or limit the police officers' right to participate in any other system or collect benefits under any other applicable state and federal statute.

ARTICLE VII - ELECTIONS

SECTION 1-701 ELECTION OF OFFICERS; CERTIFICATION

All city elections involving the election of officers shall be held in accordance with the Election Act and in conjunction with the statewide general election. No later than July 1 of each even-numbered year, the City Council shall certify to the Secretary of State, the election commissioner or the county clerk, the name of the City, the number of officers to be elected, the length of the terms of office, the vacancies to be filled by election and length of remaining term, and the number of votes to be cast by a registered voter for each office. (Ref. Neb. Rev. Stat. §16-302.01, 32-401, 32-404, 32-556)

SECTION 1-702 PRIMARY ELECTION; NUMBER OF CANDIDATES FILING

If the number of candidates properly filed for nomination at the primary election does not exceed two for each vacancy to be filled, all candidates properly filed shall be considered nominated, and no primary election for their nomination shall be required.

SECTION 1-703 TIE VOTES

In the case of a tie vote of any of the candidates in either the primary or general election, the county clerk shall notify such candidates to appear at his/her office on a given day and hour to determine the same by lot before the canvassing board, and the certificate of nomination or election shall be given accordingly. Notice to appear shall be given by certified mail. (Ref. Neb. Rev. Stat. §32-1122)

SECTION 1-704 FILING FEE

Prior to the filing of any nomination papers, there shall be paid to the city treasurer a filing fee which shall amount to 1% of the annual salary for the office for which the candidate will file; provided, there shall be no filing fee for any candidate filing for an office in which a per diem is paid rather than a salary, or an office for which there is a salary of less than $500.00 per year. No nominating papers shall be filed until the proper city treasurer's receipt, showing payment of the filing fee, shall be presented to the election officer with whom the nomination papers are to be filed. (Ref. Neb. Rev. Stat. §32-608)

SECTION 1-705 VOTER QUALIFICATIONS

"Elector" shall mean a person of the constitutionally prescribed age or upwards, who shall have the right to vote for all officers to be elected to public office, and upon all questions and proposals, lawfully submitted to the voters at any and all elections authorized or provided for by the Constitution or the laws of the State of Nebraska, except school elections; provided, no person shall be qualified to vote at any election unless such person shall be a resident of the State and shall have been properly registered with the election official of the county. (Ref. Neb. Rev. Stat. §17-602, 32-110)

SECTION 1-706 CANDIDATES

Any registered voter who was not a candidate in the primary election may have his/her name placed on the general election ballot for a partisan office by filing petitions as prescribed in this section and Neb. Rev. Stat. §32-621, or by nomination by political party convention or committee.

Any candidate who was defeated in the primary election and any registered voter who was not a candidate in the primary election may have his/her name placed on the general election ballot if a vacancy exists on the ballot under subsection (1) of Neb. Rev. Stat. §32-626 and the candidate files for the office by petition as prescribed in this section.

The number of signatures of registered voters needed to place the name of a candidate upon the nonpartisan ballot for the general election shall be at least 10% of the total number of registered voters voting for Governor or President of the United States at the immediately preceding general election in the City.

The number of signatures of registered voters needed to place the name of a candidate upon the partisan ballot for the general election shall be at least 20% of the total vote for Governor or President of the United States at the immediately preceding general election within the City, not to exceed 2000.

Petitions for nomination shall conform to the requirements of Neb. Rev. Stat. §32-628. Petitions shall state the office to be filled and the name and address of the candidate. Petitions for partisan office shall also indicate the party affiliation of the candidate. Petitions shall be signed by registered voters residing in the City and shall be filed with the filing officer in the same manner as provided for candidate filing forms in Neb. Rev. Stat. §32-607. Petition signers and circulators shall conform to the requirements of Neb. Rev. Stat. §32-629 and 32-630. No petition for nomination shall be filed unless there is attached thereto a receipt showing payment of the required filing fee. The petitions shall be filed by September 1 in the year of the general election. (Ref. Neb. Rev. Stat. §32-616 through 32-618)

SECTION 1-707 NOMINATION BY WRITE-IN VOTES

Candidates for elected office may be nominated by write-in; however, when the name of a candidate who did not file or become a petition candidate for nomination is written in and voted for as a candidate for a councilmember, such person shall not be entitled to a certificate of nomination at a statewide primary election or have his/her name placed on the general election ballot unless he/she shall have received not less than 20% of the total vote cast for the candidate receiving the greatest number of votes in the precinct or ward at the preceding election in which candidates were elected to serve the precinct or ward.

SECTION 1-708 SPECIAL JOINT ELECTIONS

Any issue to be submitted to the registered voters at a special election by the City shall be certified by the city clerk to the election commissioner or county clerk at least 50 days prior to

the election. A special election may be held by mail as provided in Neb. Rev. Stat. §32-952 through 32-959. No special election to be conducted by the election commissioner or county clerk shall be held within 30 days prior to or 60 days after the statewide primary election, and no special election to be conducted by the election commissioner or county clerk shall be held within 30 days prior to or 60 days after the statewide general election.

In lieu of submitting the issue at a special election, the City may submit the issue at a statewide primary or general election or at any scheduled county election, except that no such issue shall be submitted at a statewide election or scheduled county election unless the issue to be submitted has been certified by the city clerk to the election commissioner or county clerk by March 1 for the primary election and by September 1 for the general election.

After the election commissioner or county clerk has received the certification of the issue to be submitted, he/she shall be responsible for all matters relating to the submission of the issue to the registered voters, except that the city clerk shall be responsible for the publication or posting of any required special notice of the submission of such issue other than the notice required to be given of the statewide election issues. The election commissioner or county clerk shall prepare the ballots and issue absentee ballots and shall also conduct the submission of the issue, including the receiving and counting of the ballots on the issue. The election returns shall be made to the election commissioner or county clerk. The ballots, including absentee ballots, shall be counted and canvassed at the same time and in the same manner as the other ballots. Upon completion of the canvass of the vote by the county canvassing board, the election commissioner or county clerk shall certify the election results to the City Council. The canvass by the county canvassing board shall have the same force and effect as if made by the City Council. (Ref. Neb. Rev. Stat. §32-559)

SECTION 1-709 CERTIFICATE OF NOMINATION OR ELECTION

1. If the county election commissioner does not certify the election results, the city clerk shall, within 40 days after the election, prepare, sign and deliver a certificate of nomination or certificate of election to each person whom the canvassing board has declared to have received the highest vote for each municipal office. No person shall be issued a certificate of nomination as a candidate of a political party unless such person has received a number of votes at least equal to 5% of the total ballots cast at the primary election by registered voters affiliated with that political party in the district which the office for which he/she is a candidate serves.

2. A certificate of election prepared by the city clerk shall be in the form as nearly as possible prescribed in Neb. Rev. Stat. §32-1033 and shall be signed by the mayor under the seal of the City and countersigned by the city clerk. (Ref. Neb. Rev. Stat §19-3041, 32-558, 32-1033)

SECTION 1-710 INABILITY TO ASSUME OFFICE

In any general election, where the person who received the highest number of votes is ineligible, disqualified, deceased, or for any other reason is unable to assume the office for which he was a candidate, and the electorate had reasonable notice of such disability at the time of election, the

candidate in such election who received the highest number of votes shall be declared elected, and shall be entitled to the certificate of election; provided that any candidate so declared elected received not less than 35% of the total number of votes cast for such office in the election. If any of the qualifications of this section are not met by the candidate to be declared elected, or reasonable notice of the winner's ineligibility is not available to the voters, a vacancy in such office shall be declared to exist at the time of commencement of the term and shall be filled as prescribed by law.

SECTION 1-711 RECALL PROCEDURE

1. Any or all of the elected officials of the City may be removed from office by recall pursuant to Neb. Rev. Stat. §32-1301 to 32-1309. (Ref. Neb. Rev. Stat. §32-1301 through 32-1309)

SECTION 1-712 BALLOTS

The county clerk or election commissioner shall provide printed ballots for every general municipal election and the expense of printing and delivering the ballots and cards of instruction shall be a charge upon the City. (Ref. Neb. Rev. Stat. §32-1202)

SECTION 1-713 ELECTIONS: WARDS AND PRECINCTS CREATED

The City of Plattsmouth, for the purpose of elections, is divided into four wards and four precincts, each precinct corresponding with and being coextensive with each ward, as follows:

FIRST WARD

First Ward shall consist of all of that part of the City of Plattsmouth lying north of the intersection of Avenue A and Schilling Road from the eastern corporate limits of the City of Plattsmouth, west to 10th Street: that part lying east of 10th Street, north to Avenue B: that part lying north of Avenue B, west to 13th Street; that part lying west of 13th Street, south to Avenue A; that part lying north of Avenue A, west to 15th Street; that part lying east of 15th Street, north to Avenue B; and that part lying north of Avenue B west to the corporate limits of the city. First Ward excludes the area in east Plattsmouth west of River Road to the Missouri River.

SECOND WARD

Second Ward shall consist of all that part of the City of Plattsmouth lying south of Avenue A from 6th Street, west to 10th Street; that part lying west of 10th Street, north to Avenue B; that part lying south of Avenue B, west to 13th Street; that part lying east of 13th Street, south to Avenue A, west to 15th Street; that part lying west of 15th Street, north to Avenue B; that part lying south of Avenue B, west to the corporate limits; that part lying north of 8th Avenue, east from the corporate limits to Chicago Avenue; that part lying west of Chicago Avenue, northeast to 5th Avenue; that part lying north of 5th Avenue, east to 7th Street; that part lying west of 7th Street, north to 3rd Avenue; the part lying north of 3rd Avenue, east to 6th Street; and that part lying west of 6th Street, north to Avenue A. Second Ward includes the incorporated area in west Plattsmouth between Oak Hill Road and a non-visible line extending west from 1st Avenue to the cemetery.

THIRD WARD

Third Ward shall consist of all that part of the City of Plattsmouth beginning at 9th Street and 5th Avenue, lying south of 5th Avenue, west to Chicago Avenue; that part lying east of Chicago Avenue, southwest to 8th Avenue; that part lying south of 8th Avenue extending west to the corporate limits. Third Ward is bounded by the west corporate limits; Third Ward extends south to the south corporate limits; Third Ward follows the corporate limits east, said point being the intersection of the center line of 15th Street/Chicago Avenue and the south corporate limits; that part lying west of 15th Street/Chicago Avenue north to Lincoln Avenue; that part lying west of Lincoln Avenue, northeast to 12th Avenue; that part lying south of 12th Avenue, west to the alley between 8th Street and 9th Street; that part lying west of the alley between 8th Street and 9th Street, north to 11th Avenue; that part lying south of 11th Avenue, west to 9th Street; that part lying west of 9th Street, north to 7th Avenue; that part lying south of 7th Avenue, west to 9th Street; and that part lying west of 9th Street, north to 5th Avenue.

FOURTH WARD

Fourth Ward shall consist of all that part of the City of Plattsmouth lying south of Avenue A extending west from the east corporate limits to 6th Street; that part lying east of 6th Street, south to 3rd Avenue; that part lying south of 3rd Avenue, west to 7th Street; that part lying east of 7th Street, south to 5th Avenue; that part lying south of 5th Avenue, west to 9th Street; that part lying east of 9th Street, south to 7th Avenue; that part lying north of 7th Avenue, east to 9th Street; that part lying east of 9th Street, south to 11th Avenue; that part lying north of 11th Avenue, east to the alley between 9th Street and 8th Street; that part lying east of the alley between 9th Street and 8th Street, south to 12th Avenue; that part lying north of 12th Avenue, east to Lincoln Avenue; that part lying east of Lincoln Avenue, southwest to 15th Street/Chicago Avenue; that part lying east of 15th Avenue, south to the corporate limits of the city. Fourth Ward is bounded by the corporate limits east of 15th Street/Chicago Avenue and follows the east corporate limits north to Avenue A. Fourth Ward includes the area in east Plattsmouth west of River Road to the Missouri River.

(Ref. *Neb. Rev. Stat. §§16-104, 16-105*)

Ordinance No. 1794 10/5/2009; Ordinance No. 1841 2/6/2012; Ordinance No. 1991 12/20/2021; Ordinance No. 2035 8/18/2025)

SECTION 1-714 EXIT POLLS

No person shall conduct any exit poll, public opinion poll, or any other interview with voters on election day seeking to determine voter preference within 20 feet of the entrance to any polling place or, if inside the polling place or building, within 100 feet of any voting booth. (Ref. Neb. Rev. Stat. §32-1525)

ARTICLE VIII - PENAL PROVISION

SECTION 1-801 VIOLATION; PENALTY

Any person who violates or refuses to comply with any of the provisions of this chapter, which is incorporated by reference, shall be guilty of a misdemeanor, and upon conviction shall be subject to fine of not more than $500.00 dollars and/or imprisonment for up to 30 days for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

Amended – Ordinance No. 1681 11/4/2002

SECTION 1-811 ~~ELECTIONS; WARDS AND PRECINCTS CREATED~~

Enacted Ordinance No. 1794 10/5/2009; Ordinance No. 1838 11/7/2011; Repealed Ordinance No. 1841 2/6/2012

MUNICIPAL CODE

CHAPTER 2

COMMISSIONS & BOARDS

ARTICLE I – BOARD OF HEALTH

SECTION 2-101 MEMBERS; OFFICERS; DUTIES

1. The City Council shall appoint a Board of Health, which shall consist of five members. The members of the Board shall include the mayor, who shall serve as chairperson; a physician who shall be the Board's medical advisor; the chief of police, who shall serve on the Board as secretary and quarantine officer; the President of the City Council; and one other member. The members of the Board shall serve a one-year term of office, unless reappointed, without compensation, and shall reorganize at the first meeting in December of each year. No member of the Board of Health shall hold more than one Board of Health position.

2. The secretary shall keep full and correct minutes and records of all meetings and file the same with the city clerk where they shall be available for public inspection during office hours. The Board of Health shall be funded by the City Council from time to time out of the General Fund. A majority of the Board shall constitute a quorum for the purpose of doing business. The Board shall meet at such times as the City Council may designate. Special meetings may be held upon the call of the chairperson or any two members of the Board.

3. The Board shall enact rules and regulations, which shall have the full force and effect of law, to safeguard the health of the people of the City. The Board shall enforce the rules and regulations and provide fines and punishments for any violations thereof. It may regulate, suppress and prevent the occurrence of nuisances and enforce all laws of the State of Nebraska and ordinances of the City relating to nuisances and to matters of sanitation, which affect the health, and safety of the people. The Board shall regularly inspect such premises and businesses as the City Council may direct. All members of the Board shall be responsible for making such reports and performing such other duties as the City Council may, from time to time, designate. (Ref. Neb. Rev. Stat. §16-238)

ARTICLE II –BOARD OF PARK COMMISSIONERS

SECTION 2-201 MEMBERS; TERM; OATH; COMPENSATION

The mayor, with the consent and approval of the City Council, shall appoint the Board of Park Commissioners. The Board shall consist of not less than six members, who shall be residents of the City. No member of the City Council shall serve as a park commissioner while serving as a member of the City Council. The members of the Board shall serve a three-year term of office unless reappointed. Before entering upon his/her duties, each park commissioner shall take an oath, filing it with the city clerk, that he/she will faithfully perform the duties of his/her office and not in any manner be influenced by personal or political motivation. The Board shall serve without compensation and may be required, in the discretion of the City Council, to give a bond in a sum set by resolution of the City Council and conditioned upon the faithful performance of their duties. (Ref. Neb. Rev. Stat. §16-696)

SECTION 2-202 ORGANIZATION; MEETINGS

At the time of the Board's first meeting in February of each year, the members shall organize by selecting from their number a president and a secretary. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings and to file the same with the city clerk where they shall be available for public inspection at any reasonable time. A majority of the Board members shall constitute a quorum for the transaction of business. The Board shall meet once a month at such time as the City Council may designate. Special meetings may be held upon the call of the president or any two of the Board members. A majority of the Board shall constitute a quorum for the transaction of business and a majority vote of the total membership shall be required to pass any motion or resolution. A tie vote of the Board shall be broken by the mayor. (Ref. Neb. Rev. Stat. §16-696)

SECTION 2-203 DUTIES

The Board shall have the following authority and responsibility for the parks:

1. To establish appropriate rules and regulations for the management, use and operation of all parks and recreational facilities owned or operated by the City. These rules can establish special use areas within the public park system for specific activities, which are identified in the rules.
2. To plan the recreational equipment, landscaping and overall improvements for all parks. The Board shall have the authority to make expenditures for these purposes from funds collected by taxes as provided by state statute or by donations to the credit of the Park Fund, subject to review and approval by the City Council for expenditures exceeding $1,000.00. Prior to making any expenditure, regardless of the amount, the Board will confirm with the city administrator or the city clerk that the funds are within the park budget and are available. The city treasurer shall have the physical custody of all park funds, monies, credits, securities, and all other financial assets as required by law.

3. To prohibit the use of the parks and recreational facilities by automobiles and all other motor powered vehicles regardless of the number of wheels on them. The Board shall have authority to establish certain areas within which certain vehicles may be used and to limit the use to specific purposes.

4. To regulate the circumstances in which animals are allowed in the parks, and to require the owners to dispose of excrement deposited in the park by the animals in a proper receptacle.

5. The Board of Park Commissioners shall carry out its responsibilities through the city administrator or the public works director, and if these persons are unavailable, then through the mayor. The city administrator shall be responsible for carrying out the decisions of the Board in regard to the use of city employees to accomplish any actions taken by the Board and for the actual purchase of items for the parks and recreational facilities. All employees of the City doing work in or for the city parks and recreational facilities shall be under the supervision and direction of the city administrator or the public works director, or if these persons are not available, the mayor. All actions and proposed actions of the Board shall be subject to the review and control of the City Council. The Board shall be responsible for making such reports and performing such other duties as the City Council may, from time to time, designate.

SECTION 2-204 OPERATION AND FUNDING

The City owns and operates the city parks and other recreational areas through the Board of Park Commissioners. The City Council, for the purpose of defraying the cost of the care, management, and maintenance of the city parks, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be placed into the General Fund and shall remain in the custody of the city clerk/treasurer. Monies so levied and collected will be set aside by the City Council in the city budget for operation and maintenance of the city parks and this will be known as the Park Fund. (Ref. Neb. Rev. Stat. §16-697)

SECTION 2-205 INJURY TO PARK PROPERTY

It shall be unlawful for any person to maliciously or willfully cut down, injure or destroy any tree, plant or shrub. It shall be unlawful for any person to injure or destroy any sodded or planted area, or injure or destroy any building, structure, equipment, fence, bench, table or any other property of the city parks and recreational areas. No person shall commit any waste on or litter the city parks or other public grounds. (Ref. Neb. Rev. Stat. §16-697.01)

SECTION 2-206 CURFEW IN CITY PARKS

All areas designated by the City as public parks shall be closed to the public from 11:00 P.M. until 5:00 A.M., and no person shall enter upon said property during that time; provided that this section shall not be applicable when a sports event is in progress and those persons in attendance are within the immediate area of such event, which must have had prior approval by the proper city officials.

Amended – Ordinance No. 1790 8/3/2009

ARTICLE III – CIVIL SERVICE COMMISSION

SECTION 2-301 MEMBERS; OATH; COMPENSATION

The Civil Service Commission shall consist of three members appointed by the mayor with the advice and consent of a majority of the City Council. Each commissioner shall be: (1) able to read and write the English language; (2) a citizen of the United States; (3) a resident of the City of Plattsmouth for at least three years immediately preceding his/her appointment; and (4) an elector of Cass County; except that at the time of any appointment, not more than two commissioners, including the ones to be appointed, shall be registered electors of the same political party.

Before entering upon his/her duties, each commissioner shall take an oath to be filed with the city clerk that he/she will faithfully perform the duties of his/her office and will not in any manner be actuated or influenced therein by personal or political motivation. All civil service commissioners shall serve without compensation.

SECTION 2-302 TERM OF OFFICE; REMOVAL

The term of office of commissioners shall be six years and until their successors are appointed and qualified, unless sooner removed. Any member may be removed from office for incompetence, dereliction of duty, malfeasance in office or other good cause by the mayor and City Council; except that no member of the Commission shall be removed until written charges have been preferred, due notice given such member, and a full hearing had before the mayor and City Council.

SECTION 2-303 ORGANIZATION; OFFICERS

Immediately after the appointment of the Commission and annually thereafter, the Commission shall organize by electing one of its members as chairperson; the Commission shall further appoint a secretary and chief examiner.

The Commission may merge the positions of secretary and chief examiner and appoint one person to perform the duties of both positions. The commission secretary and chief examiner shall be subject to suspension or discharge upon the vote of a majority of the appointed members of the Commission.

SECTION 2-304 RECORDS

It shall be the duty of the secretary and chief examiner to keep the records of the Commission, preserve all reports made to it, superintend and keep records of all examinations held under its direction and perform such other duties as the Commission may prescribe.

SECTION 2-305 MEETINGS

The Civil Service Commission shall hold meetings as may be required for the proper discharge of its duties. Two members of the Commission shall constitute a quorum for the transaction of business.

SECTION 2-306 DUTIES

It shall be the duty of the Civil Service Commission to:

1. Adopt and promulgate procedural rules and regulations consistent with the Civil Service Act, which shall provide in detail the manner in which examinations may be held and any matters assigned by the mayor and City Council. All actions of the Civil Service Commission shall conform to and be governed by the Civil Service Act.
2. To provide that all tests shall be practical and consist of subjects which will fairly determine the capacity of persons who are to be examined to perform the duties of the position to which an appointment is to be made and may include, but not be limited to, tests of physical fitness and of manual skill and psychological testing.
3. To provide rules and regulations for credit to be given to all applicants for entry level positions for service to, and honorable discharge from, the armed forces of the United States, and who have equaled or exceeded the minimum qualifying standard established by the mayor and City Council; such credit to be that directed by statute. Entry level positions eligible for such credits are to be defined by the mayor and City Council.
4. To conduct an investigation concerning and report upon all matters regarding the enforcement and effect of the Civil Service Act and the rules and regulations prescribed.
5. To provide that all hearings and investigations before the Commission, designated commissioner or chief examiner shall be governed by the Civil Service Act and the rules of practice and procedure to be adopted by the Commission.
6. To establish and maintain in suitable form a roster of officers and employees.
7. To provide for, establish and hold competitive tests to determine the relative qualifications of persons who seek employment in any position, and as a result thereof, establish eligible lists for the various positions. Upon the request of the mayor and City Council, the Commission shall establish a list of those eligible for appointment to a promotion within the Civil Service Department and to maintain such list for a period of time as set by the mayor and City Council.
8. To certify, upon request when a vacant position is to be filled, to the mayor and City Council the names of the persons who are the three highest on the eligible list following the most recent examinations, and whose qualifications have been validated by the Commission.
9. To keep such records as may be necessary for the proper administration of their responsibilities.
10. To begin and conduct civil suits which may be necessary for the proper enforcement of the Civil Service Act and the rules of the Commission.
11. To make recommendations concerning reductions in force policy to the mayor and City Council.

SECTION 2-307 CONCURRENCE BY MAJORITY

An order, decision, rule or regulation made by any designated commissioner conducting any hearing or investigation alone shall not have any force or effect unless it is concurred in by a

majority of the appointed members of the Commission, including the vote of the commissioner making the investigation.

SECTION 2-308 RULES AND REGULATIONS

Any rules, regulations or amendments thereto promulgated by the Civil Service Commission shall be filed with the city clerk, with at least one copy of such rules, regulations and amendments being made available for examination and reproduction by members of the public, and one copy being given to each fulltime firefighter and police officer. Such procedures shall comply with the minimum due process requirements.

SECTION 2-309 INVESTIGATIONS

The Commission may inspect all institutions, departments, positions and employments affected by the Civil Service Act to determine whether such Act and all rules and regulations adopted by the Commission are being obeyed. Such investigations may be conducted by the Commission or by any commissioner designated by the Commission for that purpose. The designated commissioner or chief examiner shall have the power to administer oaths, issue subpoenas, require the attendance of witnesses, require the production of books, paper, documents and accounts pertinent to the investigation and to cause deposition of witnesses residing within or without the state in the manner prescribed by law. Such investigation shall also be made upon the written petition of a citizen, duly verified, stating that irregularities or abuses exist or setting forth, in concise language, the necessity for such investigation.

SECTION 2-310 HEARINGS

Upon completion of investigations in accordance with Section 2-309, the Commission shall hold a public hearing after giving reasonable notice to the accused of the time and place of such hearing. Such hearing shall be held not less than ten or more than 20 days after filing of the written demand for an investigation and a decision shall be rendered no later than ten days after the hearing.

ARTICLE IV – HOUSING AUTHORITY

SECTION 2-401 HOUSING AUTHORITY BOARD

1. The City Council shall appoint five persons who shall constitute the Housing Authority and such persons shall be called the commissioners. One commissioner shall be appointed each year. Each commissioner shall serve a five-year term of office or until his/her successor is duly appointed; provided that all vacancies shall be filled for the unexpired terms. The City Council may appoint one of its members to serve as one of the five members of such Housing Authority for such term as the Council may determine.

2. No person shall serve as a commissioner unless he or she resides within the area of operation of the Housing Authority. A certificate of the appointment or reappointment of any commissioner shall be filed with the city clerk and such certificate shall be conclusive evidence of the proper appointment of such commissioner.

3. A commissioner shall receive no compensation for his/her services, but he/she shall be entitled to the necessary expenses, including travel expenses, incurred in discharge of his/her duties.

4. A majority of commissioners shall constitute a quorum of the Authority for the purpose of conducting its business, exercising its powers, and for all other purposes. Action may be taken by the Authority upon the vote of the majority of the commissioners present, unless in any case the bylaws of the Authority shall require a larger number.

5. The commissioners shall elect a chairman and vice-chairman from among their number and shall have the power to employ an executive director who shall serve as ex officio secretary of the Authority. The Authority may also employ legal counsel, or it may call upon the chief law officer of the City for such services as it may require. It may employ technical experts and such other officers, agents and employees as it may require and shall determine their qualifications, duties, compensations and terms of office. The Authority may delegate such other powers and duties to its agents or employees as it may deem proper.

6. During his/her tenure, and for one year thereafter, no commissioner, officer or employee of the Municipal Housing Authority shall voluntarily acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any project, or in any contract or proposed contract relating to any housing project. If any such commissioner, officer or employee involuntarily acquires any such interest, or voluntarily or involuntarily acquired any such interest prior to appointment or employment as commissioner, officer or employee, he/she shall immediately disclose his/her interest in writing to the Authority. Such disclosure shall be entered upon the minutes of the Authority and he/she shall not participate in any action by the Authority relating to the property or contract in which he/she has any such interest; provided that nothing herein shall apply to the acquisition of any interest in notes or bonds of the Authority issued in connection with any housing project, or to the execution of agreements by banking institutions for deposit or handling of funds in connection with a project or to act as trustee under any trust indenture, or to utility services, the rates for which are fixed or controlled by a governmental agency.

7. The mayor may remove a commissioner for neglect of duty or misconduct in office in the manner prescribed hereinafter. The mayor shall send a notice of removal to such commissioner, which notice shall contain a statement containing the charges against him/her. Unless within ten days from the receipt of such notice such commissioner files with the clerk a request for a hearing before the City Council, he/she shall be deemed to be removed from office. If a request for a hearing is filed with the clerk, the City Council shall hold a hearing at which the commissioner shall have the right to appear in person or by counsel and the City Council shall determine whether the removal shall be disapproved or upheld. If the removal is disapproved, the commissioner shall continue to hold his/her position.

SECTION 2-402 MISCONDUCT IN OFFICE

Misconduct in office shall apply to the Housing Authority commissioners, the executive director and all other employees. Such officials and employees shall not engage in any political activities on Housing Authority property nor make any political statements to any residents of such Housing Authority. To engage in such political activities or make such political statements shall be grounds for immediate removal of any official and dismissal of any employee engaging in such conduct.

SECTION 2-403 REPORTS

The Housing Authority shall keep an accurate account of all its activities and of all its receipts and disbursements and shall make a report to the City Council on all such information.

SECTION 2-404 OWNERSHIP

The Municipal Housing Authority is owned by the City and operated through the Housing Authority commission members. The Housing Authority shall constitute a body corporate and politic, and shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of the Nebraska Housing Authority Law.

SECTION 2-405 DEFINITIONS

Except as otherwise specifically provided, the definitions and terms set out in the Nebraska statutes relating to housing authorities under the Nebraska Housing Authority Law are hereby adopted by reference as they now exist or may hereafter be amended.

SECTION 2-406 OPERATION AND MANAGEMENT

The Authority shall at all times observe the following duties with respect to rentals and tenant selection:

1. It may rent or lease dwelling accommodations therein only to persons of low income, elderly or handicapped persons of low income, and displaced persons in need.
2. There shall be no discrimination in the eligibility or occupancy of tenants on the basis of race, sex, marital status, religion, color, creed, national origin or ancestry.

3. The Authority shall not accept any person as a tenant in any dwelling in the housing project if the persons who occupy the dwelling have an aggregate annual income which equals or exceeds the amount which the Authority has conclusively determined to be sufficient to enable one to secure, safe, sanitary and uncongested dwelling accommodations within the area served by the Authority and to provide an adequate standard of living.
4. The Authority may rent or lease to a tenant a dwelling consisting of a number of rooms which is deemed necessary to provide safe and sanitary accommodations to the occupants without overcrowding.
5. The Authority shall fix income limits for occupancy and rents after taking into consideration:
    a. The family size, composition, age, physical handicaps, and other factors which might affect the rent-paying ability of the person.
    b. The economic factors which affect the financial stability and solvency of the project.
6. The Authority may accept as tenants any displaced persons in need, regardless of income, but in no event shall such persons remain as tenants of the Authority for more than a period of six months unless such persons also qualify as persons of low income, elderly or handicapped persons of low income.
7. All persons of low income, elderly, or handicapped persons of low income, or displaced persons in need, shall be entitled to the benefits of this Article; and the Authority may establish rules and regulations consistent with the purposes of this Article concerning eligibility and occupancy of the housing project or other such shelter.
8. Nothing herein shall prohibit the right of the Authority to inquire into the financial condition, family composition, medical, personal and employment history of any tenant or prospective tenant.
9. The Authority shall prohibit subletting by tenants.

The Authority may from time to time establish rules and regulations consistent with federal and state laws and regulations and with the purposes of this Article concerning the termination of tenancy. Any tenant so terminated shall be sent a written notice setting out the reasons for such termination. Any tenant served with a notice shall be given the opportunity to contest the termination in an appropriate hearing, except that tenants who have created or maintained a threat constituting a serious and clear danger to the health or safety of other tenants or Authority employees need not be given such a hearing by the Authority. Such notice may provide that if the tenant fails to pay his or her rent or comply with any covenant or condition of his or her lease or the rules and regulations of such Authority, or cure a violation or default thereof, as the case may be, as specified in such notice, or follow the procedure for a hearing as set forth in the notice, all within the time or times set forth in such notice, the tenancy shall then be automatically terminated and no other notice(s) need be given of such termination or the intent to terminate the tenancy. Upon such termination and without any notice other than as provided for in this section, the Authority may file suit against any tenant for recovery of possession of the premises and may recover the same as provided by law.

The Authority may from time to time establish rules and regulations consistent with the purposes of this Article concerning personal property of tenants and other persons located in projects of the Authority, and if such personal property is not removed from a dwelling unit at the time of the termination of the lease, at the time of vacation or abandonment of the dwelling unit, or at the time of the death of any tenant, then the Authority may remove the same and store such property at the

tenant's risk and expense. In the event that possession of such personal property is not taken by the tenant or other person authorized by law to take possession within 45 days after such termination, vacation or abandonment, and any storage removal charges remain unpaid, then the Authority may, at its option, dispose of the personal property in any manner which the Authority deems fit, except that any proceeds from the disposal of such personal property shall be paid to the general fund of the body which created the Authority. No tenant or other person shall have any cause of action against the Authority for such removal or disposition of such personal property.

~~ARTICLE V – UTILITY SERVICES BOARD~~

Repealed by Ordinance No. 1776 9/15/2008

ARTICLE VI – CEMETERY ADVISORY BOARD

SECTION 2-601 MEMBERS; TERM OF OFFICE; OATH; COMPENSATION

The Cemetery Advisory Board shall consist of three members appointed by the mayor with the advice and consent of a majority of the City Council. Each board member shall be a resident of the City. No member of the City Council shall serve as a board member while serving a term of office as a member of the City Council.

The initial three members of the Cemetery Advisory Board shall serve staggered terms of one, two, and three years, as designated by the Mayor in the appointment of the initial members. Thereafter, the term of office of the Cemetery Advisory Board members shall be three years, and each shall serve until his/her successor is appointed and qualified, unless sooner removed. Vacancies occurring in the Cemetery Advisory Board shall be filled by appointment for the unexpired term.

Each board member shall faithfully perform the duties of his/her office and not in any manner be actuated or influenced therein by personal or political motivation. Members of the Cemetery Advisory Board shall serve without compensation.

Amended - Ordinance No. 1965 2/17/2020

SECTION 2-602 ORGANIZATION; OFFICERS

At the Cemetery Board's annual meeting, The Board shall organize by selecting from their number a president and secretary; provided, no member shall serve in the capacity of both president and secretary. It shall be the duty of the secretary to keep full and correct minutes and records of all meetings and to file the same with the city clerk where they shall be available for public inspection at any reasonable time.

Amended - Ordinance No. 1965 2/17/2020

SECTION 2-603 MEETINGS

The Cemetery Advisory Board shall hold an annual meeting on such date and at such time as designated by the City Council. Special meetings may be held upon the call of the president or any two of the board members. A majority of the Cemetery Advisory Board shall constitute a quorum for the transaction of business and a majority vote of the total membership shall be required to pass any motion or resolution.

Amended - Ordinance No. 1965 2/17/2020

SECTION 2-604 DUTIES

The Cemetery Advisory Board shall have the following duties:

1. To create and periodically review and revise rules and bylaws governing the ownership, transfer, internment, and other use of cemetery lots and to forward its recommendations regarding such rules and bylaws to the mayor and City Council for action.

2. To create and periodically review and revise rules and bylaws governing the maintenance and care of the cemetery and to forward its recommendations regarding such rules and bylaws to the mayor and City Council for action.

All actions of the Cemetery Advisory Board shall be subject to the review and direction of the City Council.

Amended - Ordinance No. 1965 2/17/2020

SECTION 2-605 RULES OF ORDER

The Cemetery Advisory Board shall be responsible for adopting such Rules of Order as needed to conduct its meetings and any other business permitted by this Code; provided, such bylaws shall be consistent with the Nebraska Open Meetings Act and this Code.

Amended - Ordinance No. 1965 2/17/2020

~~SECTION 2-606 CONTROL AND CUSTODY OF FUNDS AND PROPERTY~~

Repealed Ord No. 1965 2/17/2020

~~SECTION 2-607 POTTERS FIELD~~

Repealed Ord No. 1965 2/17/2020

~~SECTION 2-608 LOT BOOK~~

Repealed Ord No. 1965 2/17/2020

~~SECTION 2-609 CEMETERY CURFEW~~

Repealed Ord No. 1965 2/17/2020

~~SECTION 2-610 CEMETERY SPEED LIMIT~~

Repealed Ord No. 1965 2/17/2020

ARTICLE VII – LIBRARY

SECTION 2-701 ESTABLISHMENT OF A PUBLIC LIBRARY

The City owns and operates a library known as the Plattsmouth Public Library. The City shall keep and maintain the same and the term "public library" shall be held to mean the Plattsmouth Public Library. (Neb. Rev. Stat. § 51-201)

Amended – Ordinance No. 1821 12/6/2010

SECTION 2-702 OPERATION

1. The Mayor and City Council shall have the power to make and adopt such bylaws, rules, and regulations for the government of the library and reading room as it may deem expedient, not inconsistent with Neb. Rev. Stat. §§ 51-201 through -219. (Neb. Rev. Stat. § 51-205)

2. The Mayor and City Council shall have exclusive control of expenditures, of all money collected or donated to the credit of the library fund, of the renting and construction of any library building, and the supervision, care, and custody of the grounds, rooms, or buildings constructed, leased, or set apart for that purpose. They shall have the power to establish rules and regulations for the government of the library as may be deemed necessary for its preservation and to maintain its usefulness and efficiency. They shall have the power to fix and impose, by general rules, penalties and forfeitures for trespass upon or injury to the library grounds, rooms, books, or other property, for failure to return any book or for violation of any bylaw, rule, or regulation. The Mayor and City Council shall have and exercise such power as may be necessary to carry out the spirit and intent of Neb. Rev. Stat. §§ 51-201 through -219 in establishing and maintaining the library and reading room.

3. A library director may be appointed by the Mayor, subject to confirmation by the City Council. The library director shall have the care and custody of the grounds, buildings, rooms, equipment, books and supplies owned or used by the public library, and the general supervision thereof. (Neb. Rev. Stat. §§ 51-207 and -211)

Amended – Ordinance No. 1821 12/6/2010

SECTION 2-703 FUNDING, CUSTODY OF FUNDS, AND DONATIONS

1. The governing body, for the purpose of defraying the cost of management, purchases, improvements, and maintenance of the library may each year levy a tax not exceeding the maximum limit prescribed by state law, on the taxable value of all the taxable property within the municipality.

2. The city treasurer shall have the custody of all tax monies and penalties collected, as well as other funds acquired for erection, maintenance or support of the public library, including any donations made to the City of Plattsmouth for the library. All monies received by the public library, exclusive of funds belonging to any library foundation or other private organization

established by citizens to help promote the library, shall be paid, not less than weekly, to the city treasurer. These funds shall include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the municipal library accepted by the Mayor and City Council.

3. If a library foundation or other private organization is established by citizens to help promote the library, the city treasurer shall not have the custody of funds belonging, or donated specifically, to such foundation of other private organization. (Neb. Rev. Stat. §§ 51-201, -209 and -215)

Amended – Ordinance No. 1821 12/6/2010

SECTION 2-704 LIBRARY ADVISORY BOARD

1. There is hereby established a library advisory board which shall consist of five (5) residents of the City, appointed by the mayor with the approval of the city council, serving four-year terms. Neither the mayor nor a member of the city council shall be a member of such board. In the case of a vacancy, the mayor shall appoint a replacement, with approval of the city council, for the unexpired term. The existing terms of the members of the library board at the time of the passage of this chapter shall remain in effect. No member of the library advisory board shall receive pay or compensation for his or her services as a member of the board.

2. The library advisory board shall work with the library director, city administrator, mayor and city council to develop the public library, and shall have the following specific responsibilities to:

    a. advise the library director in developing and implementing policies;

    b. advise the library director regarding maintenance and expansion of the materials collection and programs;

    c. advise the library director in preparing an annual library budget, which budget shall be prepared by the library director in the format used by other city departments and divisions, and to periodically review library claims to ensure budgetary compliance;

    d. receive citizen input, comments and complaints regarding the materials collection, programs and services offered at the public library, and to report the same to the library director, with recommendations in response thereto;

    e. encourage use of the public library and promote its programs and services;

    f. represent the city and public library within professional associations and at library functions;

g. adopt bylaws, rules and regulations for its own guidance as the board may deem necessary and as such shall not be inconsistent with this chapter; and

h. create, and recommend to the Mayor and City Council, appropriate rules and regulations for the use of the public library. (Neb. Rev. Stat. § 51-202)

Amended – Ordinance No. 1821 12/6/2010

SECTION 2-705 USE OF THE LIBRARY

1. The Mayor and City Council may exclude from the use of the library and reading rooms any person who willfully violates or refuses to comply with rules and regulations established for the government thereof. (Neb. Rev. Stat. § 51-212)

2. The basic services offered at the library shall be available without charge to all residents of the municipality. The Mayor and City Council may fix and impose reasonable fees, not to exceed the library's actual cost, for non-basic services. (Neb. Rev. Stat. § 51-211)

3. For purposes of this section:

   a. Basic services shall include, but not be limited to, free loan of circulating print and nonprint materials from the local collection and general reference and information services; and

   b. Non-basic services shall include, but not be limited to, use of photocopy equipment; telephones, facsimile equipment, and other telecommunications equipment; media equipment; personal computers; and video recording and playing equipment. (Neb. Rev. Stat. § 51-201.01)

Amended – Ordinance No. 1821 12/6/2010

SECTION 2-706 DISCRIMINATION PROHIBITED

No library service shall be denied to any person because of race, sex, religion, age, color, national origin, ancestry, physical handicap, or marital status. (Neb. Rev. Stat. § 51-211)

Amended – Ordinance No. 1821 12/6/2010

SECTION 2-707 PENALTIES; RECOVERY; DISPOSITION

Penalties imposed or accruing pursuant to the City's fee ordinance, and any court costs and attorney's fees, may be recovered in a civil action before any court having jurisdiction, such action to be instituted in the name of the City. (Neb. Rev. Stat. § 51-214)

Amended – Ordinance No. 1821 12/6/2010

ARTICLE VIII – POLICE DEPARTMENT

SECTION 2-801 CHIEF OF POLICE; APPOINTMENT

The police department shall consist of the chief of police and such further number of regular policemen as may be duly ordered by resolution of the Council. The chief of police shall be appointed and serve the term of office and be subject to removal, suspension and demotion by the mayor with the advice and consent of the City Council upon the certification of the Civil Service Department. (Ref. Neb. Rev. Stat. §16-225, 16-323)

SECTION 2-802 DUTIES

It shall be the duty of the chief of police and all members of the police department:

1. To arrest all offenders against the laws of Nebraska or of the City, by day or by night, in the same manner as a sheriff or constable, and keep them in the city jail or other place to prevent their escape until a trial or examination may be had before the proper officer;
2. To exercise the same power as a sheriff in relation to all criminal matters arising out of a violation of the city law and all processes issued by the county court in connection with a violation of city law;
3. To arrest and detain any person found violating any law of Nebraska or any law of the City until a legal warrant can be obtained;
4. To have charge of traffic control on the city streets;
5. To execute and serve or cause to be served all processes;
6. To make and file or cause to be made and filed complaints for violations of the laws of the City;
7. To perform such other duties as are assigned to or required of them by the mayor and Council or otherwise provided by law;

and in addition, the chief of police shall have the duty:

8. To have custody of all city property used by the city police;
9. To be a member of the Board of Health and the secretary and quarantine officer thereof; and
10. To report monthly to the mayor all expenditures of the Department.

(Ref. Neb. Rev. Stat. §16-225, 16-323)

SECTION 2-803 RESERVE OFFICER BOND

No appointment of a law enforcement reserve officer shall be valid until a bond in the amount of $2,000.00, payable to the City, has been filed with the city clerk by the individual appointed, or a blanket surety bond arranged and paid for by the
City Council and bonding all such officers of the City Council has been filed. Such bonds shall be subject to the provisions of Chapter 11, Article 1, Nebraska Revised Statutes. (Ref. Neb. Rev. Stat. §81-1444)

SECTION 2-804 ARREST JURISDICTION

1. Every city police officer shall have the power and authority to enforce the laws of this state and the City or otherwise perform the functions of that office anywhere within his or her primary jurisdiction. Primary jurisdiction shall mean the geographic area within territorial limits of the City of Plattsmouth. The City Council may by resolution authorize, and has by Resolution No. 11-004 authorized, city police officers to exercise the City's police powers and jurisdiction on all real property owned by the City which is outside the territorial limits.

2. Any city police officer who is within this state but beyond the territorial limits of his or her primary jurisdiction shall have the power and authority to enforce the laws of this state or any legal ordinance of the City or otherwise perform the functions of his or her office, including the authority to arrest and detain suspects, as if enforcing the laws or performing the functions within the territorial limits of his or her primary jurisdiction in the following cases:

   (a) Any city police officer, if in a fresh attempt to apprehend a person suspected of committing a felony, may follow such person into any other jurisdiction in this state and there arrest and detain such person and return such person to the officer's primary jurisdiction;

   (b) Any city police officer, if in a fresh attempt to apprehend a person suspected of committing a misdemeanor or a traffic infraction, may follow such person anywhere in an area within 25 miles of the boundaries of the officer's primary jurisdiction and there arrest and detain such person and return such person to the officer's primary jurisdiction;

   (c) Any city police officer shall have such enforcement and arrest and detention authority when responding to a call in which a local, state or federal law enforcement officer is in need of assistance. A law enforcement officer in need of assistance shall mean (i) a law enforcement officer whose life is in danger or (ii) a law enforcement officer who needs assistance in making an arrest and the suspect (A) will not be apprehended unless immediately arrested, (B) may cause injury to himself or herself or others or damage to property unless immediately arrested, or (C) may destroy or conceal evidence of the commission of a crime; and

   (d) If the City, under the provisions of the Interlocal Cooperation Act, enters into a contract with any other municipality or county for law enforcement services or joint law enforcement services, law enforcement personnel may have such enforcement authority within the jurisdiction of each of the participating political subdivisions if provided for in the agreement. Unless otherwise provided in the agreement, the City shall provide liability insurance coverage for its own law enforcement personnel as provided in Neb. Rev. Stat. §13-1802. (Ref. Neb. Rev. Stat. §§ 29-215; 18-1706)

SECTION 2-805 POLICE OFFICERS; DISCIPLINE OR REMOVAL FROM DUTY; NOTICE AND HEARING; DETERMINATION

1. Any police officer, including the chief of police, may be disciplined, suspended, demoted, removed or immediately discharged from duty for gross misconduct, neglect of duty or disobedience of lawful orders of the mayor or the City Council as a whole.

2. Any police officer so disciplined, suspended, demoted, removed or discharged may, within 30 days such disciplinary action, suspension, demotion, removal or discharge, file with the city clerk a written application for a hearing before the City Council. The city clerk shall immediately notify the mayor and the City Council of the receipt of such application. Upon notice of the filing of such application, the mayor shall call a special meeting of the City Council within 20 days of receipt of the written application to consider such application. Both the police officer and the individuals causing such disciplinary action or discharge shall have the right at the hearing to be heard and to present evidence to the City Council for its consideration. Not later than 30 days following the adjournment of the meeting at which the hearing was held, the City Council shall vote to uphold, reverse or modify the removal or disciplinary action. The failure of the City Council to act within 30 days or the failure of a majority of the elected council members to vote to reverse or modify the removal or disciplinary action shall be construed as a vote to uphold the removal or disciplinary action. The decision of the City Council shall be based upon its determination that, under the facts and evidence presented at the hearing, the challenged removal or disciplinary action was necessary for the proper management and the effective operation of the police department in the performance of its duties under the statutes of the State of Nebraska.

ARTICLE IX - AIRPORT AUTHORITY

SECTION 2-901 JURISDICTION

The Airport Authority Board shall have the full and exclusive jurisdiction and control over all facilities owned or hereafter acquired by the City for the purpose of aviation operation, air navigation and air safety operation. The Board is a body corporate and politic, constituting a public corporation and an agency of the City. (Ref. Neb. Rev. Stat. §3-502)

SECTION 2-902 MEMBERS; TERM OF OFFICE; COMPENSATION

The Board shall consist of five members, nominated and elected in the manner provided by law for the election of other elected officials, and such members shall take office at the same time as other elected officers. Members of the Board shall be residents of the City and shall serve a term of six years. Two members of the Board shall be elected in each municipal election year; provided that in each third election year, only one member shall be elected to the Board. Any vacancy on the Board resulting from any cause other than the expiration of a term of office shall be filled by temporary appointment, by the mayor with the approval of the City Council, to serve the unexpired portion of the term until a successor can be elected at the next general municipal election.

The members of the Board shall not be entitled to compensation for their services, but shall be entitled to reimbursement of expenses paid or incurred in the performance of their duties. (Ref. Neb. Rev. Stat. §3-502)

SECTION 2-903 REMOVAL FROM OFFICE

A member of the Board may be removed from office for incompetence, neglect of duty, or malfeasance in office. An action for the removal of such officer may be brought, upon resolution of the City Council, in the District Court of the County. (Ref. Neb. Rev. Stat. §3-502)

SECTION 2-904 DUTIES

The Board shall report to the City Council biannually, in writing or orally, on airport activities and issues, and shall have such other powers and duties as may be prescribed by state law. (Ref. Neb. Rev. Stat. §3-501 through 3-514)

ARTICLE X - PLANNING COMMISSION

SECTION 2-1001 MEMBERS; TERM OF OFFICE; OATH; COMPENSATION

The City Planning Commission shall consist of nine regular members and one alternate member who shall be appointed by the mayor, by and with the approval of 3/4 vote of the City Council. Two of such members may be residents of the area over which the City exercises extraterritorial zoning and subdivision regulations.

The alternate member of the Planning Commission shall serve without compensation and shall hold no other municipal office. He/she may attend any meeting and may serve as a voting and participating member of the Commission at any time when less than the full number of regular commission members is present and capable of voting.

The term of office of regular and alternate members of the Planning Commission shall be three years and until their successors are appointed and qualified, unless sooner removed. All members may, after a public hearing before the City Council, be removed by the mayor, by and with a 3/4 vote of the City Council, for inefficiency, neglect of duty or malfeasance in office or other good and sufficient cause.

At the first meeting of the City Council in January of each year, the vacancy created by expiration of the commissioners' terms shall be filled by appointment of new members or reappointment of members. Vacancies occurring in the Planning Commission shall be filled by appointment for the unexpired term. Before entering upon his/her duties, each planning commissioner shall take an oath to be filed with the city clerk that he/she will faithfully perform the duties of his/her office and not in any manner be actuated or influenced therein by personal or political motivation. The members of the Planning Commission shall serve without compensation. (Ref Neb. Rev. Stat. §19-926)

Amended – Ordinance No. 1684 12/16/2002

SECTION 2-1002 ORGANIZATION; OFFICERS

At the time of the Planning Commission's first meeting in February of each year, the commissioners shall organize by selecting from their number a chairman and such other officers as the Commission shall determine to be required. The term of the chairman shall be one year and he/she shall be eligible for re-election. It shall be the duty of the Commission to keep full and correct minutes and records of all meetings and to file the same with the city clerk where they shall be available for public inspection at any reasonable time. (Ref. Neb. Rev. Stat. §19-927)

SECTION 2-1003 MEETINGS

The Planning Commission shall meet once each month on such date and time as designated by the City Council. Special meetings may be held upon the call of the chairman or any four of the commissioners. A majority of the Planning Commission shall constitute a quorum for the transaction of business and a majority vote of the total membership shall be required to pass any

motion or resolution. Tie vote of the commissioners shall be broken by the vote of the mayor. (Ref. Neb. Rev. Stat. §19-927)

SECTION 2-1004 DUTIES

It shall be the function and duty of the Commission to:

1. Make and adopt plans for the physical development of the City, including any areas outside its boundaries which, in the Commission's judgment, bear relation to the planning of the City, and including a comprehensive development plan as defined by Nebraska statutes.

2. Prepare and adopt such implementing means as a capital improvement program, subdivision regulations, building codes and zoning ordinance in cooperation with other interested city departments.

3. Consult and advise with public officials and agencies, public utilities, civic organizations, educational institutions and citizens with relation to the promulgation and implementation of the comprehensive development plan and its implementing programs.

4. Have the power to delegate authority to any such group to conduct studies and make surveys for the Commission, make preliminary reports on its findings and hold public hearings before submitting its final reports.

5. The Commission may, with the consent of the City Council, in its own name, make and enter into contracts with public or private bodies, receive contributions, bequests, gifts or grant funds from public or private sources, expend the funds appropriated to it by the City, employ agents and employees and acquire, hold and dispose of property.

6. The Commission may on its own authority make arrangements consistent with its program; conduct or sponsor special studies or planning work for a public body or appropriate agency; receive grants, remuneration or reimbursement for such studies or work; and at its public hearings, summon witnesses, administer oaths and compel the giving of testimony.

(Ref. Neb. Rev. Stat. §19-929)

SECTION 2-1005 FUNDS, LIMITS UPON EXPENDITURES

The City Council may provide the funds, equipment and accommodations necessary for the work of the Commission, exclusive of gifts, shall be within the amounts appropriated for that purpose by the City Council; and no expenditures or agreements for expenditures shall be valid in excess of such amounts. (Ref. Neb. Rev. Stat. §19-928)

SECTION 2-1006 REPORTS

The Planning Commission shall be responsible for making such reports and performing such other duties as the City Council may from time to time designate.

SECTION 2-1007 ACTIONS BY CITY COUNCIL; RECOMMENDATION OF COMMISSION

The City Council shall not hold its public meetings or take action on matters relating to the comprehensive development plan, capital improvements, building codes, subdivision development or zoning until it has received the recommendation of the Planning Commission; provided, the City Council may set a reasonable time within which the recommendation is to be received. (Ref. Neb. Rev. Stat. §19-901, 19-916, 19-919, 19-929)

~~ARTICLE XI – PERSONNEL BOARD~~

Amended – Ordinance No. 1697 11/17/2003;
Repealed – Ordinance No. 1786 4/20/2009

ARTICLE XII - CITIZEN ADVISORY REVIEW COMMITTEE

SECTION 2-1201 ECONOMIC DEVELOPMENT PROGRAM

The mayor and City Council have been authorized by the electors of the City, at the City's primary elections held May 14, 2002, to adopt by ordinance an economic development program for the City as authorized by the Local Option Municipal Economic Development Act, Neb. Rev. Stat. §18-2701 et seq. The Economic Development Program of the City is amended as follows and shall be placed on file at the office of the City Clerk, and is adopted as authorized by the Local Option Municipal Economic Development Act:

ECONOMIC DEVELOPMENT PLAN FOR THE CITY OF PLATTSMOUTH, NEBRASKA

Section I. General Community and Economic Development Strategy

Due to the extremely competitive nature of economic development at the national, state, and local levels, there is intense competition among states, counties and municipalities of our nation to expand and/or locate businesses in their respective jurisdictions. This intense competition for new job creation has forced states and municipalities to provide incentives to businesses in order to remain competitive. Plattsmouth has been consistently hampered in its efforts to effectively compete in the business recruitment and expansion area. Even though the community has not had a shortage of opportunities, the city has been unable to respond quickly to those opportunities by not controlling available property or being able to raise sufficient capital from local sources to provide incentives for business location and expansion decisions that are tailored to meet the needs of our local community. Our ability to encourage business location and expansion has a direct impact not only upon the economic well being of our community and its residents but upon the State of Nebraska as well.

There is a need to empower Nebraska cities with the opportunity to provide assistance to business enterprises in their communities, whether for expansion of existing operations or the creation of new businesses, by use of the funds raised by local taxation when the voters in the municipality determine that it is in the best interest of the community to do so. The general strategy for this Economic Development Plan and the effort to be undertaken in accordance with the Local Option Municipal Economic Development Act (LB840, 1991-Section 18-2701, RRS1997, et.seq.) is to significantly enhance the city's involvement and leadership in future economic development efforts and to create new jobs in the area.

On June 3, 1991 Legislative Bill 840 was signed into law. This important piece of legislation authorizes incorporated cities and villages to appropriate and spend local sales and property tax revenues for approved economic development purposes. Consequently, this law allows Nebraska communities the opportunity to determine their own destiny by identifying shortcomings and providing, through self-determination those incentives necessary to businesses looking at their community. The economic development plan formulated by the city implementing this legislation and the mechanism for funding the plan is subject to a vote of the people of the city. The core of the plan of the LB840 process involves the formulation of a proposed plan (the "Plan") for a local

economic development program. The Plan forms the foundation for the collection and expenditure of local tax revenues for economic development and the provisions of the plan become the basis under which the municipality's program operates.

Section II. Statement of Purpose Describing General Intent and Goals

It is the intent of the City of Plattsmouth, Nebraska to implement an economic development program with the general purpose and goals of:

1. **Creating** high paying quality jobs by generating employment opportunities and expanding the available work force within the labor market of Plattsmouth and Cass County.

2. **Attracting** new capital investment to the community.

3. **Broadening** the tax base, alleviate the community's reliance on property taxes and provide economic diversification to ensure economic stability and vitality for the community of Plattsmouth and the surrounding area.

In order to have a successful economic development strategy and help the community grow by providing existing and prospective residents with local economic opportunities Plattsmouth must complete the following actions:

1. The City must diversify its economy by recruitment of new industries from outside and developing new businesses from inside the City. Plattsmouth must have a program that is a nurturing environment for small businesses and is a center for economic opportunity. This atmosphere can encourage people (entrepreneurs) with the skills and ideas to come to Plattsmouth to conduct business.

2. The City must have a marketing program. Business recruitment will continue to be an effective and important part of Plattsmouth's economic development strategy. In addition to recruitment, the city can open job opportunities by helping existing business in the city to expand their markets and compete more successfully. Finally, the successful marketing of Plattsmouth as a center for opportunity is important to the city's effort to expand its labor force and attract new residents.

3. The City must provide for the acquisition of industrial land and the provision of supporting infrastructure.

4. Economic Development needs capital; therefore, the city must expand access to venture and risk capital both inside and outside the community.

Section III. Eligible Economic Activities

This Economic Development Plan provides that the proceeds of funds generated from the use of LB840 may be used to fund any project or program providing direct and indirect financial assistance to a qualifying business and the payment of related costs and expenses as allowed by Local Option Municipal Economic Development Act.

Priority activities include the purchase of industrial site(s) and obtaining options for the purchase of such real estate. Land to be purchased or optioned may be within or outside the corporate limits of the City of Plattsmouth and will be identified through local analysis. If land outside the corporate limits is considered for purchase, close analysis will be made of the cost of extending infrastructure to the location and the burden on property owners of any special assessment districts that might be used to make such infrastructure improvements.

Furthermore, these funds may be used to provide the infrastructure to these sites or other sites to make them attractive to new or expanding businesses. Eligible infrastructure improvements, include but are not limited to the following:

1. Streets

2. Storm drainage

3. Water, sewer, gas, electric

4. Railroad extension and spurs

5. Telecommunications, cable, fiber optics, satellite service

6. Airport expansion and upgrades

Infrastructure improvements and costs may extend beyond the corporate limits of the City of Plattsmouth. Priority should be given to improvements within the City's corporate limits, but, if extension of such improvements beyond the corporate limits is necessary to achieve the goals of this program, such improvements may be funded. Only in exceptional circumstances, shall economic development (LB840) funds be used for improvements that extend beyond the City's zoning jurisdiction as it exists at the time.

The funds may also be used to construct facilities, structures, and/or appurtenances for new or proposed development or on a speculative basis to attract new business or industry. In addition, these facilities, structures and appurtenances are not required to be within the corporate limits of the City of Plattsmouth, but in only exceptional circumstances should the same extended outside the City's zoning jurisdiction as it exists as the time.

Eligible activities also include, but are not limited to the following:

1. Payments for salaries and support staff or contract staff to implement the

program.

2. Job credits for full-time jobs created (2080 hrs/yr) to include grants that are subject to job creation performance.

3. Expenses related to business recruitment, promotional activities and related administrative expenses.

4. Expenses for locating a qualified business in the area.

5. Grants or agreements for job training.

6. Provision of technical assistance to businesses, such as marketing assistance, management counseling, preparing financial packages, engineering assistance.

7. Direct loans or grants to qualifying businesses for fixed assets or working capital or both; loan guarantees for qualifying business; grants for public works improvements which are essential to the location or expansion of, or the provision of new services by, a qualifying business; grants or loans for job training; the purchase of real estate, options for such purchases, and the renewal or extension of such options; the issuance of bonds as provided for in the Local Option Municipal Economic Development Act; and payments for salaries and support of city staff to implement the economic development program or the contracting of such to an outside entity.

The City recognizes that the attraction of new business and industry to a community, or the expansion of existing business or industry, takes place in an extremely competitive market place. In order to make Plattsmouth, Nebraska as competitive as possible in that market place and in the creation/retention of jobs in the Plattsmouth area, the use of funds for any project or program for the purpose of providing direct or indirect financial assistance to a qualifying business and the payment of related costs and expenses allowed by Section 6 of LB840, shall be eligible activities under this Economic Development Plan.

The level of funding assistance is based, in part, on the number of jobs to be created/retained and the total amount of investment in the community. Funds from this program shall not be considered the sole funding source.

Eligible Types of Businesses

1. A qualifying business shall mean any corporation, partnership, limited liability company or sole proprietorship, which derives its principal source of income from any of the following:

   a. The manufacture of articles of commerce;

   b. The conduct of research and development;

c. The processing, storage, transport, or sale of goods or commodities which are sold or traded in interstate commerce;

d. The sale of services in interstate commerce;

e. Tourism related activities;

f. Telecommunications activities;

g. Headquarters facilities relating to eligible activities as listed in this section.

2. If a business, which would otherwise be a qualifying business, employs people and carries on activities in more than one city in Nebraska or will do so at any time during the first year following its application for participation in an economic development program, it shall be a qualifying business only if, in each such city, it maintains employment for the first two years of its participation in the economic development program at a level not less than its average employment in such city over the twelve month period preceding participation.

3. Any other business deemed as a qualifying business through future action of the Nebraska Legislature.

4. A qualifying business need not be located within the territorial boundaries of the city from which it is or will be receiving financial assistance, but only in exceptional circumstances be outside the City's zoning jurisdiction.

Section IV. Source of Funding for Economic Development Program

The Plattsmouth Economic Development Program will be funded by one-third of the city sales and use tax with a maximum amount of not more than four-tenths of one percent (.4 of 1%) of the City's assessed valuation to be appropriated in each year for the economic development program. That amount not appropriated shall be held in a reserved restricted to the Economic Development Fund of the City.

Plattsmouth may have a business opportunity or other economic development project that requires up-front funds that exceed the single year proceeds of the local option sales tax. In order to take maximum advantage of such an opportunity, Plattsmouth shall have the ability to issue bonds. These bonds are then retired by future sales tax receipts. Under LB732 (September 1993), a bill that made changes in LB840, communities may include this bonding authority within their economic development programs. Therefore, in this program the City Council may authorize the issuance of bonds to carry out the economic development program, following a public hearing.

A maximum of 10% of amounts collected for the Program may be used for administration. All remaining funds will be used for approved plan activities.

Section V. Application Process for Financial Assistance to Businesses

For a qualifying business to be considered for direct or indirect financial assistance under the Plattsmouth Economic Development Program an applicant must provide to the Program Administrator:

1. Necessary entity or personal financial information about the Applicant, including name, address, past experience, work history, and related information.

2. A detailed description of the proposed project which clearly states what assistance the business is requesting from the program, including evidence that the project qualifies for assistance under the Local Option Municipal Economic Development Act and is consistent with the goals of the Plattsmouth Economic Development Program.

3. A personal financial statement of owners or guarantors including documentation verifying assets and liabilities.

4. Income statement covering the last three years of business operation, or if a new business, personal income statements.

5. A business plan for the project and the company, including employment and financial projections.

6. Total project costs and financing requirements.

7. Evidence of private financing commitments for investors or lenders.

8. A review of key management and employees and their experience as related to the proposed project.

9. Past three-year tax returns.

10. Other information as requested.

Upon receipt of all required information the Program Administrator will conduct a verification process. Minimum verification will include a credit check and contact of business references. Additional forms of verification of the information may be required. The applicant will be responsible for furnishing verification of significant financial assets.

Additional information, as necessary, to determine the economic viability of the proposed project(s) may be requested by the Program Administrator prior to recommendation to the City Council and/or by the City Council prior to final action.

The Program Administrator will review applications and requests for direct or indirect financial assistance in the order in which they are received. Application review and approval, or disapproval, will be based on project feasibility as determined by review of the applicant's business plan and other requested information by the Program Administrator and the potential future economic benefit to the community of Plattsmouth and Cass County. When considering an application and its merits, the Program Administrator may consult with the Executive Director of the Cass County Nebraska Economic Development Council, and other professional economic developers, including staff members from the Nebraska Department of Economic Development.

Program Administrator may use any or all of the following methods to verify the information provided by the applicant.

1. Credit check

2. Dunn & Bradstreet Report

3. Examine internal records

4. Other activities as deemed necessary

Completed Application Review Process
Based on the information obtained from the business which is listed and through personal discussions with the potential applicant and business, a preliminary determination is made by the Program Administrator as to whether the:

1. Applicant is eligible.

2. Activities are eligible and comply with eligible business and job creation/retention requirements.

3. Applicant or business has no legal actions underway that may significantly impact its capacity.

4. Business complies with the provisions of the application guidelines.

Upon a favorable preliminary determination by the Program Administrator, the terms and conditions of assistance will be negotiated with the applicant. Upon completion of negotiations, the project will be submitted to an Application Review Committee that will be composed of five members to be appointed by the Mayor with approval of the City Council. The ARC will have the following make up:

1. Two (2) members from the financial services and/or accounting field.

2. Three (3) members of the community at large.

Term of office for ARC members shall be three (3) years and/or until their successors are appointed and qualified. Initially, two members shall be appointed to a term of one year, two members shall be appointed to a term of one year, two members shall be appointed to a term of two years and one member shall be appointed to a term of three years.

The ARC will make a recommendation to the Program Administrator that:

1. The project will be approved.

2. The project will be disapproved.

3. The project will be renegotiated.

Approval of disapproval will be based on whether the negotiations show (1) that funding is appropriate for a business meeting the job creation/retention and eligible business criteria, and (2) that the type of level of assistance will not unduly enrich the business or be unreasonable in relation to the reasons to achieve public benefit. The Program Administrator and the ARC will review the application and make recommendations to the City Council. The City Council will have final decision on all projects to be assisted and all allocations of funds. The ARC will be responsible for establishing criteria, determining projects, and applying cost benefit analysis.

Application Review Committee Members shall disclose for the public record any personal and/or professional financial interest(s) in the project which is the subject of an application for economic development assistance. Any member who makes such disclosure shall not participate in discussion and review of the application, nor shall such member vote on any recommendation for further negotiations or recommendations to the City Council.

The Program Administrator and City Attorney, or outside counsel engaged by the City in the event of a conflict of interest for the City Attorney to represent the City, shall be present at all meetings of the Application Review Committee.

Process to Ensure Confidentiality of Business Information Received

In the process of gathering information about a qualifying business, the city may receive information about the businesses that is confidential which, if released, could cause harm to the business or give unfair advantage to competitors. State law authorizes cities and other public entities to maintain the confidentiality of business records that come into their possession.

The Program Administrator will be responsible for development of procedures to insure the confidentiality of business information received from applicants for financial assistance. These procedures will be subject to approval by the Plattsmouth City Council.

To protect the businesses applying for assistance:

1. The adoption of an ordinance which makes such information confidential and prohibits unauthorized disclosure.

2. A restriction on the number of people with access to the files with the Program Administrator primarily responsible for their safe keeping.

3. Requiring personnel that is involved in the program review to sign statements of confidentiality regarding all personal and private submittals by qualified businesses.

Administration System of Economic Development

A description of the administration of the plan follows. Additional responsibilities as well as positions may be needed to carry out the program during the course of the Program as dictated by economic conditions.

The Plattsmouth City Council designates the City Administrator as the municipal employee with the responsibility for the administration of the program and that designee will also serve as an ex-officio, but non-voting, member of the Citizen Advisory Review Committee. The responsibility and duties of the City Administrator would include:

1. Administration of the Program.

2. Serve as an ex-officio but non-voting member of the Citizen Advisory Review Committee.

3. Provide the Citizen Advisory Review Committee with necessary information and advise the Committee on the program.

4. Track employment figures for participating businesses for two years if businesses employ persons in other Nebraska communities.

5. Will review qualifying businesses on a regular basis to ensure that qualifying businesses are following the appropriate laws and regulations.

6. Coordinate with the Citizen Advisory Review Committee.

7. Maintain records and files as required by ordinance and/or statute.

Process to Assure Laws and Regulations are being met by the City and Participating Businesses

The City of Plattsmouth will ensure that all applicable laws and requirements are met by the City and the qualifying businesses that receive assistance.

The administration of an LB840program involves a compact with the citizens of the city. Plattsmouth residents are agreeing to pay a sales tax in return for an investment in the future of the community. The residents have a right to review the effectiveness of that investment through a

separate voice and authority. Therefore, the ordinance establishing the program shall provide for the creation of a Citizen Advisory Review Committee. The duties of the Citizen Advisory Review Committee are as follows:

1. Review the functioning and progress of the economic development program at regular meetings of the advisory board, as set forth in the ordinance, and advise the governing body of the municipality with regard to the Program.

2. Report to the city council on its findings and suggestions at a public hearing called for that purpose, at least once every six-month period after the effective date of the ordinance.

The members shall be appointed by the Mayor and approved by the City Council, and consist of five to ten members. All members shall be registered voters of the city, reside within the city's zoning jurisdiction, own, operate or be employed by a business located in Plattsmouth, Nebraska area. No member shall be an elected or compensated appointed city official, an employee of the city, a participant in a decision-making position regarding expenditures of the Program funds, an official or employee of any financial institution participating directly in the Program.

Except in circumstances when the City Attorney has a conflict of interest, the City Attorney will be responsible for keeping the City informed of any relevant changes in the law that could affect the program. The City Attorney will review all contracts, official documents, land transactions, and other official actions related to the economic development program to ensure compliance with existing law. It is incumbent upon those involved in the application of this Plan to seek advice and input from the City Attorney in regard to proposed projects, conflicts of interest, transactions and all matters related to the use of the Plan.

Final decisions on acquisition and sales of any land will be made by the City Council. The proceeds from the future sale of such land or reimbursement of any awarded funds would be returned to the City's Economic Development Fund for additional land purchase or for reuse for any activities eligible in the economic development program only.

Amended - Ordinance No. 1822 2/7/2011; Ordinance No. 1876 5/19/2014

SECTION 2-1202 MEMBERS; VACANCIES; MEETINGS

There is created, in and for the City, a citizen advisory review committee as authorized by the Local Option Municipal Economic Development Act. The citizen advisory review committee shall be composed of five members, two (2) of whom shall have experience in the financial services and/or accounting field and three (3) of whom shall come from the community at large. No member of the committee shall be an elected or appointed city official, an employee of the City, or an official or employee of any qualifying business receiving financial assistance under the Economic Development Program or of any financial institution participating directly in such Economic Development program. The members of the citizen advisory review committee shall be appointed by the mayor, with the approval of the City Council. Vacancies occurring in the membership of the citizen advisory review committee, other than by reason of the expiration of

terms, shall be filled by the Mayor by and with the approval of the Council. Any member of the committee may be removed from office by the Mayor, by and with the approval of the Council. The members of the citizen advisory review committee shall serve five-year terms. The members of the citizen advisory review committee shall elect its chairperson from its members and shall create and fill such other offices as it may determine necessary. The term of the chairperson shall be one year, with eligibility for reelection. The citizens advisory review committee shall meet at least two times per year to review the functioning and progress of the Economic Development Program of the City and to advise the City Council with regard to the program. Special meetings of the committee shall be held whenever called by the mayor or the chairperson of the committee. The committee shall report to the City Council in a public hearing called for that purpose, held at least once in every six-month period, regarding its findings and suggestions.

Amended - Ordinance No. 1822 2/7/2011; Ordinance No. 1844 4/2/2012; Ordinance No. 1876 5/19/2014

SECTION 2-1203 DISCLOSURE OF CONFIDENTIAL INFORMATION

All trade secrets, academic and scientific research work which is in progress and unpublished or other proprietary or commercial information of a qualifying business participating in the Economic Development Program of the City which, if released, would give advantage to business competitors and serve no public purpose shall be confidential. The members of the Application Review Committee are authorized to have access to such confidential information. The mayor and City Council shall designate by resolution other persons who are authorized to have access to such confidential business information. Any person who knowingly releases such confidential information other than to persons who are authorized to have access to such information in accordance with the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be subject to a maximum imprisonment of three months in the county jail or a five of $500.00 or both.

Amended - Ordinance No. 1822 2/7/2011; Ordinance No. 1876 5/19/2014

ARTICLE XIII - PENAL PROVISION

SECTION 2-1301 VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than $500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

Violations of this chapter which are listed in the City's fine/waiver schedule may be disposed of pursuant to a waiver of appearance, a plea of "guilty", and the payment of court costs and the corresponding fine for such violation listed in the City's fine/waiver schedule.

Amended – Ordinance No. 1681 11/4/2002; Ordinance No. 1930 12/18/2017

ARTICLE XIV – BOARD OF ADJUSTMENT

SECTION 2-1401 BOARD OF ADJUSTMENT; CREATED

The board 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. Appointments shall be made by the Mayor with the consent of a majority of the City Council.

Enacted – Ordinance No. 1701 3/15/2004

SECTION 2-1402 BOARD OF ADJUSTMENT; QUALIFICATION OF MEMBERS

One member of the Board shall be appointed from the members of the Planning Commission, one member of the Board shall be appointed who resides in the extraterritorial zoning jurisdiction of the City, and the remaining members of the Board shall be appointed from residents of the City.

Enacted – Ordinance No. 1701 3/15/2004

SECTION 2-1403 BOARD OF ADJUSTMENT; TERM OF OFFICE AND REMOVAL

The term of office of members of the Board shall be three years and until their successors are appointed and qualified, unless sooner removed. The term of the member appointed from the Planning Commission shall terminate upon the loss of membership on the Planning Commission. All members, upon written charges and after a public hearing before the City Council, may be removed by the Mayor with the consent of the City Council, for inefficiency, neglect of duty or malfeasance in office, or other good and sufficient cause.

Enacted – Ordinance No. 1701 3/15/2004

SECTION 2-1404 BOARD OF ADJUSTMENT; APPOINTMENT OF MEMBERS

Except for the appointment of members to the first Board, terms shall expire and appointments shall be made at the first meeting of the City Council in December. The members of the first Board will serve as follows: the member appointed from the Planning Commission shall serve until the first meeting of the City Council in December 2004, after which successors shall serve three year terms; two members who are residents of the City shall serve until the first meeting of the City Council in December 2005, after which successors shall serve three year terms; and one member who is a resident of the City and the member who is a resident of the extraterritorial zoning jurisdiction of the City shall serve until the first meeting of the City Council in December 2006, after which successors shall serve three year terms. Upon the expiration of an appointment, new members may be appointed or existing members may be reappointed. Vacancies prior to the expiration of a term shall be filled by appointment for the unexpired term.

Enacted – Ordinance No. 1701 3/15/2004

SECTION 2-1405 BOARD OF ADJUSTMENT; OATH; COMPENSATION

Before entering upon the duties of the Board, each member shall take an oath of office, to be filed with the City Clerk, to faithfully perform the duties of office and not in any manner be actuated or influenced by personal or political motivation. The members of the board shall serve without compensation.

Enacted – Ordinance No. 1701 3/15/2004

SECTION 2-1406 BOARD OF ADJUSTMENT; ORGANIZATION AND OFFICERS

At the first meeting in December of each year, the Board shall organize by selecting from their number a Chair and Secretary, except no member shall serve as both Chair and Secretary. The Secretary to keep full and correct records of all meetings showing the vote of each member on 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 public record and filed with the City Clerk.

Enacted – Ordinance No. 1701 3/15/2004

SECTION 2-1407 BOARD OF ADJUSTMENT; MEETINGS

Board shall meet at the call of the chair and at such other times as the Board may determine. The Chair, or in the Chair's absence the acting Chair, may administer oaths and compel the attendance of witnesses. A majority of the Board shall constitute a quorum for the transaction of business and a majority vote of the total membership shall be required to pass any motion or resolution.

Enacted – Ordinance No. 1701 3/15/2004

SECTION 2-1408 BOARD OF ADJUSTMENT; DUTIES

The Board shall have the following duties. In carrying out these duties, as they relate to reversing any order, requirement, decision or determination of any such administrative official, or to deciding in favor of the applicant on any matter upon which it is required to pass under any such regulation or to affect any variation in such regulation, the concurring vote of four members of the Board is required.

1. To adopt rules in accordance with any provisions of any ordinance adopted pursuant to Neb. Rev. Stat. §§ 19-901 to 19-914.

2. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official or agency based or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures.

3. To hear and decide, in accordance with the provisions of any zoning regulations, requests for

an interpretation of any map, or for decisions upon other special questions upon which the Board is authorized by any such regulation to pass.

4. To grant a variance to the zoning regulations 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 enacted regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property. Such variance from such strict application so as to relieve such difficulties or hardship may be granted if it will not result in substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution.

Provided, however, that 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) the hardship is not shared generally by other properties in the same zoning district in the same vicinity; (c) the authorization of such variance will not be a substantial detriment to adjacent property and the character of the district will not be changed by granting a 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.

Provided, further, that 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 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. In exercising these powers the Board may, in conformity with state law, 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 extent shall have all powers of the officer from whom the appeal is taken.

5. To carry out any other duty prescribed by state statute.

Enacted – Ordinance No. 1701 3/15/2004

MUNICIPAL CODE

CHAPTER 3

MISDEMEANORS

ARTICLE I - MISDEMEANORS

SECTION 3-101 RESISTING OR FAILING TO ASSIST OFFICER

It shall be unlawful for any person in this city to hinder, obstruct or resist any city policeman in making any arrest or performing any duty of his/her office, or to refuse or neglect to assist any such officer when called upon by him/her in making of any arrest or the conveying of a prisoner to jail. (Ref. Neb. Rev. Stat. §28-903, 28-904)

SECTION 3-102 IMPERSONATING OFFICER PROHIBITED

It shall be unlawful for any person in said city, other than a regular policeman or other authorized officer or employee of the city, to wear a badge similar to or resembling the badges prescribed for or furnished the police force or any other officer or employee of the city, or to willfully impersonate, or endeavor to impersonate, any such policeman, officer or employee or seek to exercise authority as such. (Ref. Neb. Rev. Stat. §28-610)

SECTION 3-103 TRESPASSING

It shall be unlawful for any person to, when knowing that he/she is not licensed or privileged to do so, enter or remain upon any property within the City, whether privately or publicly owned, when:

1. notice against trespass or limitation of entry is given by actual communication to such person, or

2. by posting in a manner likely to come to his/her attention, or

3. fencing or other enclosures manifestly designed to exclude intruders, or

4. after the owner or person in charge thereof shall direct such person to leave such premises, in the absence of a license or privilege to remain upon such premises, or

5. to enter upon an improved lot or grounds occupied for residence purposes and to loiter about the same without the consent of the owner or occupant.

(Ref. Neb. Rev. Stat. 28-520, 28-521)

SECTION 3-104 INJURY TO TREES

It shall be unlawful for any person to purposely or carelessly, and without lawful authority, cut down, carry away, injure, break down or destroy any fruit, ornamental, shade or other tree or trees standing or growing on any land belonging to another person or on any public land in the corporate limits. Any public service company desiring to trim or cut down any tree, except on property owned and controlled by them, shall make an application to the City Council to do so, and the written permit of the City Council in accordance with their decision to allow such an action shall constitute the only lawful authority on the part of the company to do so.

SECTION 3-105 TRASH

It shall be unlawful for any person to willfully, maliciously or negligently place or throw upon the premise of another any filth, garbage, leaves, papers or other matter to the annoyance of the owner or occupant thereon. (Ref. Neb. Rev. Stat. §28-523)

SECTION 3-106 DRINKING IN PUBLIC

It shall be unlawful for any person to consume alcoholic beverages in the public streets, alleys, roads, highways, or upon any property owned by the City or other governmental subdivision thereof, or inside vehicles while upon the public streets, alleys, roads, or highways, in theatres, dance halls, or any other place open to the public; provided, the provisions of this section shall not apply to liquor establishments licensed by the State of Nebraska. (Ref. Neb. Rev. Stat. §53-186)

SECTION 3-107 MALICIOUS MISCHIEF

It shall be deemed a violation of this section for any person to willfully destroy, mutilate, deface, injure or remove any tomb, monument, gravestone, structure or thing of value which is located upon any government property, cemetery or property of historic value. Any such offender shall also be liable, in an action for trespass in the name of the beneficial holder of said property, for all damages which arise from the commission of such unlawful act. (Ref. Neb. Rev. Stat. §28-519)

SECTION 3-108 ~~DISTURBING AN ASSEMBLY~~
Repealed – Ordinance No. 1719 9/6/2005)
SEE 3-901 THROUGH 3-912

SECTION 3-109 DISCHARGE OF FIREARMS

It shall be unlawful for any person, except an officer of the law in the discharge of his/her official duty, to fire or discharge any gun, pistol or other firearm within the City; provided, nothing herein shall be construed to apply to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the City Council. (Ref. Neb. Rev. Stat. §17-556)

SECTION 3-110 CONCEALED WEAPONS

It shall be unlawful for any person or persons to carry about their person any handgun, knife, billy club, slingshot, metal knuckles or other deadly weapon of any kind. Nothing herein shall be construed to apply to law enforcement personnel. On or after May 15, 2008, any person possession a lawful permit while in compliance with the Nebraska Concealed Handgun Permit Act (RRS Neb. §§ 69-2427 through -2447) shall be permitted to carry such a concealed handgun in the City of Plattsmouth. Ref. Neb. Rev. Stat. §§ 69-2427 through -2447 and 69-2403 (3).

Amended – Ordinance No. 1767 5/19/2008

SECTION 3-111 SLINGSHOTS, AIR GUNS, BB GUNS

It shall be unlawful for any person to discharge a slingshot, air gun, BB gun or the like loaded with rock or other dangerous missiles at any time or under any circumstances within the City. (Ref. Neb. Rev. Stat. §16-227)

SECTION 3-112 ~~EXCESSIVE NOISE CONTROL~~
Repealed – Ordinance No. 1719 9/6/2005)
SEE 3-901 THROUGH 3-912

SECTION 3-113 DISTURBING THE PEACE

It shall be unlawful for any person or persons to assemble or gather within the City with the intent to do an unlawful or disorderly act by force or violence against the City or residents therein, or who shall disturb the public peace, quiet, security, repose or sense of morality. (Ref. Neb. Rev. Stat. §28-1322)

SECTION 3-114 DISORDERLY CONDUCT

Any person who shall knowingly start a fight, fight, commit assault or battery, make unnecessary noise, or otherwise conduct themselves in such a way as to breach the peace shall be deemed to be guilty of a misdemeanor. (Ref. Neb. Rev. Stat. §16-227, 16-228)

SECTION 3-115 WINDOW PEEPING

It shall be unlawful for any person to maliciously or stealthily go upon the premises of another in said city and look or peep into any window, door or other opening in any building located thereon which is occupied as a place of abode, or to go upon the premises of another for the purpose of looking or peeping into any window, door or other opening in any building thereon which is occupied as a place of abode. It shall be unlawful for any person to use any electronic device to spy upon or invade the privacy of any resident of the City unless the same is authorized by a court of law.

SECTION 3-116 STALKING

Any person who willfully and maliciously harasses another person with the intent to terrify, threaten or intimidate commits the offense of stalking. For purposes of this section, “harass” shall mean to engage in a knowing and willful course of conduct directed at a specific person which seriously terrifies, threatens, or intimidates the person and which serves no legitimate purpose, and “course of conduct” shall mean a pattern of conduct composed of a series of acts of following, detaining, restraining the personal liberty of or stalking the person or repetitiously telephoning the person.

SECTION 3-117 OPERATING GAMBLING DEVICES OR LOTTERY; PROHIBITED

It shall be unlawful for any person or organization to operate or permit to be operated in this city any lottery, game of chance or gambling device of any kind unless sanctioned by the City and operated pursuant to Nebraska law. (Ref. Neb. Rev. Stat. §28-1101 through 28-1104)

SECTION 3-118 GAMBLING PROHIBITED

It shall be unlawful for any person to participate in any lottery or game of chance, except bingo, in this city unless sanctioned by the City and authorized and licensed by state law. (Ref. Neb. Rev. Stat. §28-1101 through 28-1104)

SECTION 3-119 PANDERING, PROSTITUTION, AND ILLICIT SEXUAL INTERCOURSE; PROHIBITED

It shall be unlawful for any person to engage in or commit any act of pandering, prostitution or illicit sexual intercourse within said city. (Ref. Neb. Rev. Stat. §28-801)

SECTION 3-120 HOUSE OF PROSTITUTION; PROHIBITED

It shall be unlawful for any person to keep, operate or maintain or to be an inmate of or visit a house of prostitution or a disorderly house within this city. A house of prostitution shall be construed to mean a house or other place which is kept, used or operated as a place for hire for prostitution purposes. A disorderly house shall be construed to mean any place kept in such a manner as to disturb, annoy or scandalize the public generally or persons within the particular neighborhood, or any place used as a public resort by drunkards, prostitute or other idle or vicious persons, or any place of public resort where illegal practices are habitually carried on to the corruption of public morals. (Ref. Neb. Rev. Stat. §28-801 through 28-804)

SECTION 3-121 INDECENT EXPOSURE OF PERSON; PUBLIC URINATION; INDECENT BOOK, PICTURE, PLAY, DESIGN

It shall be unlawful for any person within this city to make an indecent exposure of his/her person; to urinate or defecate in public view; to commit any indecent or lewd act; or to sell or offer for sale, or to dispense of in any manner any obscene, lewd or indecent book, picture or other publication or thing; to exhibit or perform any indecent, immoral, lewd or obscene play or other representation; or in any public place to write, draw, or make any profane, obscene, indecent or lewd work, sentence, figure or design.

SECTION 3-122 LITTERING

1. Any person who deposits, throws, discards, or otherwise disposes of any litter on any public or private property or in any waters commits the offense of littering unless:

(a) Such property is an area designated by law for the disposal of such material and such person is authorized by the proper public authority to so use such property; or

(b) The litter is placed in a receptacle or container installed on such property for such purpose.

2. The word litter as used in this section shall mean all waste material susceptible of being dropped, deposited, discarded or otherwise disposed of by any person upon any property in the state but does not include wastes of primary processes of farming or manufacturing. Waste material as used in this section shall mean any material appearing in a place or in a context not associated with that material's function or origin.

3. Whenever litter is thrown, deposited, dropped, or dumped from any motor vehicle or watercraft in violation of this section, the operator of such motor vehicle or watercraft commits the offense of littering. (Ref. Neb. Rev. Stat. §28-523)

SECTION 3-123 REMOVING DIRT

It is hereby declared unlawful for any person to remove, disturb or take away from any street, alley or public grounds any dirt, earth, stones or other materials forming a part of such street, alley or public grounds without first having obtained written permission to do so from the City Council.

SECTION 3-124 PROHIBITED FENCES

It shall be unlawful for any person to erect, or cause to be erected, and maintain any barbed wire or electric fence within the corporate limits, where such fence abuts a public sidewalk, street or alley. Upon application to and permit from the City Council, barbed wire fences may be erected or allowed to remain if such fences are built at least three feet inside the lot line, so as not to endanger the public use of any street or sidewalk.

SECTION 3-125 APPLIANCES IN YARD

It shall be unlawful for any person to permit any household appliance to be stored in the open on private or public property. (Ref. Neb. Rev. Stat. § 18-1720)

SECTION 3-126 OBSTRUCTION OF PUBLIC WAYS

It shall be unlawful for any person to erect, maintain or suffer to remain on any street or public sidewalk a stand, wagon, display or other obstruction inconvenient to, or inconsistent with, the public use of the same.

SECTION 3-127 OBSTRUCTING WATER FLOW

It shall be unlawful for any person to stop or obstruct the passage of water in a street gutter, culvert, water pipe or hydrant.

SECTION 3-128 TOBACCO SALE PROHIBITED

It shall be unlawful for any person to sell or attempt to sell to any person under the age of 18 years any tobacco, cigarettes or cigars of any kind. Upon conviction, the penalty for said offenses shall be a fine of not less than $20.00 nor more than $50.00.

SECTION 3-129 PURCHASING, USING OR POSSESSING TOBACCO PRODUCTS BY MINORS

1. Tobacco products shall include any substance containing tobacco leaf, including without limitation; cigarettes, cigars, pipe tobacco snuff, chewing tobacco, dipping tobacco/snuff, or any finely cut, ground or powdered tobacco leaf intended for placement in the human body.

2. Except when required in the performance of a person's duty as an employee, under the supervision of a parent or legal guardian in the privacy of the minor's own home, or under the supervision of law enforcement for the purpose of ensuring and enforcing compliance with this ordinance, it shall be unlawful for any person under the age of 18 years to smoke, purchase, or attempt to acquire tobacco within the City of Plattsmouth.

3. Violations of this section shall be punished by a monetary fine of not more than $500.00 or the performance of 20 hours of community service with compliance shown by filing with the court certification signed by a representative of the organization for whom the community service was performed.

Amended – Ordinance No. 1696 10/20/2003

SECTION 3-130 DESTRUCTION OF PROPERTY

It shall be unlawful for any person, wantonly or maliciously, in any manner to molest, injure or destroy any property of another in this city.

SECTION 3-131 PARADE; DISTRIBUTION OF MATERIAL

It shall be unlawful for any person to do any activity which should induce an individual to enter the parade route, or to distribute material, candy, etc. from any parade entry, unless distributed by an individual walking and the material, candy, etc. is handed directly to observers or is tossed beyond the street and curb.

SECTION 3-132 ~~LOUD MUSIC, RECORDINGS, RADIOS AND SIMILAR DEVICES; EXCEPTIONS~~

Repealed – Ordinance No. 1719 9/6/2005 - SEE 3-901 THROUGH 3-912

SECTION 3-133 ANIMAL TRAPS

The use of any type of cyanide pellet traps or any similar type of trap containing a chemical noxious to man is hereby prohibited within the corporate limits of the City, unless the use of such chemical

traps is specifically deemed necessary by the Board of Health, the humane officer or the city police in and for the control of communicable disease.

No person shall set up or allow to be set up on his/her property steel jaw traps, spring traps with "teeth" or perforated edges on the holding mechanism, or any type of trap with a holding mechanism designed in such a fashion as to reasonably insure the cutting, slicing, tearing or otherwise traumatizing of the entrapped prey, for the purpose of ensnaring domestic or wild animals within the city limits, unless the use of such traps is specifically deemed necessary by the Board of Health, the humane officer or the city police in and for the control of communicable disease.

This section is not to be construed to include those traps designed to kill common rodents, i.e., rats, mice, gophers and groundhogs; provided, the owner is responsible for ensuring that any of the above said "rodent" traps are not placed or used on or about his/her property in such manner as to trap or injure any persons, domesticated animals or other wild animals.

SECTION 3-134 USING TRAILERS FOR STORAGE PURPOSES

No trailers manufactured primarily for the conveyance of goods and property shall be utilized for storage purposes in any residential zoning district of the city.

SECTION 3-135 GRAFFITI PROHIBITED; ABATEMENT

1. **STATE LAW:** Graffiti and other inscribed materials on walls and structures of public and private property is a blighting factor which depreciates the value of the property that was the target of vandalism, and it also depreciates the value of adjacent and surrounding properties. Therefore, graffiti and other inscribed materials negatively impact the entire community. The State of Nebraska has authorized cities to define, regulate, suppress and prevent nuisances and to declare what constitutes a nuisance, and to abate and cause the removal of the same. The display, and allowed display, of graffiti constitutes a nuisance. To promote the abatement and removal of this nuisance, the City Council makes it unlawful to display or to allow to be displayed graffiti and other inscribed materials on walls, structures, and the like, and the City Council mandates that the owners of private property undertake measures necessary to abate and remove graffiti and other inscribed materials from walls, structures, and the like within seven (7) days if seasonal temperatures permit.

2. **GRAFFITI; NUISANCE:** The City Council finds and determines that graffiti is a nuisance and that unless it and other inscribed material is abated and removed from public and private properties, it tends to remain, and other properties are then the target of graffiti which will result in entire neighborhoods and communities depreciating in value and becoming less desirable places to be and live. The City Council therefore determines that it is appropriate to develop procedures to implement the laws of the State of Nebraska, as amended, by providing a procedure to remove graffiti and other inscribed material from both public and private property under the following circumstances. The City Council declares as a matter of legislative determination that:

a. Increasing incidences of the defacement of public and private property by graffiti upon walls, rocks, bridges, buildings, fences, gates, other structures, trees, and other real and personal property within the corporate boundaries of the City constitutes a blight on this community; and, in the interests of health, safety and the general welfare of the residents and taxpayers of the City, immediate steps must be taken to remove this blight.

b. When appropriate, courts should require those who commit acts of defacement of public or private property with graffiti should be ordered to restore the property so defaced, damaged or destroyed.

c. Obtaining convictions for applying graffiti is difficult because the offenses are committed quickly and secretly, with witnesses very seldom present.

d. The public should be encouraged to collaborate in the elimination of graffiti by reporting to proper authorities the incidence of the application of graffiti which they have observed.

3. **DEFINITIONS:** The terms of graffiti and graffiti abatement procedure, when used in this article, have the following meanings:

a. Graffiti means the defacing, damaging or destroying by the spraying of paint or marking of ink, chalk, dye or other similar substances on public and private buildings, structures and places.

b. Graffiti abatement procedure means an abatement procedure which identifies graffiti to the property owner, issues notice to the property owner, allows a property owner to grant permission to the City to abate the graffiti at no expense to the owner or to elect to abate the graffiti at the owner's expense, or upon failure to abate at the owner's expense within seven (7) calendar days of notification, the City subsequently abates the graffiti in the absence of the owner's response, and the property owner is responsible for the cost of the City's expense for the abatement.

c. Private contractor means any person with whom the City shall have contracted to remove graffiti.

d. City forces mean City employees and equipment available to abate graffiti.

4. **ACTS PROHIBITED:** It shall be unlawful for any person to write, paint or draw upon any wall, rock, bridge, building, fence, gate, other structure, tree, or other real or personal property, either publicly or privately owned, any drawing, inscription, figure or mark of the type which is commonly known and referred to as "graffiti" within the City. This ordinance shall not apply to any other nuisance which is governed by §§4-501 through -650.

5. **PENALTY SECTION:** Any person convicted of violating 6-358(4) shall be punished by a fine up to $100.00. In addition, the court may, in imposing sentencing, order the defendant to restore the property defaced, damaged or destroyed to its original condition.

6. **NOTICE TO REMOVE GRAFFITI:** Whenever a property owner, citizen or City official determines that graffiti exists on any public or private building, structure or place which is visible to any person utilizing any public right of way, that person shall notify the Plattsmouth Police Department. If seasonal temperatures permit painting or abating graffiti on exterior surfaces, the City is authorized to obtain a signed "Notification, Consent and Release of Liability Form" or cause a notice to be issued to abate the nuisance and declaring the City's intent to remove the graffiti within seven (7) days, and cause the graffiti to be abated by City forces or private contract at no expense to the owner, and the City or its private contractor is expressly authorized to enter the premises for that purpose, and to state that the property owner shall have seven (7) calendar days after the date of the notice to remove the graffiti by authorizing the City or its contractor to do so or to personally remove the graffiti, and to notify the owner that if the owner does not take any action within seven (7) days, the City will abate the nuisance at the owner's expense.

The notice to abate graffiti pursuant to this section shall be in writing and served on the owners of the affected premises as such owners' names and addresses appear on the last property-tax assessments rolls of the county. If there is no known address for the owner, the notice shall be sent in care of the property address. The notice required by this section may be served in any one of the following manners:

a. By personal service on the owners, occupants or persons in charge or control of the property.

b. By registered for certified mail addressed to the owners at the owners' last known address. If this address is unknown, the notice will be sent to the property address.

The City shall take all reasonable efforts to minimize damage from the City's entry onto the property to abate the graffiti. Any paint or other abatement methods used to obliterate the graffiti, shall be as close as practicable to the background colors. If removal of the graffiti is provided by the City, any painting or repair will not cover any more extensive of an area than where the graffiti or other inscribed material is located.

7. **PRIVATE PROPERTY NOTIFICATION; CONSENT AND RELEASE FROM LIABILITY FORMS:** When the City becomes aware of a location with graffiti, immediate administrative steps should be taken to identify the legal owner. A City representative will make every effort to contact the owner immediately, including a visit to the structure or location where a notice may be posted, in addition to other notification methods. For the purpose of the graffiti abatement notification, time lines will start the day the notice to abate is formally issued pursuant to this ordinance, or the date the Notification, Consent and Release from Liability Form is signed. A written Notification, Consent and Release from Liability Form may be signed by the property owner and abatement can proceed

immediately, but if the owner does not sign the Form, the City must wait seven (7) days to abate the graffiti and charge the cost of abatement to the owner.

The Notification, Consent and Release from Liability Forms shall identify the legal owner, the property address and specific location of the graffiti proposed to be abated. The Form shall specify the method of abatement (i.e., over-paint; sanding; sandblasting; or other, with a general description). The Form shall offer the property owner the choice to consent to abatement by City forces or private contractor and a release from liability for the City to take immediate steps to abate the graffiti (seasonal temperatures permitting) at no cost to the owner, or to decline in the City's offer and to abate the graffiti personally within seven (7) calendar days at the owners' personal expense. If the owner accepts responsibility for removing the graffiti, but fails to do so within seven (7) calendar days after the date of notification or service pursuant to this section, the City is expressly authorized to enter the property and abate the graffiti by the method proposed in the initial offer from the City to remove the graffiti. When the owner declines the City's offer to abate the graffiti at the City's expense and subsequently fails to comply within seven (7) days, or fails to acknowledge receipt of notification within seven (7) days, the cost of abatement shall be the owner's expense. If there is no acknowledgment of the notice of graffiti within seven (7) days, the City shall be authorized to enter the property for the purpose of graffiti abatement and to charge the cost of abatement to the owner. Any and all costs incurred by the City in the abatement of the graffiti nuisance under this section which are chargeable to the owner shall constitute a lien or special assessment against the property.

8. **APPEAL BY OWNER:** Within seven (7) days of notification of graffiti, as defined in this section, or within seven (7) days from the mailing of personal service of the notice, the owner, or the person occupying or controlling the premises affected may appeal to the County Court of Cass County, Nebraska.

9. **CITY'S ABATEMENT OF GRAFFITI BY AUTHORIZATION:** Once a written Notification, Consent and Release from Liability Form is signed by the property owner, or the seven (7) calendar days after the owner's notification has been served and not acted upon, the abatement by City forces or privately contracted forces can commence immediately. The City shall take all reasonable efforts to minimize damage from the City's entry onto the property to abate the graffiti nuisance, and any materials used to abate the graffiti nuisance shall match, to the extent practicable, the existing material.

SECTION 3-136 FAILING TO APPEAR

It shall be unlawful for any person to fail to appear in court, or otherwise comply with the command of a citation to appear in court, unless such appearance date provided on the citation has been continued by the court or by the city.

Amended – Ordinance No. 1860 5/6/2013

ARTICLE II - CURFEW

SECTION 3-201 CURFEW HOURS

It shall be unlawful for any person under the age of 17 years to loiter, idle, wander, stroll, play or be in or upon the public streets, public places and public buildings, places of amusement and entertainment, vacant buildings, vacant lots or otherwise operate any bicycle or other vehicle, in, upon, over or through the streets of other public places of the city on Sunday through Thursday between the hours of 11:00 P.M. and 5:00 A.M. of the following day, and on Friday and Saturday between 12:00 midnight to 5:00 A.M. of the following day, unless such person is accompanied by a parent, guardian or other adult person having the legal case and custody of said minor person or unless the minor person is upon an emergency errand or legitimate business, directed by his/her parents, guardian or legal custodian, except as hereinafter provided.

SECTION 3-202 CURFEW HOURS EXTENDED

Nothing herein contained shall prohibit said minor persons from attending special school functions or adult supervised entertainment conducted by any school, church or fraternal organization, which continue beyond the curfew hours as set out in Section 3-201 above. In all such cases the hours herein prohibited shall be extended for those minors attending said special social function, employment or entertainment one hour after the closing of said special function.

SECTION 3-203 VIOLATION; PARENTAL LIABILITY

It shall be unlawful for the parent, guardian or other adult person, having the care and custody of minors under the age of 17 years to allow or permit said minor person to do any of the acts or things prohibited by Section 3-201 or 3-202.

SECTION 3-204 ENFORCEMENT; POLICE AUTHORIZATION

Every member of the police force, while on duty, shall be authorized to detain any such minor willfully violating the provisions of this ordinance, and upon apprehension of said minor shall forthwith notify by telephone or other appropriate means the parents or legal guardians or person in custody of said minor child.

SECTION 3-205 PENALTIES

Violations of the provisions of this article shall constitute a misdemeanor. A first violation is punishable by a fine of up to $50.00. A second violation is punishable by a fine of up to $125.00. A third and any subsequent violation is punishable by a fine of up to $250.00 and shall constitute a violation of Section 3-203 and the parents of the child shall be held liable.

Amended – Ordinance No. 1702 4/19/2004

ARTICLE III - DOGS AND CATS

SECTION 3-301 OWNER DEFINED

Any person who shall harbor or permit any dog or cat to be for ten days or more in or about his or her house, store or enclosure, or to remain to be fed, shall be deemed the owner and possessor of such dog or cat and shall be deemed to be liable for all penalties herein prescribed. (Ref. Neb. Rev. Stat. §54-606, 71-4401)

SECTION 3-302 LICENSE

Any person who shall own, keep or harbor a dog or cat over the age of six months within the City shall within 30 days after acquisition of the said dog or cat acquire a license for such dog or cat annually by or before the 15th day of March of each year. The said tax shall be delinquent from and after March 15th; provided, the possessor of any dog or cat brought into or harbored within the corporate limits subsequent to January 1st of any year shall be liable for the payment of the tax levied herein and such tax shall be delinquent if not paid within ten days thereafter. Licenses shall be issued by the city clerk or his/her designee upon the payment of the license fee. Said license shall not be transferable and no refund will be allowed in case of death, sale or other disposition of the licensed dog or cat. The owner shall state at the time the application is made and upon printed forms provided for such purpose, his/her name and address and the name, breed, color and sex of each dog or cat owned and kept by him/her. A certificate that the dog or cat has had a rabies shot, effective for the ensuing year of the license, shall be presented when the license is applied for and no license or tag shall be issued until the certificate is shown. (Ref. Neb. Rev. Stat. §16-206, 54-603, 71-4412)

SECTION 3-303 LICENSE TAGS

Upon the payment of the license fee, the city clerk or his/her designee shall issue to the owner of a dog or cat a metallic tag for each dog or cat so licensed. The metallic tags shall be properly attached to the collar or harness of all dogs or cats so licensed and shall entitle the owner to keep or harbor the said dog or cat until the 14th day of March following such licensing. In the event that a license tag is lost and upon satisfactory evidence that the original plate or tag was issued in accordance with the provisions herein, the city clerk shall issue a duplicate or new tag for the balance of the year for which the license tax has been paid and shall charge and collect a fee set by resolution of the City Council for each duplicate or new tag so issued. All license fees and collections shall be immediately credited to the General Fund. (Ref. Neb. Rev. Stat. §16-206, 54-603)

SECTION 3-304 WRONGFUL LICENSING

It shall be unlawful for the owner, keeper or harborer of any dog or cat to permit or allow such dog or cat to wear any license, metallic tag or other city identification than that issued by the city clerk for dogs or cats, nor shall the owner, keeper or harborer wrongfully and knowingly license an unspayed female dog or cat with a license prescribed for a male or spayed female dog or cat. (Ref. Neb. Rev. Stat. §16-206, 54-603)

SECTION 3-305 REMOVAL OF TAGS

It shall be unlawful for any person to remove or cause to be removed, the collar, harness or metallic tag from any licensed dog or cat without the consent of the owner, keeper or possessor thereof. (Ref. Neb. Rev. Stat. §16-206)

SECTION 3-306 RUNNING AT LARGE

Except as allowed in City dog parks created and approved by the Mayor and City Council, it shall be unlawful for the owner of any dog to allow such dog to run at large at any time within the corporate limits of the City. It shall be the duty of the city police and animal control officer to cause any dog found to be running at large within the City to be taken up and impounded. "Running at Large" shall mean any dog found off the premise of the owner, except at a City dog park created and approved by the Mayor and City Council, and not under control of the owner or a responsible person, either by leash, cord, chain, wire, rope, cage or other suitable means of physical restraint.

Amended – Ordinance No. 1871 11/18/2013

SECTION 3-306.1 CAT RUNNING AT LARGE

It shall be unlawful for the owner of any cat to allow such cat to run at large at any time within the corporate limits of the City. It shall be the duty of the city police to cause any cat found to be running at large within the City to be taken up and impounded. "Running at Large" shall mean any cat found off the premise of the owner, and not under control of the owner or a responsible person, either by leash, cord, chain, wire, rope, cage or other suitable means of physical restraint.

Enacted – Ordinance No. 1871 11/18/2013

SECTION 3-307 DOG UNCOLLARED

It shall be the duty of every owner or owners of any dog or dogs to securely place upon the neck of such dog or dogs a good and sufficient collar with a metallic plate thereon, which plate shall plainly have the name of the owner inscribed, or other adequate means to identify the owner thereof. (Ref. Neb. Rev. Stat. §54-605)

Amended – Ordinance No. 1871 11/18/2013

SECTION 3-308 RABIES VACCINATION

Every cat or dog three months of age and older shall be vaccinated against rabies pursuant to Nebraska law. Kittens and puppies shall be vaccinated within 30 days after having reached three months of age. Unvaccinated cats and dogs acquired or moved into the City must be vaccinated within 30 days after purchase or arrival, unless under three months of age as specified above. The provisions of this ordinance with respect to vaccination shall not apply to any cats or dogs owned by a person temporarily residing within this city for less than 30 days, any cat or dog brought into

this city for show purposes, or any dog brought into this city for hunting purposes for a period of less than 30 days; such cats and dogs shall be kept under the strict supervision of the owner. It shall be unlawful to bring any animal into the City which does not comply with the animal health laws and import regulations of the State of Nebraska which are applicable to animals. (Ref. Neb. Rev. Stat. §71-4402)

SECTION 3-309 RABIES SUSPECTED; IMPOUNDMENT

Any dog, cat or other animal suspected of being afflicted with rabies, or any cat or dog not vaccinated in accordance with the provisions set forth above which has bitten any person or has caused an abrasion of the skin of any person, or any cat or dog vaccinated in accordance with this article, or any other animal which has bitten any person shall be seized by a police officer or humane officer of this city and shall be impounded under the supervision of a licensed veterinarian or public health authority for not less than ten days. If testing is required by the licensed veterinarian the cost of the same shall be paid by the owner of the animal tested. If, upon examination and testing by a veterinarian, the cat, dog or other animal has no clinical signs of rabies at the end of such impoundment, it shall be released to the owner upon said owner paying the costs of said impoundment, or, in the case of a stray, shall be disposed of in whatever manner deemed best by the city animal control officer. (Ref. Neb. Rev. Stat. §71-4406)

SECTION 3-310 RABID ANIMALS; CAPTURE IMPOSSIBLE

The animal control officer or police officer shall have the authority to kill any domestic animals with the characteristics of rabies which make capture impossible because of the danger involved. (Ref. Neb. Rev. Stat. §16-206)

SECTION 3-311 RABID ANIMALS; PROCLAMATION

It shall be the duty of the City Council or mayor whenever, in their opinion, the danger to the public safety from rabid dogs or cats is great or imminent, to issue a proclamation ordering all persons owning, keeping or harboring any dog or cat to muzzle the same, or to confine it for a period of not less than 30 days or more than ninety days from the date of such proclamation, or until such danger is past. The dogs or cats may be harbored by any good and sufficient means in a house, garage or yard on the premises wherein the said owner may reside. Upon issuance of the proclamation it shall be the duty of all persons owning, keeping or harboring any dog or cat to confine the same as herein provided.

SECTION 3-312 INTERFERENCE WITH ANIMAL CONTROL/HUMANE OFFICER

It shall be unlawful for any person to hinder, delay, or interfere with any city animal control/humane officer who is performing any duty enjoined upon him/her by the provisions of this article, or to break open, or in any manner directly or indirectly aid, counsel, or advise the breaking open of the animal shelter, any ambulance wagon, or other vehicle used for the collecting or conveying of dogs or cats to the shelter. (Ref. Neb. Rev. Stat. §28-906)

Amended – Ordinance No. 1779 11/3/2008

SECTION 3-313 KILLING AND POISONING

It shall be unlawful to kill, or to administer, or cause to be administered, poison of any sort to a dog or cat, or in any manner to injure, maim or destroy, or in any manner attempt to injure, maim or destroy any dog or cat that is the property of another person, or to place any poison, or poisoned food where the same is accessible to a dog or cat; provided that this section shall not apply to city policemen or the humane officer acting within their power and duty.

SECTION 3-314 BARKING AND OFFENSIVE

It shall be unlawful for any person to own, keep or harbor any dog which by loud, continued or frequent barking, howling or yelping shall annoy or disturb any neighborhood or person, or which habitually barks at or chases pedestrians, drivers or owners of horses or vehicles while they are on any public sidewalks, streets or alleys in the City. Upon the written complaint of any affected person that any dog owned by the person named in the complaint is an annoyance or disturbance or otherwise violates the provisions of this section, the city police shall investigate the complaint and, if in their opinion the situation warrants, shall notify the owner to silence and restrain such dog. The provisions of this section shall not be construed to apply to the city animal shelter. (Ref. Neb. Rev. Stat. §16-206)

SECTION 3-315 FIGHTING

It shall be unlawful for any person, by agreement or otherwise, to set dogs to fighting, or by any gesture or word to encourage the same to fight. (Ref. Neb. Rev. Stat. §16-206)

SECTION 3-316 LIABILITY OF OWNER

It shall be unlawful for any person to allow a dog owned, kept or harbored by him/her, or under his/her charge or control, to injure or destroy any real or personal property of any description belonging to another person. The owner or possessor of any such dog, in addition to the usual judgment upon conviction, may be made to be liable to the persons so injured in an amount equal to the value of the damage so sustained. (Ref. Neb. Rev. Stat. §54-601, 54-602)

SECTION 3-317 STRAYS

No person shall allow any stray cat or dog to habitually remain or to be lodged or fed within his/her house, store, yard, enclosure or place, but shall turn such dog or cat over to the humane officer or police officer for observation for a period of 72 hours, after which time it shall be handled the same as an impounded dog or cat.

SECTION 3-318 IMPOUNDING

It shall be the duty of the humane officer or city police to capture, secure and remove in a humane manner to the city animal shelter, licensed kennel or veterinary clinic any dog, cat or other animal violating any of the provisions of this chapter. The animal so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day.

Each impounded animal shall be kept and maintained at the pound for a period of not less than three days after public notice has been given unless reclaimed earlier by the owner. Notice of impoundment of all animals, including any significant marks or identifications, shall be posted at the office of the chief of police within 48 hours after impoundment as public notification of such impoundment. Any animal may be reclaimed by its owner during the period of impoundment by payment of a general impoundment fee and daily board fee as set by resolution of the City Council and on file in the office of the city clerk and by providing proof of or complying with the licensing and rabies vaccination requirements prior to release. If the animal is not claimed at the end of required waiting period after public notice has been given, the city police may dispose of the animal in accordance with the applicable rules and regulations pertaining to the same; provided, that if, in the judgment of the humane officer, a suitable home can be found for any such animal within the City, the said animal shall be turned over to that person and the new owner shall then be required to pay all fees and meet all licensing and vaccinating requirements provided in this article. The City shall acquire legal title to any unlicensed dog or cat impounded in the animal shelter for a period longer than the required waiting period after giving notice. All animals shall be destroyed and buried in the summary and humane manner as prescribed by the Board of Health unless a suitable home can be found for such dog or cat. (Ref. Neb. Rev. Stat. § 71-4408)

SECTION 3-319 DANGEROUS DOGS; DEFINITIONS

"Animal Control Authority" shall mean the entity authorized to enforce the animal control laws of the City.

"Animal Control Officer" shall mean any individual employed, appointed or authorized by an animal control authority for the purpose of aiding in the enforcement of this act or any other law or ordinance relating to the licensing of animals, control of animals, or seizure and impoundment of animals and shall include any state or local law enforcement or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

"Dangerous dog" shall mean any dog that, according to the records of an animal control authority:

a. has killed or inflicted severe injury on a human being or public or private property;
b. has killed a domestic animal without provocation while the dog was off the owner's property; or
c. has been previously determined to be a potentially dangerous dog by an animal control authority and the owner has received notice of such determination and such dog again aggressively bites, attacks or endangers the safety of humans or domestic animals. A dog shall not be defined as a dangerous dog if the threat, any injury that is not a severe injury, or the damage was sustained by a person who, at the time, was committing a willful trespass as defined in Section 20-203, 28-520, or 28-521 or any other tort upon the property of the owner of the dog; who was tormenting, abusing or assaulting the dog; who has, in the past, been observed or reported to have tormented, abused or assaulted the dog; or who was committing or attempting to commit a crime;

"Domestic Animal" shall mean a cat, a dog or livestock;

"Owner" shall mean any person, firm, corporation, organization, political subdivision, or department possessing, harboring, keeping or having control or custody of a dog;

"Potentially Dangerous Dog" shall mean:

a. any dog that when unprovoked;

   (i) inflicts a non-severe injury on a human or injures a domestic animal either on public or private property, or;

   (ii) chases or approaches a person upon streets, sidewalks or any public grounds in a menacing fashion or apparent attitude of attack, or;

b. any specific dog with a known propensity, tendency or disposition to attack when unprovoked, to cause injury, or to threaten the safety of humans or domestic animals; and

"Severe Injury" shall mean any physical injury that results in disfiguring lacerations requiring multiple sutures or cosmetic surgery or one or more broken bones or that creates a potential danger to the life or health of the victim.
(Ref. Neb. Rev. Stat. §54-617)

SECTION 3-320 DANGEROUS DOGS; RESTRAINED

No owner of a dangerous dog shall permit the dog to go beyond the property of the owner unless the dog is restrained securely by a chain or leash. (Ref. Neb. Rev. Stat. §54-618)

SECTION 3-321 DANGEROUS DOGS; CONFINED

While unattended on the owner's property, a dangerous dog shall be securely confined, in a humane manner, indoors or in a securely enclosed and locked pen or structure suitably designed to prevent the entry of young children and to prevent the dog from escaping. The pen or structure shall have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides shall be embedded into the ground. The pen or structure shall also protect the dog from the elements. The owner of a dangerous dog shall post a warning sign on the property where the dog is kept that is clearly visible and that informs persons that a dangerous dog is on the property. (Ref. Neb. Rev. Stat. § 54-619)

SECTION 3-322 DANGEROUS DOGS; FAILURE TO COMPLY

Any dangerous dog may be immediately confiscated by an animal control officer if the owner is in violation of this article. The owner shall be responsible for the reasonable costs incurred by the animal control authority for the care of a dangerous dog confiscated by an animal control officer or for the destruction of any dangerous dog if the action by the animal control authority is pursuant to law and if the owner violated this article.

In addition to any other penalty, a court may order the animal control authority to dispose of a dangerous dog in an expeditious and humane manner. (Ref. Neb. Rev. Stat. §54-620)

SECTION 3-323 DANGEROUS DOGS; ACTIONS IN DEFENSE

A person may use whatever means is necessary and not otherwise prohibited to act in defense of self or others from any vicious animal only when there is immediate danger from the animal. No person shall be held accountable for any inhumane treatment of an animal when the actions are solely in defense of self or others from injury.

SECTION 3-324 ADDITIONAL REGULATIONS

Nothing in this article shall be construed to restrict or prohibit any governing body of the municipality from establishing and enforcing laws or ordinances at least as stringent as the provisions of this article. (Ref. Neb. Rev. Stat. §54-624)

ARTICLE IV - KENNELS

SECTION 3-401 DEFINITIONS

As used in this article unless the context otherwise indicates:

The term "kennel" shall be construed to include any establishment which provides boarding and care services for dogs, cats and similar small mammals or bipedal birds, or any premises on which three or more animals included in this definition over four months of age are kept and maintained.

Multi-unit dwellings or apartments where a certificate of satisfactory construction has been issued and where such dwelling is zoned for such, is for the purpose of this article, consider one place per family-unit dwelling.

Owner shall mean the holder of the state kennel license.

Amended – Ordinance No. 1756 10/15/2007

SECTION 3-402 LICENSING REQUIRED

It shall be unlawful to operate a kennel, as defined above, anywhere in the City or the two-mile zoning jurisdiction of the City without first securing a kennel license from the city clerk. At the time of application for such kennel license, the owner shall state on forms provided for such purpose the owner's name and address and the breed, sex and number of animals, and number of animals for breeding. Such application shall also have attached thereto a license for a kennel issued pursuant to the Commercial Dog and Cat Operator Inspection Act of the State of Nebraska and the consent of all property owners or occupants of land or lots adjoining the land upon which the proposed kennel is to be located. Said permit and license shall be on a one-year license/permit from date of issuance and can be revoked for violation of said standards and regulations after due notice and hearing to said kennel owner or operator. The one-year fee for such a kennel license shall be $25.00. The licensing year for a kennel shall be from the date of issuance.

The owner shall also be liable to comply with Section 3-302 requiring the licensing of each dog or cat in said kennel and with Section 3-303 requiring all dogs or cats to wear tags. It is specifically provided that each dog or cat in said kennel over the age of three months shall have a certificate or other substantial proof evidencing that each dog or cat in said kennel is currently vaccinated for rabies, said certificate or other substantial proof to be available for inspection by the officers of the Plattsmouth Police Department upon request. The proof of the vaccination will also be required to be presented to the city clerk at the time of application for a kennel license. The owner shall also be liable to comply with all city ordinances pertaining to dogs or cats. Any owner that violates any of the regulations and ordinances shall have their kennel license revoked. (Ref. Neb. Rev. Stat. §16-206, 16-240)

Amended – Ordinance No. 1756 10/15/2007

SECTION 3-403 REGULATIONS

1. Structure; Construction. Housing facilities for animals must be outside dwellings designed and constructed so that they are structurally sound. They must be kept in good repair, and they must protect the dogs or cats from injury, contain the animals securely, and restrict other animals from entering. The housing shall provide sufficient shade to shelter all the animals housed in the primary enclosure at one time. The housing shall provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to all the animals. The housing shall also provide sufficient space to allow each animal to turn about freely, to stand, sit and lie in a comfortable, normal position, and to walk in a normal manner.

2. Condition and Site. Every place used as a kennel shall be kept in a clean and sanitary condition. Housing facilities and areas used for storing animal food or bedding must be free of any accumulation of trash, waste material, junk, weeds and other discarded materials. Animal areas inside of housing facilities must be kept neat and free of clutter, including equipment, furniture, and stored material, but may contain materials actually used and necessary for cleaning the area. All animals shall be humanely treated and any animal having any disease shall be properly isolated and treated.

SECTION 3-404 VIOLATION OF LICENSING PROVISIONS

In the event it is determined that the kennel is in violation of any provision relating to kennel licenses, the City shall give the license holder written notice setting forth the violations and ten days in which to correct said violation. In the event said violation is not corrected in said ten days, a hearing will be held by the Plattsmouth City Council to determine if the kennel license should be revoked. Notice of said hearing shall be given to the license holder in writing at least five days prior to the hearing. Written notices required herein shall be delivered personally or by regular United States mail, postage prepaid, duly addressed to the address as shown on the application for kennel license.

The City may issue citations for kennel license violations without first holding any hearing as set forth above. In the event the holder of the license is convicted in court of any violation, the licensee shall cease operation of a kennel and shall immediately reduce the number of animals to less than three.

ARTICLE V - ANIMALS GENERALLY

SECTION 3-501 ANIMALS BANNED FROM CITY

It shall be unlawful for any person to keep or maintain within the corporate limits any horse, mule, sheep, cow, goat or swine, including Chinese pot-bellied pigs, except as allowed by the zoning ordinances. (Ref. Neb. Rev. Stat. §16-240)

SECTION 3-502 CRUELTY; DEFINITIONS

"Abandon" shall mean to leave any animal for any length of time without making effective provision for its food, water, or other care as is reasonably necessary for the animal's health.

"Animal" shall mean any vertebrate member of the animal kingdom except man. The term shall not include an uncaptured wild animal.

"Cruelly mistreat" shall mean to knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald or otherwise set upon any animal.

"Cruelly neglect" shall mean to fail to provide any animal in one's care, whether as owner or custodian, with food, water or other care as is reasonably necessary for the animal's health.

"Humane killing" shall mean the destruction of an animal by a method which causes the animal a minimum of pain and suffering.

"Law enforcement officer" shall mean any member of the Nebraska State Patrol, county or deputy sheriff, any member of the city police force, or any other public official authorized by the City to enforce state or local animal control laws, rules, regulations and/or ordinances.
(Ref. Neb. Rev. Stat. §28-1008)

SECTION 3-503 CRUELTY TO ANIMALS

A person commits cruelty to animals if, except as otherwise authorized by law, he/she intentionally or recklessly:

1. Subjects any animal to cruel mistreatment; or
2. Subjects any animal in his/her custody to cruel neglect; or
3. Abandons any animal; or
4. Kills or injures any animal belonging to another.

(Ref. Neb. Rev. Stat. §28-1009)

SECTION 3-504 CRUELTY TO ANIMALS; LAW ENFORCEMENT OFFICER; POWERS, IMMUNITY

1. Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may seek a warrant authorizing entry upon private property to inspect, care for, or impound the animal.

2. Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may issue a citation to the owner as prescribed by law.

3. Any law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence.

(Ref. Neb. Rev. Stat. §28-1012)

SECTION 3-505 ENCLOSURES

All pens, cages, sheds, yards or any other area or enclosure for the confinement of animals and fowls not specifically barred within the corporate limits shall be kept in a clean and orderly manner so as not to become a menace or nuisance to the neighborhood in which the said enclosure is located.

SECTION 3-506 RUNNING AT LARGE

It shall be unlawful for the owner, keeper or harborer of any animal, or any person having the charge, custody or control thereof, to permit such animal to be ridden, driven or run at large upon any of the public ways or property, or to be tethered or staked out in such a manner so as to allow such animal to reach or pass into a public way or to be upon the property of another within the corporate limits of the City; provided that such prohibition shall not apply to horses being ridden on the public ways as long as the person riding such horse shall have reached the age of 12 years or shall be accompanied by a person having reached the age of 21 years, and such horse shall be ridden by such person during the hours between sunrise and sunset. Such permitted use of the public ways by horses shall include the operation of a horse-drawn vehicle subject to the time and age limits herein expressed. The person in charge of the horse being ridden or driven upon public streets, or person having control thereof, shall comply with all traffic regulations in effect concerning the use of city streets, and shall at all times ride or drive said animal single file next to the curb on the traveled portion of the street in the permitted direction of traffic. (Ref. Neb. Rev. Stat. §16-235)

SECTION 3-507 FOWL; RUNNING AT LARGE

It shall be unlawful for any person to allow poultry, chickens, turkeys, geese or any other fowls to run at large within the corporate limits, except in enclosed places on private property. (Ref. Neb. Rev. Stat. §16-235)

SECTION 3-508 WILD ANIMALS

No person shall keep or permit to be kept on his/her property any wild animals except such animals kept for exhibition purposes by circuses and educational institutions.

SECTION 3-509 PITTING; DEFINITIONS

"Bearbaiting" shall mean the pitting of any animal against a bear.

"Cockfighting" shall mean the pitting of a fowl against another fowl.

"Dogfighting" shall mean the pitting of a dog against another dog.

"Pitting" shall mean bringing animals together in combat.
(Ref. Neb. Rev. Stat. §28-1004)

SECTION 3-510 PITTING; PROHIBITED

No person shall knowingly promote, engage in, or be employed at dogfighting, cockfighting, bearbaiting, or pitting an animal against another. Nor shall any person knowingly receive money for the admission of another person to a place kept for such purpose. Nor shall any person knowingly own, use, train, sell or possess an animal for the purpose of animal pitting. Nor shall any person knowingly permit any act as described in this section to occur on any premises owned or controlled by him/her. (Ref. Neb. Rev. Stat. §28-1005)

SECTION 3-511 PITTING; SPECTATORS PROHIBITED

No person shall knowingly and willingly be present at and witness as a spectator dogfighting, cockfighting, bearbaiting, or the pitting of an animal against another. (Ref. Neb. Rev. Stat. §28-1005)

SECTION 3-512 APIARIES; KEEPING OF BEEHIVES OR BOXES; RULES AND REGULATIONS

Beekeeping is allowed within the city limits; provided, such apiaries shall be subject to all applicable state statutes and regulations; and provided further such apiaries shall be subject to the following additional regulations:

1. Location of Hives: No hives or boxes where bees are kept shall be established or maintained within 50 feet of any dwelling or within 15 feet of any lot line, sidewalk, alley or other public way; provided, however, the bees may be kept within 15 feet of a lot line, sidewalk, alley or other public way if a barrier is constructed which is at least six feet in height and is placed between the hives or boxes and the lot line, sidewalk, alley or other public way to impair the flight of the bees.

2. Minimum Area Required: No hives or boxes shall be established or maintained where the bee

population kept would be in excess of, based on the size of the lot, one hive or box per 1,500 square feet.

3. Standards for Management: Any person keeping bees shall: (a) minimize swarming of bees; (b) provide an adequate source of water located on the premises; (c) provide an adequate number of hives or boxes; (d) maintain and manage the boxes or hives to avoid creating a nuisance; and (e) be registered with the State of Nebraska.

4. Violations, Citations: Whenever a city police officer or animal control officer observes any violation of this section or has probable cause to believe that a violation has occurred, the officer shall issue an animal control citation to the owner of the hives or boxes and to the owner or occupant of the dwelling, if the owner or occupant is not also the owner of the hives or boxes. Upon conviction, the defendant shall be subject to a fine in a sum not more than that permitted by Nebraska law for violation of a municipal ordinance.

SECTION 3-513 OWNERS; LIABILITIES, DUTIES

1. It shall be unlawful for any person to allow any animal owned, kept or harborer by him/her or under his/her charge or control, to injure or destroy any real or personal property of any description belonging to another person. The owner or possessor of any such animal, in addition to the usual judgment upon conviction, may be made to be liable to the person so injured in an amount equal to the value of the damage so sustained.

2. The owner of any animal is responsible for removing all excreta deposited on public walks, recreation areas or private property, other than the owner's property, by the owner's animal, or deposited as a result of the owner cleaning the animal's cage, pen or other animal facility.

3. The owner of every animal is responsible for removing all trash or garbage scattered or removed from its rightful place by the owner's animal, including trash or garbage belonging to the owner.

4. It shall be the duty of the owner of any dog, cat or other animal which has bitten or attacked a person, or any other person having knowledge of such bite or attack, including physicians, nurses and veterinarians, to report such act to the humane officer or city police officer.

5. It shall be the duty of the owner of any animal, and the duty of physicians and veterinarians, to report to the humane officer or city police officer the existence of any animal known or suspected to be suffering from rabies.

6. No person shall keep, harbor or maintain any animal or fowl which shall be loud and unusual noises disturb and destroy the peace and quiet of the neighborhood.

ARTICLE VI – NUISANCES

SECTION 3-601 GENERALLY DEFINED

A nuisance consists in doing any unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

1. Injures or endangers the comfort, repose health, or safety of others,
2. Offends decency,
3. Is offensive to the senses,
4. Unlawfully interferes with, obstructs, tends to obstruct or renders dangerous for passage any stream, public park, parkway, square, street or highway in the City.
5. In any way renders other persons insecure in life or the use of property, or
6. Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

(Ref. Neb. Rev. Stat. §16-240, 18-1720)

SECTION 3-602 SPECIFICALLY DEFINED

The maintaining, using, placing, depositing, leaving or permitting of any of the following specific acts, omissions, places, conditions and things are hereby declared to be nuisances:

1. Any odorous, putrid, unsound or unwholesome grain, meat, hides, skins, feathers, vegetable matter, or the whole or any part of any dead animal, fish or fowl.

2. Privies, vaults, cesspools, dumps, pits or like places which are not securely protected from flies or rats, or which are foul or malodorous.

3. Filthy, littered or trash-covered cellars, houseyards, barn-yards, stable-yards, factory-yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings or premises.

4. Animal manure in any quantity, which is not securely protected from flies and the elements, or which, is kept or handled in violation of any ordinance of the City.

5. Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish or any waste vegetable or animal matter in any quantity; provided, nothing herein contained shall prevent the temporary retention of waste in receptacles in a manner provided by the health officer of the City, nor the dumping of non-putrifying waste in a place and manner approved by the health officer.

6. Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster, and all trash or abandoned material, unless the same be kept in covered bins or galvanized iron receptacles.

7. Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, packing material, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, old

automobiles or parts thereof, or any other waste materials when any of said articles or materials create a condition in which flies or rats may breed or multiply, or which may be a fire danger or which are so unsightly as to depreciate property values in the vicinity thereof.

8. Any unsightly building, billboard, or other structure, or any old, abandoned or partially destroyed building or structure or any building or structure commenced and left unfinished, which said buildings, billboards or other structures are either a fire hazard, a menace to the public health or safety, or are so unsightly as to depreciate the value of property in the vicinity thereof.

9. All places used or maintained as junkyards or dumping grounds, or for the wrecking and dissembling of automobiles, trucks, tractors or machinery of any kind, or for the storing or leaving of worn out, wrecked or abandoned automobiles, trucks, tractors or machinery of any kind, or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which said places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others, or which are so unsightly as to tend to depreciate property values in the vicinity thereof.

10. Stagnant water permitted or maintained on any lot or piece of ground.

11. Stockyards, granaries, mills, pig pens, cattle pens, chicken pens or any other place, building or enclosure in which animals or fowl of any kind are confined or on which are stored tankage or any other animal or vegetable matter, or on which any animal or vegetable matter, including grain, is being processed, when said places in which said animals are confined, or said premises on which said vegetable or animal matter is located, are maintained and kept in such a manner that foul and noxious odors are permitted to emanate therefrom, to the annoyance of inhabitants of the City, or are maintained and kept in such a manner as to be injurious to the public health.

12. Maintenance of weeds, grasses or worthless vegetation of 12 inches or more in height. Weeds shall include, but not be limited to, bindweed (convolvulus arvensis), puncture vine (tribulus terrestris), leafy spurge (euphorbia esula), Canada thistle (cirsium arvense), perennial peppergrass (lepidium draba), Russian knapweed (centaurea picris), Johnson grass (sorghum halepense), nodding or musk thistle, quack grass (agropyron repens), perennial sow thistle (sonchus arvensis), horse nettle (solanum carolinense), bull thistle (cirsium lanceoltaum), buckthorn (rhamnus sp.) (tourn), hemp plant (canabis sativa), and ragweed (ambrosiaceae).

13. All other things specifically designated as nuisances elsewhere in this Code.
(Ref. Neb. Rev. Stat. §16-230, 18-1720)

SECTION 3-603 ABATEMENT PROCEDURE

A. It shall be the duty of every owner or occupant of real estate in the City to keep that real estate free of public nuisances.

B. The building inspector, the police chief, and their designees are each declared to be authorized officials to abate nuisances pursuant to this Section. The City Administrator and such other

appointed officers of the City as the City Administrator may from time to time designate are declared to be the hearing officers to hear appeals pursuant to this Section.

C. Upon determination by an authorized official that a nuisance exists on real estate, the authorized official shall give a notice to abate and remove the nuisance. The notice shall be given to the owner or owner's agent by personal service or by certified mail, return receipt requested, sent to the last known address of such owner or owner's agent as reflected in the records of the Cass County assessor. If notice by personal service or certified mail is unsuccessful, notice shall be given by publication once in a newspaper of general circulation in the City and by posting a copy of the notice on the real estate upon which the nuisance is located. The notice shall describe the condition as found by the authorized official and shall state that the condition has been declared a public nuisance. The notice shall set forth a date by which the nuisance shall be abated, and the date shall be such time as is reasonable in the judgment of the authorized official to abate the nuisance, provided that, unless an emergency exists, such time shall not be less than 30 days.

D. No later than 30 days after such notice, or such shorter period as the City may specify in the event of an emergency, the owner or occupant may appeal the authorized official's nuisance determination and order of abatement by filing with the City Clerk a written request for a hearing and the applicable fee set forth in the City's fee ordinance. The hearing officer shall fix the date and time for the hearing, which shall be not less than 7 nor more than 14 days after the appeal is filed, and deliver notice of the hearing by first-class mail to the address for notice specified by the owner or occupant in writing to the City Clerk or, if no address is so specified, to the last known address for the owner or owner's agent reflected in the records of the Cass County Assessor. Upon the date and time fixed for the hearing, the authorized official shall present to the hearing officer evidence of the condition constituting the nuisance, and the hearing officer shall hear objections, evidence, and argument presented by the owner or occupant. The hearing officer shall render a decision on the appeal within five business days after the hearing. If, after consideration of all the evidence, the hearing officer finds that the condition is a public nuisance, the hearing officer shall, by written order, direct the owner or occupant to remedy the public nuisance and shall specify a date by which the nuisance must be abated or removed. A copy of the order shall be sent by first-class mail to the address for notice specified by the owner or occupant in writing to the City Clerk or, if no address is so specified, posted at the real estate and sent by first-class mail to the last known address for the owner or owner's agent as reflected in the records of the Cass County assessor. If the nuisance is not abated by the date set forth in the order, the hearing officer may proceed to cause the work done to abate the nuisance. Any notice sent pursuant to this paragraph by first-class mail shall be conspicuously marked as to its importance.

E. If the owner or occupant of the real estate does not request a hearing within 30 days of the notice, or within such shorter period as the City may specify in cases of emergency, and fails to comply with the order to abate and remove the nuisance within the time specified by the authorized official, the City may proceed to cause the work done to abate the nuisance.

F. The costs and expenses incurred by the City to abate a nuisance pursuant to this Section shall be paid by the owner. If such costs and expenses remain unpaid for two months after the work

is done, the City may either (1) levy and assess the costs and expenses of the work as described in Paragraph G below or (2) recover in a civil action the costs and expenses of the work.

G. The City Council may, at a regular council meeting, by resolution, assess the costs and expenses incurred by the City to abate a nuisance pursuant to this Section against the real estate on which the nuisance existed; provided, that notice of the time of such meeting of the City Council for making such assessment and for the purpose of such meeting shall be published once in a newspaper of general circulation in the City at least 10 days before said meeting is held, and shall be sent by first-class mail to the last known address of such owner or owner's representative of the real estate, as reflected in the records of the Cass County assessor, at least 10 days before such meeting is held. Any such notice sent by first-class mail shall be conspicuously marked as to its importance. The City Council's resolution may specify the date on which the assessment shall be delinquent if unpaid and the rate at which interest shall accrue during such delinquency. Upon assessment by the City Council, the City Clerk shall certify the levy of the special assessment to the Cass County Clerk and Cass County Treasurer for collection as provided by law.

Amended – Ordinance No. 1932 12/18/2017

SECTION 3-603.01 SUMMARY ABATEMENT PROCEDURE

A. The building inspector, the police chief, and their designees are each declared to be authorized officials to abate nuisances pursuant to this Summary Abatement Procedure. The City Administrator and such other appointed officers of the City as the City Administrator may from time to time designate are declared to be the hearing officers to hear appeals pursuant to this Section.

B. As an alternative to the Abatement Procedure in Section 3-603, the Summary Abatement Procedure described in this Section may be used to abate the nuisances defined in paragraphs 6, 7, or 12 of Section 3-602 and in Section 3-605.

C. Upon determination by an authorized official that a nuisance as defined in paragraph 6, 7, or 12 of Section 3-602 or in Section 3-605 exists upon real estate, the authorized official shall give notice to abate and remove the nuisance. The notice shall be given (1) to the owner or owner's agent by certified or first class mail sent to the last known address of such owner or owner's agent as reflected in the records of the Cass County assessor and (2) to the occupant, if any, by personal service, by posting at the real estate, or by certified or first-class mail to the mailing address for the real estate, as may be practicable under the circumstances. Any such notice sent by first-class mail shall be conspicuously marked as to its importance. Posting or mailing of the notice shall be deemed proper service of the notice for purposes of this Section. The notice shall describe the condition constituting the nuisance and shall state that, within five days of receipt of the notice, the owner or occupant may appeal the authorized official's nuisance determination and order of abatement by filing with the City Clerk a written request for a hearing. If, within five days of such notice, the owner or occupant does not request a hearing or fails to comply with the order to abate and remove the nuisance, the City may have the work done to abate the nuisance.

D. Within five days of such notice, the owner or occupant may appeal the authorized official's nuisance determination and order of abatement by filing with the City Clerk a written request for a hearing and the applicable fee set forth in the City's fee ordinance. The hearing officer shall conduct a hearing within fourteen days after filing of the appeal, and the hearing officer shall render a decision on the appeal within five business days after the conclusion of the hearing. If the appeal fails, the hearing official shall cause notice of his or her decision to be posted on the real estate. The owner or occupant shall have 24 hours after such notice is posted to abate the nuisance, and the City may thereafter have the work done to abate the nuisance.

E. The costs and expenses incurred by the City to abate a nuisance pursuant to this Section shall be paid by the owner. If such costs and expenses remain unpaid for two months after the work is done, the City may either (1) levy and assess the costs and expenses of the work as set forth in paragraph F below or (2) recover in a civil action the costs and expenses of the work.

F. The City Council may, at a regular council meeting, by resolution, assess the costs and expenses incurred by the City to abate a nuisance pursuant to this Section, against the real estate on which the nuisance existed; provided, that notice of the time of such meeting of the City Council for making such assessment and for the purpose of such meeting shall be published once in a newspaper of general circulation in the City at least 10 days before said meeting is held, and shall be sent by first-class mail to the last known address of the owner or owner's representative of the real estate, as reflected in the records of the Cass County assessor, at least 10 days before such meeting is held. Any such notice sent by first-class mail shall be conspicuously marked as to its importance. The City Council's resolution may specify the date on which the assessment shall be delinquent if unpaid and the rate at which interest shall accrue during such delinquency. Upon assessment by the City Council, the City Clerk shall certify the levy of the special assessment to the Cass County Clerk and Cass County Treasurer for collection as provided by law.

G. With respect to nuisances as defined in paragraph 12 of Section 3-602, if the City causes the abatement of a nuisance on any real estate pursuant to this Section, the City may proceed to abate any additional such nuisances occurring on the same real estate within the same calendar year, without affording any further notice to the owner or occupant other than posting at the real estate an order to abate the nuisance within five days. In the event the nuisance is not abated within such five-day period and neither the owner nor occupant has requested a hearing, the City may cause the nuisance to be abated and levy the cost and expense thereof as a special assessment pursuant to this Section.

Amended – Ordinance No. 1932 12/18/2017

SECTION 3-604 FAILURE TO CORRECT

In the event that the owner or occupant of said premises fails to correct and eliminate said nuisance pursuant to the notice delivered by the city police, he/she shall be guilty of a misdemeanor. Each day's violation after the expiration of the five days' notice shall be a separate offense.

SECTION 3-605 DEAD AND DISEASED TREES

It is hereby declared a nuisance for any property owner to permit, allow, or maintain any dead or diseased trees within the right-of-way of streets within the corporate limits of the City.

Amended – Ordinance No. 1932 12/18/2017

SECTION 3-606 JURISDICTION

The mayor and police chief of the City are directed to enforce this municipal code against all nuisances. The jurisdiction of the mayor, police chief, and court shall extend to, and the territorial application of this article shall include, all territory within the corporate limits of the City to include all city owned property. (Ref. Neb. Rev. Stat. §18-1720)

SECTION 3-607 ADJOINING LANDOWNERS; INTERVENTION BEFORE TRIAL

In cases of appeal from an action of the City Council condemning real property as a nuisance or as dangerous under the police powers of the City, the owners of the adjoining property may intervene in the action at any time before trial. (Ref. Neb. Rev. Stat. §19-710)

SECTION 3-608 AIR POLLUTION; PROHIBITED

It shall be unlawful for any person, firm or corporation to permit the emission of smoke from any source that is injurious or offensive to the residents of the City. Air shall be considered to be polluted when the discharge into the open air of dust, fumes, gases, mist, odors, smoke or any combination thereof is of such character and in a quantity which to any group of persons interferes with their health, repose or safety, or causes severe annoyance or discomfort or is offensive and objectionable to normal persons and causes injury to real and personal property of any kind. The standards for air pollution established or adopted by the State of Nebraska shall be presumptive evidence as to when the air is deemed to be polluted under this section. It is hereby unlawful for any such person, firm or corporation to permit or cause the escape of the aforesaid nuisances and the escape of the said dust, fumes, gases, mists, odors, and smoke is hereby declared to be a nuisance and shall be summarily abated upon written notice by police chief of the City of Plattsmouth to the violator. Such abatement may be in addition to the penalty for air pollution in the City. (Ref. Neb. Rev. Stat. §18-1720, 28-1321)

SECTION 3-609 WATER POLLUTION; PROHIBITED

It shall be unlawful for any person, firm or corporation to obstruct or impede without legal authority any river or collection of water, or to corrupt and render unwholesome or impure any watercourse, stream or other water. The standards for water quality established or adopted by the State of Nebraska shall be presumptive evidence as to when the water is deemed to be polluted under this section. Such a corruption of the water in or about the City shall constitute a nuisance and shall be summarily abated upon written notice to the violator by the Board of Health. The said abatement may be in addition to the penalty for water pollution. (Ref. Neb. Rev. Stat. §18-1720, 28-1321)

SECTION 3-610 RODENT AND INSECT CONTROL; DEFINITIONS

For the purpose of Sections 3-610 through 3-615, the following definitions shall apply:

"Business buildings" shall mean any structure, whether public or private, that is adapted for occupancy for the transaction of business, for rendering of professional service, for amusement, for display, sale or storage of goods, wares or merchandise, or for the performance of tenement houses, rooming houses, office buildings, public elevators, abattoirs, warehouses, workshops, factories, and all outhouses, sheds, barns and other structures on premises used for business purposes.

"Health officer" shall mean any duly authorized representative, and if no person is appointed by the mayor with the approval of the City Council, the chief of police shall be the health officer.

"Insect" shall mean any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class *insecta*, comprising six-legged, usually winged forms (for example, beetles, bugs, bees, flies) and other allied classes of arthropods whose members are wingless and usually have more than six legs (for example, spiders, mites, ticks, centipedes and wood lice).

"Occupant" shall mean the individual, partnership or corporation that uses or occupies any business building or part thereof, whether the actual owner or tenant. In the case of vacant business buildings or vacant portion thereof, the owner, agent or custodian shall have the responsibility as occupant.

"Owner" shall mean the actual owner, agent or custodian of the business building, whether individual, partnership or corporation. The lessee shall be construed as the "owner" for the purpose of this section when business building agreements hold the lessee responsible for maintenance and repairs.

"Rat eradication" shall mean the elimination or extermination of rats within buildings by any or all of the accepted measures such as: poisoning, fumigation, trapping or clubbing.

"Rat harborage" shall mean any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under or outside of any structures.

"Ratproofing" applies to a form of construction to prevent the ingress of rats into business buildings from the exterior, or from one business building or establishment to another. It consists essentially of treatment with material impervious to rat gnawing, all actual or potential openings in exterior walls, ground or first floors, basements, roofs and foundations that may be reached by rats from the ground by climbing or by burrowing.

"Rodent" shall mean the class of animals belonging or pertaining to the *rodentia*, the order of gnawing or nibbling mammals that includes, but is not limited to, mice, rats, squirrels and beavers.

SECTION 3-611 RODENTS AND INSECTS; EXTERMINATION

It shall be the duty of the owner, lessee or occupant of any dwelling or building to be responsible for the active and continued extermination of any insects, rodents or other pests therein or on the premise. In the event that the owner, lessee or occupant of any said dwelling or building neglects, fails or otherwise refuses to control and actively exterminate the insects, rodents and other pests in and about his/her premise, the Board of Health shall issue notice for him/her to do so. If the said owner, lessee or occupant has not made a good faith effort to exterminate the said pests within five days, the premise shall be deemed to be a nuisance and a health hazard. (Ref. Neb. Rev. Stat. §18-1720, 28-1321)

SECTION 3-612 RODENTS AND INSECTS; OCCUPANT

It shall be the responsibility of the occupant in a single dwelling unit, whether or not the dwelling unit is located in a multiple unit structure, to exterminate the rodents and insects infesting the premise when it is found by the Board of Health that only the occupant's dwelling is so infested. (Ref. Neb. Rev. Stat. §18-1720, 28-1321)

SECTION 3-613 RODENTS AND INSECTS; OWNER

The owner of a multiple dwelling unit shall have the duty to exterminate therein for rodents and insects when infestation exists in two or more units, when infestation exists in shared or public areas of a multiple unit structure, or when the infestation is due to failure by the owner to maintain the dwelling in an insect- and rodent-proof condition. The owner of a single dwelling unit shall have the duty to exterminate therein notwithstanding the occupancy of a renter or lessee when the infestation of insects or rodents is due to the said owner's failure to construct or maintain the premise in such a manner as to make it reasonably resistant to the entrance and habitability of such pests. (Ref. Neb. Rev. Stat. §18-1720, 28-1321)

SECTION 3-614 RODENTS AND INSECTS; RATPROOFING

All business buildings in the City are required to be ratproofed, free of rats, and maintained in a ratproof and rat-free condition.

It shall be unlawful for any person, firm or corporation hereunder to construct, repair or remodel any building, dwelling, stable or market, or other structure whatsoever, unless such construction, repair, remodeling or installation shall render the building or other structure ratproof.

SECTION 3-615 RODENTS AND INSECTS; STANDARDS

The owners of all ratproofed business buildings are required to maintain the premises in a ratproof condition and to repair all breaks or leaks that may occur in the ratproofing without a specific order from the Board of Health.

It shall be unlawful under the provisions of this section for the occupant, owner, contractor, public utility company, plumber or any other person to remove and fail to restore in like condition the

ratproofing from any business building for any purpose. Further, it shall be unlawful for any person or agent to make any new openings that are not closed or sealed against the entrance of rats.

ARTICLE VII - PENAL PROVISION

SECTION 3-701 VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter set forth at full length herein or incorporated by reference, except for section 3-136, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $500.00 dollars for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

Any person who shall violate or refuse to comply with the enforcement of Section 3-136 shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject to fine of not more than $500.00 dollars and/or imprisonment for up to 30 days for each offense.

Violations of this chapter which are listed in the City's fine/waiver schedule may be disposed of pursuant to a waiver of appearance, a plea of "guilty", and the payment of court costs and the corresponding fine for such violation listed in the City's fine/waiver schedule.

Amended - Ordinance No. 1681 11/4/2002; Ordinance No. 1860 5/6/2013; Ordinance No. 1930 12/18/2017

SECTION 3-702 ABATEMENT OF NUISANCE

Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

ARTICLE VIII – SEX OFFENDERS

SECTION 3-801 FINDINGS AND INTENT

A. Pursuant to *Neb. Rev. Stat.* § 29-4002, Sex Offenders are considered high risk to repeat offenses.

B. Sex Offenders who use physical violence and prey on children are Sexual Predators and present an extreme threat to public safety.

C. Sexual Predators repeat their offenses but are prosecuted for only a fraction of their crimes and impose an exorbitant cost on their victims and on society at large through their crimes.

D. Sexual Predators present an extreme threat to the safety of children who are unable to protect themselves from the crimes of such Sexual Predators.

E. Pursuant to the Sexual Predator Residency Restriction Act adopted by the Nebraska State Legislature and signed by the Governor on April 13, 2006 as Legislative Bill 1199, municipalities have been enabled to restrict such person's place of residency in relationship to geographical proximity to schools and child care facilities.

F. The Mayor and City Council find that it is consistent with the Sexual Predator Residency Restriction Act adopted by the Nebraska State Legislature and signed by the Governor on April 13, 2006 as Legislative Bill 1199, to restrict Sexual Predators in relationship to their use of public facilities utilized by children.

G. It is the intent of this ordinance to serve the City's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the City by limiting and regulating where Sexual Predators reside and by regulating Sexual Predators' use of public facilities which are utilized by children.

Enacted – Ordinance No. 1731 7/17/2006

SECTION 3-802 DEFINITIONS

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A. Sex Offender shall be anyone defined in the Sex Offender Registration Act (*Neb. Rev. Stat.* §§ 29-4001 to 29-4013) as amended, or any person convicted under the law of another state if, at the time of conviction under the law of such state, the offense for which the person was convicted would have required registration under the Nebraska Sex Offender Registration Act, if conviction had occurred in Nebraska.

B. Sexual Predator means an individual defined as such in the Sexual Predator Residency Restriction Act adopted by the Nebraska State Legislature and signed by the Governor on April

13, 2006 as Legislative Bill 1199.

C. Residence means a place where one regularly sleeps, where one has established a home, where one is habitually present, and to which when one departs and intends to return. A residence may include more than one location and may be mobile or transitory. Residency may be shown by, among other evidence, receipt of mail at the premises or identification of the premises as a residence on a driver's license, identification card, vehicle registration or other document.

D. Child Care Facility means a place with a license issued under the Nebraska Child Care Licensing Act, *Neb. Rev. Stat.* §§ 71-1908 to 71-1923, as amended.

E. Loiter for purposes of this Article means

(1) Standing, sitting idly, whether or not the person is in a vehicle or remaining in or around any of the premises described in this Article; or

(2) Standing, sitting idly, whether or not the person is in a vehicle or remaining in or around any of the premises described in this Article, for the purpose of committing or attempting to commit a sex offense; or

(3) Entering or remaining in a building in or around any of the premises described in this Article, other than the offender's residence.

F. School means a public, private, denominational, or parochial school which meets the requirements for accreditation or approval prescribed in Chapter 79.

Enacted – Ordinance No. 1731 7/17/2006

SECTION 3-803 PRESENCE WITHIN SCHOOL ZONE BY A SEXUAL PREDATOR PROHIBITED; EXCEPTIONS

A. Prohibited on School Grounds and Conveyances. It is unlawful for a Sexual Predator to knowingly be present in any school building, on real property comprising any school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity when persons under the age of 18 are present in the building, on the grounds or in the conveyance.

B. Loitering Prohibited near school grounds. It is unlawful for a Sexual Predator to knowingly loiter within 500 feet of a school building or real property comprising any school while persons under the age of 18 are present in the building or on the grounds, unless the Sexual Predator is an invitee of a person who resides within 500 feet of a school building or real property comprising a school and is accompanied by such resident, provided such resident is not also a Sexual Predator.

C. Exception for Parents. A Sexual Predator does not commit a violation of subsection (A) of this section if that Sexual Predator is the parent or legal guardian of a child enrolled in the school

and complies with the following circumstances and requirements:

(1) The parent or guardian is attending a conference at the school with school personnel to discuss his or her child academically, socially, or for other school or student related issues concerning his or her child.

(2) The parent or guardian is attending a function at the school in which his or her child is actively participating. Such functions include, but are not limited to, athletic contests, music concerts, theatrical performances and academic competitions.

(3) Prior to entering upon the school property during regular school hours, such parent or guardian shall contact the school principal (or his or her designee) and communicate his or her intent to be present upon such school property. Such communication shall include the purpose for such person's presence, the anticipated time of arrival and the anticipated time of departure. The principal shall communicate to the Sexual Predator any conditions to be imposed upon such person during such person's presence at the school, which conditions may include that the Sexual Predator be accompanied at all times by an individual approved by the principal or the principal's designee. Upon arrival at the school the Sexual Predator shall immediately check in at the school's office and shall inform the office of his or her departure.

(4) Prior to entering upon school property at times other than regular school hours, such parent or guardian shall contact the school principal (or his or her designee) and communicate to the principal of such persons intended presence. Such communication shall include the purpose of such person's presence, the anticipated time of arrival and the anticipated time of departure. The principal shall communicate to such person any conditions to be imposed upon such person during the person's presence at the school, which conditions shall include that such person be accompanied at all times by an appropriate individual approved by the principal or the principal's designee. In the event such person does not receive communication from the principal (or his or her designee) such lack of communication shall be deemed a refusal to authorize the presence of the Sexual Predator.

D. Exception for Non-Parents. A Sexual Predator does not commit a violation of subsection (A) of this section if that Sexual Predator:

(1) Is in the school or upon the school grounds for a legitimate business purpose as a representative of a commercial company supplying goods or services to the school building; provided, however, that prior to entering upon the school grounds the Sexual Predator shall contact the principal (or his or her designee) and communicate to the principal the individual's intended presence. Such communication shall include the purpose of the Sexual Predator's presence, the company or business he or she is representing, the anticipated time of his or her

arrival and the anticipated time of his or her departure. The principal shall communicate to the Sexual Predator any conditions to be imposed upon the individual during his or her presence at the school, which conditions shall include that the individual be accompanied at all times by an appropriate individual, approved by the principal or the principal's designee.

(2) Is a grandparent, aunt, uncle, first cousin, brother or sister of a child enrolled in the school and is attending a function at the school of which the child to which he or she is related is an active part; provided, however, that the related person shall at all times be accompanied by and in the presence of the parent or guardian of the enrolled child taking part in the function. Such functions include by way of illustration and not limitation, athletic contests, music concerts, theatrical performances and academic competitions. Provided, further, that prior to entering upon the school grounds the Sexual Predator shall contact the principal (or his or her designee) and communicate to the principal the individual's intended presence. Such communication shall include the purpose of the individual's presence, the anticipated time of his or her arrival and the anticipated time of his or her departure, and the identity of the parent who will accompany the Sexual Predator. The principal shall communicate to the individual any additional conditions to be imposed upon the individual during his or her presence at the school, with which the Sexual Predator must comply.

E. Exception for Residence. A Sexual Predator does not commit a violation of subsection (B) of this section if that person is a bona fide resident of residential property located within 500 feet of the school property and remains present on his or her residential property.

F. Constitutional Exception. Nothing in this Article shall be construed to infringe upon the constitutional right of a Sexual Predator to be present in a school building that is used as a polling place for the purpose of voting or for the purpose of exercising his or her constitutional First Amendment rights.

Enacted – Ordinance No. 1731 7/17/2006

SECTION 3-804 APPROACHING, CONTACTING, OR COMMUNICATING WITH A CHILD WITHIN CERTAIN PLACES BY SEXUAL PREDATORS PROHIBITED

A. It is unlawful for a Sexual Predator to knowingly be present in any public park building or on real property comprising any public park or on the premises of a municipal swimming pool when persons under the age of 18 are present in the building, on the grounds or at the pool and to approach, contact, or communicate with a child under 18 years of age, unless the Sexual Predator is a parent or guardian of a person under 18 years of age present in the building or on the grounds or unless the Sexual Predator is accompanied by a responsible adult who is not a Sexual Predator.

B. It is unlawful for a Sexual Predator to knowingly loiter on a public way within 500 feet of a public park building or real property comprising any public park or while persons under the age of 18 are present in the building or on the grounds and to approach, contact, or communicate with a child under 18 years of age within the 500 foot zone, unless the Sexual Predator is a parent or guardian of a person under 18 years of age present in the building or on the grounds or unless the Sexual Predator is accompanied by a responsible adult who is not a Sexual Predator.

C. It is unlawful for a Sexual Predator to knowingly loiter on a public way within 500 feet of a child care facility while persons under the age of 18 are present in the building or on the grounds and to approach, contact, or communicate with a child under 18 years of age within the 500 foot zone, unless the Sexual Predator is a parent or guardian of a person under 18 years of age present in the building or on the grounds or unless the Sexual Predator is accompanied by a responsible adult who is not a Sexual Predator.

D. It is unlawful for a Sexual Predator to knowingly loiter on a public way within 500 feet of the premises of a municipal swimming pool, tennis court, baseball field, soccer field, or similar municipal property, while persons under the age of 18 are present in the building, on the grounds or at the property and to approach, contact, or communicate with a child under 18 years of age within the 500 foot zone, unless the Sexual Predator is a parent or guardian of a person under 18 years of age present in the building or on the grounds or unless the Sexual Predator is accompanied by a responsible adult who is not a Sexual Predator.

E. It is unlawful for a Sexual Predator to knowingly be present in any public library, or on real property comprising any public library, without immediately notifying the library director or the director's designee of his or her presence and to advise of his or her departure immediately before leaving the premises, unless he or she is accompanied by a responsible adult who is not a Sexual Predator. While present at a public library, it is unlawful for a Sexual Predator to approach, contact, or communicate with a child under 18 years of age unless the Sexual Predator is a parent or guardian of the person under 18 years of age or unless the Sexual Predator is accompanied by a responsible adult who is not a Sexual Predator.

F. Exception for Residence. A Sexual Predator does not commit a violation of subsection (B) of this section if that person is a bona fide resident of residential property located within 500 feet of the school property and remains present on his or her residential property.

Enacted – Ordinance No. 1731 7/17/2006

SECTION 3-805 RESIDENCY RESTRICTIONS; EXCEPTIONS

A. It is unlawful for any Sexual Predator to reside within five hundred (500) feet from any school or childcare facility.

B. For purposes of determining the minimum distance separation, the distance shall be measured by following a straight line from the outer property line of the residence to the nearest outer boundary line of the school or childcare facility.

C. This provision shall not apply to a Sexual Predator who:

1. Resides within a prison or correctional or treatment facility operated by the state or a political subdivision;

2. Established a residence before the passage of this ordinance and has not moved from that residence; and

3. Established a residence after the passage of this ordinance and the school or childcare facility triggering the restriction was established after the initial date of the Sexual Predator's residence at that location.

Enacted – Ordinance No. 1731 7/17/2006

SECTION 3-806 DISSEMINATION OF INFORMATION

The City, through its employees at City Hall and through its Police Department, shall provide a copy of this ordinance to any person subject to the Nebraska Sex Offender Registration Act, or who has been defined as a Sexual Predator, upon such person's request.

Enacted – Ordinance No. 1731 7/17/2006

SECTION 3-807 SEVERABILITY

If any provision of this ordinance or its application to any person or circumstances shall be held invalid, the remainder of the ordinance, or the application of the provisions to other persons or circumstances, shall not be affected.

Enacted – Ordinance No. 1731 7/17/2006

SECTION 3-808 VIOLATION; PENALTY

Any person who violates any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction shall be subject to fine of not more than $500.00 dollars and/or imprisonment for up to 30 days for each offense.

Enacted – Ordinance No. 1731 7/17/2006

ARTICLE IX - NOISE

SECTION 3-901 POLICY

It is declared the public policy to reduce the ambient noise level in the City; to preserve, protect and promote public health safety and welfare and the peace and quiet of the inhabitants; to prevent injury to human, plant and animal life and property; to foster the convenience and comfort of the City's inhabitants; and to facilitate the enjoyment of the natural attractions of the City.

Enacted – Ordinance No. 1719 9/6/2005; Reenacted – Ordinance No. 1732 8/7/2006

SECTION 3-902 INDUSTRIAL MACHINERY, MUFFLERS, FANS AND ENGINES

(1) It shall be unlawful for any person to operate or cause to be operated any noise-creating blower or power fan, machinery or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise, so that the same shall not cause annoyance to the public or disturb the rest and quiet of persons on adjacent premises.

(2) It shall be unlawful to operate industrial equipment, heavy machinery, jack hammer and other industrial equipment emitting loud noise or to race automobile engines within the City between the hours of 10:00 P.M. and 7:00 A.M. in such a manner as to disturb the comfort, repose, peace and quiet of residents of the City, unless such activity has been approved in advance by the City Council or by permit issued from the City Offices.

Enacted – Ordinance No. 1719 9/6/2005; Reenacted – Ordinance No. 1732 8/7/2006

SECTION 3-903 SOUND REPRODUCTION DEVICES

No person shall play, use, operate or permit to be played, used or operated, any radio, tape recorder, cassette player, compact disc (CD) player, or other machine or device for reproducing sound, if it is located in or on:

(1) Any public property, including any public street, highway, building, sidewalk, park or thoroughfare; or any motor vehicle on a public street, highway or public space unless the volume of amplified sound shall be so controlled that it will not be audible for a distance in excess of one hundred (100) feet from the source and so that the volume is not unreasonably great and the noise, raucous, jarring, disturbing or a nuisance to persons within the area of audibility; or

(2) Residential property, whether a unit of a multiple-family residential dwelling or a single-family dwelling structure, unless the volume of amplified sound shall be so controlled that it will not be audible in any adjoining unit. Provided, however, that actual notice from the occupant of the adjoining residence to the occupant of the property containing the source of amplified sound shall be a necessary element under this subsection.

Enacted – Ordinance No. 1719 9/6/2005; Reenacted – Ordinance No. 1732 8/7/2006

SECTION 3-904 MOTOR VEHICLE NOISE CONTROL

(1) It shall be unlawful for any person to operate any motor vehicle or combination of vehicles at any time or under any condition of grade, load, acceleration or deceleration in such a manner as to discharge or emit total noise beyond the following noise limits for each category of motor vehicle. Noise level limits shall be applied to each category of vehicle regardless of actual speed of the motor vehicle or combination of vehicles within the set speed limit zone.

These provisions apply to the total noise discharged or emitted from a motor vehicle or combination of vehicles. This Ordinance shall not be construed to limit or preclude the enforcement of any other applicable provision of this Code, including those relating to motor vehicle mufflers.

Noise Limits for Vehicles:		Speed Limit Zones	
Type of Vehicle		35 MPH or Less	Over 35 MPH
I	Any motor vehicle with a manufacturer's gross vehicle weight rating of 10,000 pounds or more	86 db(A)	9Odb(A)
2	Any motorcycle	82 db(A)	86 db(A)
3	Any other motor vehicle	76 db(A)	82 db(A)

The above limitations shall be taken from a distance 50 feet from the curb line of the street on which the motor vehicle or combination of vehicles is traveling, and if the same are not so taken then the following correction factor shall be applied for each category of motor vehicle or combination of vehicles.

Measurement Distance (Feet)	Correction to Limit
25	6
28	5
32	4
35	3
40	2
45	1
50	0

56	-1
63	-2
70	-3
80	-4
90	-5
100	-6

(2) An adequate muffler or similar device is required as follows:

(a) No person shall operate, or cause to be operated, any motor vehicle or motorcycle not equipped with a muffler or other similar device in good working order and in constant operation.

(b) No person shall remove or render inoperative, or cause to be removed or rendered inoperative, other than for purposes of maintenance, repair or replacement, any muffler or similar device on a motor vehicle or motorcycle. Mufflers or other similar devices commonly known referred to as "aftermarket" are permitted only if they do not emit a noise level above the measured decibel limit provided in this ordinance. Citizens may request to have their vehicles noise level measured free of charge by the Plattsmouth Police Department, by appointment, to ensure modifications or repairs to their vehicles conform to the limits set within this ordinance.

(c) Every motor vehicle operated within this city shall be provided with a muffler in good working order to prevent excessive or unusual noise or smoke. It shall be unlawful to use a "muffler cut-out" on any motor vehicle upon any streets; provided, however, that the provisions of this section shall not apply to authorized emergency vehicles.

(3) It shall be unlawful for any person to make, or cause to be made, loud or disturbing noises with any mechanical devices operated by compressed air and used for purposes of assisting braking on any semi-tractor.

Enacted – Ordinance No. 1719 9/6/2005; Reenacted – Ordinance No. 1732 8/7/2006

SECTION 3-905 STANDARDS

The American National Standard, Specification for Sound Level Meters, designated as ANSI SI .4-1971 (R1976), published by the American National Standards Institute, Inc., 1430 Broadway, New York, New York, 10018, of which not less than three copies are on file in the office of the city clerk, is adopted and incorporated as if set out in length, and the provisions shall control and shall be the specification for sound level meters.

Enacted – Ordinance No. 1719 9/6/2005; Reenacted – Ordinance No. 1732 8/7/2006

SECTION 3-906 SOUND LEVEL METERS

The noise limit of any motor vehicle shall be measured and determined with a sound level meter type 2 or better meeting the standards prescribed by the American National Standards Institute. The sound level meter shall be maintained in calibration and good working order. A calibration check shall be made of the system at the time of any noise measurement.

Enacted – Ordinance No. 1719 9/6/2005; Reenacted – Ordinance No. 1732 8/7/2006

SECTION 3-907 MEASUREMENT STANDARDS

Noise measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone, during measurement, shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used. Traffic, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements except where such background noise interferes with the primary noise being measured. Readings taken for the enforcement of this article shall be taken on the fast response scale.

Enacted – Ordinance No. 1719 9/6/2005; Reenacted – Ordinance No. 1732 8/7/2006

SECTION 3-908 USE OF NOISE MEASUREMENT AS EVIDENCE OF VEHICLE NOISE

The noise limit of any motor vehicle measured in accordance with the provisions of this article shall be accepted as prima facie evidence of the total noise of the vehicle in any court or legal proceedings when the noise limit of the vehicle is at issue.

Enacted – Ordinance No. 1719 9/6/2005; Reenacted – Ordinance No. 1732 8/7/2006

SECTION 3-909 DISTURBING AN ASSEMBLY

It shall be unlawful for any person to disturb, interrupt or interfere with any lawful assembly of people by loud and unnecessary noise, threatening behavior, or indecent behavior.

Enacted – Ordinance No. 1719 9/6/2005; Reenacted – Ordinance No. 1732 8/7/2006

SECTION 3-910 EXEMPTIONS

(1) Emergency response vehicles. The provisions of this article shall not apply to any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.

(2) The authorized use of the city's emergency tornado/foul weather warning signal. Testing is to be limited to the first Saturday of each month at 11:00 A. M. for an overall total of one minute.

(3) Public and private fireworks displays conducted between June 30 and July 10 shall be exempted from the noise regulation and thus shall not be deemed in violation of this section.

(4) Events such as parades, fairs, and attractions shall also be exempt from this ordinance with the purchase of their parade and event permits to operate from the City of Plattsmouth and as such, shall not be deemed in violation of this section.

(5) Private parties may purchase a one-day exemption permit for a fee of $50.00 payable to the City of Plattsmouth, if said persons provide written proof of notification of their neighbors within hearing range of the event. Proof should be in the form of signatures and addresses from all their neighbors within hearing range of the event.

Enacted – Ordinance No. 1719 9/6/2005; Reenacted – Ordinance No. 1732 8/7/2006

SECTION 3-911 GLOSSARY OF TERMS

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them:

A band level: The total sound level of all noise as measured with a sound level meter using the A weighting network. The unit of measurement is the dB(A).

Ambient noise: The all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources, near and far.

ANSI: American National Standards Institute or its successor bodies.

Authorized emergency vehicle: Vehicles of the police and fire divisions of the public safety department of the city and such ambulances and other vehicles as are designated and authorized as emergency vehicles by the public safety director of the city.

Band pressure level: Of sound for a specified frequency band, the sound pressure level for the sound contained within the restricted band. The reference pressure must be specified.

Bel: A unit of level when the base of logarithm is 10. Use of the bel is restricted to levels of quantities proportional to power.

Cycle: The complete sequence of values of a periodic quantity that occur during a period.

Decibel: One-tenth of a bel and a unit of level when the base of the logarithm is the tenth root of 10, and the quantities concerned are proportional to power.

Frequency: Of a function periodic in time, the reciprocal of the primitive period. The unit is the cycle per unit time and must be specified.

Microbar A unit of pressure commonly used in acoustics and is equal to one dyne per square centimeter.

Motor vehicle: Any passenger vehicle, truck, truck-trailer, trailer or semi-trailer propelled or drawn by mechanical power, and shall include all vehicles except self-propelled invalid chairs, farm tractors used occasionally outside of general farm usage, road rollers, and any vehicles which run only on rails or tracks.

Muffler: An apparatus consisting of a series of chambers or baffle plates designed for the purpose of transmitting gases while reducing sound emanating from such apparatus.

Period: A periodic quantity, the smallest increment of time for which the function repeats itself.

Periodic quantity: An oscillating quantity, the values of which recur for equal increments of time.

SAE: The Society of Automotive Engineers or its successor bodies.

Sound analyzer A device for measuring the band pressure level or pressure spectrum level of a sound as a function of frequency.

Sound-level meter an instrument including a microphone, an amplifier, an output meter and frequency weighting networks for the measurement of noise and sound levels in a specified manner.

Sound pressure level: In decibels of sound, 20 times the logarithm to the base 10 of the ratio of the pressure of this sound to the reference pressure, which reference pressure must be explicitly stated.

Spectrum: A function of time, and a description of its resolution into components, each of different frequency and usually of different amplitude and phase, and is also used to signify a continuous range of components usually wide in extent within which waves have some specified characteristics, such as the audio4requency spectrum, and is also applied to functions of variables other than time.

Unnecessary noise: Any excessive or unusually loud sound or any Sound which disturbs the peace and quiet of any neighborhood or which does annoy, disturb, injure or endanger the comfort, repose, health, peace, or safety of any person, or causes damage to property or business.

All technical terminology used in this chapter, unless the context otherwise requires, shall be defined in accordance with American National Standards Institute (ANSI) publication S1.1-1960, revised 1971, or successor publications of ANSI or its successor bodies.

Enacted – Ordinance No. 1719 9/6/2005; Reenacted – Ordinance No. 1732 8/7/2006

SECTION 3-912 PENALTIES

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than $500.00 dollars for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

Enacted – Ordinance No. 1719 9/6/2005; Reenacted – Ordinance No. 1732 8/7/2006

MUNICIPAL CODE

CHAPTER 4

VEHICLES

ARTICLE I - TRAFFIC REGULATIONS

SECTION 4-101 DEFINITIONS

The words and phrases used in Articles I, III, and IV of this chapter, pertaining to vehicles and traffic regulations, shall be construed as defined in Chapter 60, Article 6 of the Reissue Revised Statutes of Nebraska, 2021, as now existing or hereafter amended. If not defined in the designated statutes, the word or phrase shall have its common meaning. (Ref. Neb. Rev. Stat. §60-606 through §60-676)

Amended – Ordinance No. 2011 12/4/2023

SECTION 4-102 TRUCK ROUTES

The City Council may, by resolution, designate certain streets in the City that trucks shall travel upon, and it shall be unlawful for persons operating trucks larger than pickups or passenger size panel trucks to travel on streets other than those so designated, unless to pick up or deliver goods, wares or merchandise or to travel to off-street truck parking facilities. In the event of deliver or pick up, the operator of such truck shall return to such truck routes as soon as possible when traveling through or about the City. The City Council shall cause signs to be posted or cause notice to be posted designating such streets as truck routes. (Ref. Neb. Rev. Stat. §60-681)

SECTION 4-103 ONE-WAY TRAFFIC

The City Council may, by resolution, provide for one-way travel in any street or alley located in the City and shall provide for appropriate signs and markings when said streets have been so designated by resolution. (Ref. Neb. Rev. Stat. §60-680)

SECTION 4-104 TRAFFIC LANES; DESIGNATION

The City Council may, by resolution, mark lanes for traffic on street pavements at such places as it may deem advisable. (Ref. Neb. Rev. Stat. §60-680)

SECTION 4-105 ARTERIAL STREETS; DESIGNATION

The City Council may, by resolution, designate any street or portion thereof as an arterial street and shall provide for appropriate signs or markings when such street has been so designated. (Ref. Neb. Rev. Stat. §60-680)

SECTION 4-106 TURNING; HAND SIGNALS

A signal of intention to turn right or left shall be given continuously during not less than the last 100 feet traveled; shall be given either by means of a hand and arm, or by a signal device of a type approved by the Department of Roads. The hand and arms signals herein required shall be given from the left side of the vehicle in the following manner: Stop or decreased speed, hand and arm extended downward; Left turn, hand and arm extended horizontally; Right turn, hand and arm

extended upward.

SECTION 4-107 TURNING; "U" TURNS

No vehicle shall be turned so as to proceed in the opposite direction, except at a street intersection. No vehicle shall be turned so as to proceed in the opposite direction at any intersection where an automatic signal is in operation or where a sign is posted indicating that U-turns are prohibited. (Ref. Neb. Rev. Stat. §60-6,160, 60-680)

SECTION 4-108 TURNING; GENERALLY

Vehicles turning to the right into an intersecting street shall approach such intersection in the lane of traffic nearest to the right-hand side of the highway and must turn the corner as near the right hand curb as possible to keep between the curb to the right and the center of the intersection of the two streets. The driver of a vehicle intending to turn to the left shall approach such center line of the highway, and in turning shall pass as near as possible to the center of the intersection, passing as closely as practicable to the right thereof before turning such vehicle to the left. For the purposes of this section, the center of the intersection shall mean the meeting point of the medial lines of the highways intersecting one another. (Ref. Neb. Rev. Stat. §60-6,159)

SECTION 4-109 TURNING; CAUTIOUS

The operator of a vehicle shall, before stopping, turning or changing the course of such vehicle, see that there is sufficient space to make such movement in safety. If any pedestrian might be affected by such movement, the operator shall give a clearly audible signal by sounding the horn, and whenever the operation of any other vehicle may be affected by such movement, he/she shall give some unmistakable signal to the drivers of all other vehicles of his/her intention to make such movement.

SECTION 4-110 RIGHT-OF-WAY

1. When two vehicles approach or enter an intersection at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right when the paths of such vehicles intersect and there is danger of a collision, unless otherwise directed by a city policeman stationed at the intersection.

2. The driver of a vehicle intending to turn to the left within an intersection, or into an alley, private road or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.

3. The driver of a vehicle on any street shall yield the right-of-way to a pedestrian crossing such street within any clearly marked crosswalk, or at any regular pedestrian crossing at the end of a block where the movement of traffic is being regulated by traffic officers or traffic direction devices. Every pedestrian crossing a street at any point other than a pedestrian crossing, crosswalk or intersection shall yield the right-of-way to vehicles upon the street.

4. The driver of a vehicle emerging from or entering an alley, building, private road or driveway shall yield the right-of-way to any pedestrian approaching on any sidewalk.

5. The driver of a vehicle entering a city street from a private road or drive shall yield the right-of-way to all vehicles approaching on such streets.

6. The driver of a vehicle upon a street shall yield the right-of-way to authorized emergency vehicles when the latter are operated upon official business and the drivers thereof make proper use of visible or audible signals. (Ref. Neb. Rev. Stat. §60-6,146 through 60-6,154)

SECTION 4-111 RIGHT-OF-WAY; EMERGENCY VEHICLES

Upon the approach of any authorized emergency vehicle, every vehicle within one block of the route of such emergency vehicle shall immediately stop, except at the time they are on or crossing a street intersection, in which event, such vehicle shall drive clear of the street intersection and then stop. Every vehicle along the route of such emergency vehicle shall immediately move to a position as near the right-hand curb as possible and remain there until such authorized emergency vehicle or vehicles have passed; provided, said vehicles are operated on official business and the drivers thereof make use of proper visual or audible signals. (Ref. Neb. Rev. Stat. §60-6,151)

SECTION 4-112 POSITION OF VEHICLE ON HIGHWAY; GENERALLY

Upon all highways of sufficient width, one-way streets excepted, the driver of a vehicle shall drive the same on the right half of the roadway. In passing or meeting other vehicles, drivers shall give each other at least one-half (½) of the main traveled portion of the roadway. (Ref. Neb. Rev. Stat. §60-6,131)

SECTION 4-113 POSITION OF VEHICLE ON HIGHWAY; PASSING

A vehicle shall not be driven to the left of the center line of the highway in overtaking or passing another vehicle proceeding in the same direction, unless such left side is clearly visible and free from oncoming traffic for a sufficient distance to permit such overtaking and passing to be made in safety. (Ref. Neb. Rev. Stat. §60-6,136)

SECTION 4-114 FUNERAL PROCESSIONS

No vehicle, except police vehicles, fire department vehicles when responding to emergency calls or orders in their several departments, ambulances responding to emergency calls or vehicles carrying U.S. mail shall be driven through a funeral procession or cortege except with the permission of a police officer.

SECTION 4-115 GLASS; POINTED OBJECTS

No person shall throw, cast, lay or place upon any street any thorns, nails, tacks, glass, bottles, window glass, or other articles made of or containing glass, and in case of an accident causing the

breaking of any glass upon any street, the owner or person responsible for such breakage shall at once remove or cause the same to be removed from the street.

SECTION 4-116 SIGNS, SIGNALS

The City Council may, by resolution, provide for the placing of stop signs or other signs, signals, standards or mechanical devices in any street or alley under the City's jurisdiction for the purpose of regulating or prohibiting traffic thereon. Such resolution shall describe the portion of the street or alley wherein traffic is to be regulated or prohibited; the regulation or prohibition; the location where such sign, signal, standard or mechanical device shall be placed; and the hours when such regulation or prohibition shall be effective. It shall be unlawful for any person to fail, neglect or refuse to comply with such regulation or prohibition. (Ref. Neb. Rev. Stat. §60-6,119 through 60-6,121, 60-680)

SECTION 4-117 STOP SIGNS

Every person operating any vehicle shall, upon approaching any stop sign erected in accordance with the resolution prescribed heretofore, cause such vehicle to come to a complete stop before entering or crossing any street, highway or railroad crossing. The vehicle operator shall stop at a marked stop line, or, if there is no stop line, before entering the crosswalk; but if neither is indicated, then as near the right-of-way line of the intersecting roadway as possible. (Ref. Neb. Rev. Stat. §60-6,119 through 60-6,121, 60-680)

SECTION 4-118 SIGNS, TRAFFIC CONTROL DEVICES, TRAFFIC SURVEILLANCE DEVICES; DEFACING OR INTERFERING WITH

It shall be unlawful for any person to willfully or maliciously deface, injure, remove, obstruct, knock down or interfere with any official traffic sign or signal, traffic control device, or traffic control surveillance device. (Ref. Neb. Rev. Stat. §60-6,129, 60-6,129.01)

SECTION 4-119 SIGNS; UNAUTHORIZED DISPLAY

It shall be unlawful for any person to maintain or display upon or in view of any street, any unofficial sign, signal or device which purports to be, is an imitation of, or resembles an official traffic sign or signal which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official sign or signal. Every such prohibited sign, signal or device is hereby declared to be a public nuisance, and any police officer is hereby empowered to remove the same, or cause it to be removed, without notice.

SECTION 4-120 LITTERING

It shall be unlawful for any person to drop, or cause to be left, upon any city highway, street or alley, except at places designated by the City Council, any rubbish, debris or waste, and any person so doing shall be guilty of littering.

SECTION 4-121 CROWDING; FRONT SEAT

Front occupancy of any motor vehicle while the same is in the process of being started or in motion within the corporate limits shall be limited to one driver and not more than two other persons over the age of 12 years. It shall be unlawful for any person to operate a motor vehicle upon any street when such person has in his/her lap or embrace another person, package or other encumbrance which prevents the free and unhampered operation of such vehicle.

SECTION 4-122 EMERGENCY SNOW ROUTES; DESIGNATION

The City Council may by resolution designate any street as a snow route and shall provide for appropriate signs or markings when such street has been so designated.

SECTION 4-123 SPEED LIMITS

1. Except as provided in 4-124 related to speed near schools and except as set forth in subsection 2 below, no person shall operate a motor vehicle on any street, alley or other place at a rate of speed greater than 25 miles per hour within the limits of the City. Provided, however, in no instance shall a person drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions. Where a different maximum speed is set by ordinance, appropriate signs shall be posted. Ref. RRS Neb. §§ 60-6,185; -6,186; and -6,190)

2. The following speed limits apply to the locations set opposite thereto:

20 mph	1ST Avenue from 7TH Street to 6TH Street
	S 6TH Street from 1ST Avenue to Main Street
	N 6TH Street from Avenue A to Main Street
	Avenue A from N 7TH Street to N 3RD Street
	N 7TH Street and S 7TH Street from Avenue A to 1ST Avenue
	N 5TH Street and S 5TH Street from Avenue A to 1ST Avenue
	N 4TH Street and S 4TH Street from Avenue A to 1ST Avenue
	N 3RD Street and S 3RD Street from Avenue A to 1ST Avenue
	Chicago Avenue from 1ST Avenue to 2ND Avenue
	Main Street from 7TH Street east to the BNSF railroad tracks
	E. Main Street from the BNSF railroad tracks to East Corporate Limits
	4TH Avenue from S 14TH to S 18TH
	Hill Street
	Valley Street
	S 1ST Street from Livingston Road to 5TH Avenue
	S 23RD Street from Avenue B to 1ST Avenue
35 mph	Chicago Avenue from 2ND Avenue to Hill Street
	S 15TH Street from Hill Street to South Corporate Limits
	Washington Avenue from North 9TH Street to North Corporate Limits
	Livingston Road from 300' Southeast of 1ST St. to East Corporate Limits at 600' Southeast of Silver Street

Old Highway 34 from Schneider Lane to S 15TH Street

3. The following speed limits are established for United States Highways 34 and 75:

Highway US-34/US-75

55 mph - Re-enter Corporate Limits at 270' South of Osage Ranch Road to Leave Corporate Limits at 370' North of Fulton Avenue

Amended – Ordinance No. 1766 5/19/2008; Ordinance No. 1768 6/2/2008; Ordinance No. 1781 1/5/2009; Ord No. 1948 1/7/2019; Ordinance No. 2026 11/4/2024; Ordinance No. 2028 11/18/2024

SECTION 4-124 SPEED NEAR SCHOOLS

It shall be unlawful for the driver of any vehicle, when passing premises on which school buildings are located and which are used for school purposes during school recess or while children are going to or leaving school during the opening or closing hours, to drive such vehicle at a rate of speed in excess of 20 miles per hour past such premises and such driver shall stop at all stop signs located at or near such school premises.

SECTION 4-125 SPEED; ELECTRONIC DETECTION

Determinations made regarding the speed of any motor vehicle based upon the visual observation of any law enforcement officer may be corroborated by the use of radio microwaves or other electronic device. The results of such radio microwave or other electronic speed measurement may be accepted as competent evidence of the speed of such motor vehicle in any court or legal proceeding when the speed of the vehicle is at issue. Before the City may offer in evidence the results of such radio microwave or other electronic speed measurement for the purpose of establishing the speed of any motor vehicle, the City shall prove the following:

A. The measuring device was in proper working order at the time of conducting the measurement;
B. The measuring device was being operated in such a manner and under such conditions so as to allow a minimum possibility of distortion or outside interference;
C. The person operating such device and interpreting such measurement was qualified by training and experience to properly test and operate the device; and
D. The operator conducted external tests of accuracy upon the measuring device, within a reasonable time both prior to and subsequent to an arrest being made, and the measuring device was found to be in proper working order.

The driver of any such motor vehicle may be arrested without a warrant under the authority herein granted if the arresting officer is in uniform or displays his or her badge of authority; provided that such officer shall have observed the recording of the speed of such motor vehicle by the radio microwaves or other electronic device or had received a radio message from the officer who observed the speed of the motor vehicle recorded by the radio microwaves or other electronic device. In the event of an arrest based on such a message, such radio message must have been

dispatched immediately after the speed of the motor vehicle had been recorded, and must include a description of the vehicle and the recorded speed. (Ref. Neb. Rev. Stat. §60-6,192)

SECTION 4-126 NEGLIGENT DRIVING

Any person who operates a motor vehicle in such a manner as to indicate a want of ordinary care and caution that a person of ordinary prudence would use under like circumstances shall be deemed guilty of negligent driving. (Ref. Neb. Rev. Stat. §60-4,182)

SECTION 4-127 CARELESS DRIVING

Any person who drives any motor vehicle in this City carelessly or without due caution so as to endanger a person or property shall be guilty of careless driving. (Ref. Neb. Rev. Stat. §60-6,212)

SECTION 4-128 BACKING

It shall be unlawful for any person to back a motor vehicle on the city streets except to park in or to remove the vehicle from a permitted parking position, to move the vehicle from a driveway, or to back to the curb for unloading where such unloading is permitted; provided, a vehicle shall be backed only when such movement can be made in safety and in no case shall the distance of the backing exceed one and one-half lengths of the vehicle. Before backing, ample warning shall be given and while backing, unceasing vigilance must be exercised not to injure those behind. The driver of a parked vehicle about to back shall give moving vehicles the right-of-way. (Ref. Neb. Rev. Stat. §60-6,169, 60-680)

SECTION 4-129 UNNECESSARY STOPPING

It shall be unlawful for any person to stop any vehicle on any public street or alley, other than in permitted parking areas, except when such a stop is necessary for emergency situations, to comply with traffic control devices and regulations, or to yield the right-of-way to pedestrians or to other vehicles.

SECTION 4-130 DRAGGING; ROPE, CHAIN

No person shall permit any rope, strap, chain or other article to drop behind any vehicle while in use on the streets, except persons operating vehicles transporting gasoline, benzene or other flammable materials.

SECTION 4-131 PASSING; HINDRANCE

The driver of a vehicle about to be overtaken and passed by another vehicle shall not increase the speed of his/her vehicle until completely passed by the overtaking vehicle. (Ref. Neb. Rev. Stat. §60-6,133)

SECTION 4-132 DRIVING ABREAST

Two or more vehicles shall not be driven abreast except when passing or when traversing a multilane or one-way street; provided, motorcycles may be driven no more than two abreast in a single lane. (Ref. Neb. Rev. Stat. §60-6,139, 60-6,308)

SECTION 4-133 FOLLOWING; DISTANCE

The operator of a vehicle shall not follow another vehicle more closely than is reasonable and prudent having due regard for the speed of the vehicles, the traffic and condition of the street. (Ref. Neb. Rev. Stat. §60-6,140)

SECTION 4-134 DRIVING IN SIDEWALK SPACE

No motor vehicle or livestock shall be driven or ridden within any sidewalk space, except a permanent or temporary driveway. (Ref. Neb. Rev. Stat. §60-6,178)

SECTION 4-135 DRIVING OFF ROADS IN PARK GROUNDS; PROHIBITED

It shall be unlawful for any person to operate any motor vehicle in the city parks except on roads and parking lots provided for that purpose.

SECTION 4-136 ~~VEHICLE; MUFFLER~~

Repealed – Ordinance No. 1719 9/6/2005; See 3-901 through 3-912

SECTION 4-137 EMERGENCY REGULATIONS

The chief of police is hereby empowered to make and enforce temporary traffic regulations to cover emergencies. (Ref. Neb. Rev. Stat. §80-2005)

SECTION 4-138 POLICE; ENFORCEMENT

The city police are hereby authorized, empowered and ordered to exercise all powers and duties with relation to the management of street traffic and to direct, control, stop, restrict, regulate, and, when necessary, temporarily divert or exclude, in the interest of public safety health and convenience, the movement of pedestrian, animal and vehicular traffic of every kind in streets, parks, and on bridges. The driver of any vehicle shall stop upon the signal of any police officer. (Ref. Neb. Rev. Stat. §60-683)

SECTION 4-139 POLICE; REFUSAL TO OBEY

It shall be unlawful for any person to refuse or fail to comply with any lawful order, signal or direction of a police officer. (Ref. Neb. Rev. Stat. §60-680)

SECTION 4-140 POLICE; TRAFFIC OFFICERS

The City Council or the city police may at any time detail officers, to be known as "traffic officers," at street intersections. All traffic officers shall be vested with the authority to regulate and control traffic at the intersections to which they are assigned. It shall be their duty to direct the movement of traffic and prevent congestion and accidents. It shall be unlawful for any person to violate any order or signal of any such traffic officer, notwithstanding the directive of a stop sign or signal device which may have been placed at any such intersection. (Ref. Neb. Rev. Stat. §60-680, 60-683)

SECTION 4-141 LOADS; PROJECTING

When any vehicle shall be loaded in such a manner that any portion of the load extends more than four feet beyond the rear of the bed or the body of such vehicle, a red flag shall be carried by day, and red light after sunset at the extreme rear end of such load. (Ref. Neb. Rev. Stat. §60-6,243)

SECTION 4-142 LOADS; SPILLING

All vehicles used for carrying coal, earth, cinders, sand, gravel, rock, asphalt, tar, or any similar substance shall be so constructed as to prevent the sifting or spilling of any of the contents. (Ref. Neb. Rev. Stat. §60-6,304)

SECTION 4-143 SPILLING OF LIVESTOCK WASTE

It is deemed unlawful for any person to permit the spilling of animal wastes and manure from any livestock trailer or truck on any street or highway within the corporate limits of the City.

SECTION 4-144 SEMITRACTORS; PROHIBITED NOISES

It is unlawful for any person in any part of the City to make or cause to be made loud or disturbing noises with any mechanical devices operated by compressed air and used for purposes of assisting braking on any semitractor, straight truck or dump truck, commonly referred to as jakebraking. Notices shall posted at various locations within the City indicating this prohibition.

Repealed – Ordinance No. 1719 9/6/2005; Enacted Ordinance No. 1881 9/15/2014

SECTION 4-144.01 TRUCK ROUTES

1. The following definitions shall apply to this ordinance:

    (a) Road means any street, highway or route within the corporate limits of the City of Plattsmouth, Nebraska.

    (b) Semi-trailer means every vehicle with or without motive power, designed for carrying persons or property and for being drawn by a motor vehicle and so

constructed that some part of its weight and that of its load rests upon what is carried by some other vehicle.

(c) Trailer means every vehicle with or without motive power, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

(d) Truck means every motor vehicle which is designed, used or maintained primarily for the transportation of property, except a pickup truck or a van designed so as to carry loads of no more than two tons.

(e) Truck tractor means every motor vehicle designed and used primarily for drawing other vehicles, and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(f) Person includes an agency, company, organization, firm, association, partnership, joint venture, corporation, limited liability company, trust or equivalent entity or a combination of any of them as well as a natural person.

2. Any word or term not defined herein shall be considered to be defined in accordance with its common or standard definition.

3. United States Highway 34 and Nebraska Highway 66 in the City of Plattsmouth, Nebraska, to the exclusion of all other roads, are hereby designated as Truck Routes and classified for truck traffic.

4. Except as expressly permitted under this Ordinance, no person shall operate a truck or truck-tractor and semi-trailer or truck-tractor and trailer combination, or truck and trailer combination in Plattsmouth, Nebraska, on any road other than a designated Truck Route.

5. The Truck Route limitations described in this Ordinance shall not apply to emergency vehicles of the Police Department, Fire Department, Emergency Medical Services Department, or Street Department, any public utility vehicle where actually engaged in the performance of emergency duties to be performed by said public utilities, any vehicle owned by or performing work for the United States of America, State of Nebraska, Cass County or City of Plattsmouth.

6. A vehicle which would otherwise be restricted to Truck Routes and which is being used to make pick-ups, deliveries or service calls in the City of Plattsmouth on roads other than designated Truck Routes may travel upon any street where such delivery or pick-up is to be made, but shall reach or leave such location on said street by traveling over the shortest route from the nearest designated Truck Route; however, a direct travel shall be allowed between points of pick up or delivery, without necessity of returning to Truck Routes.

7. Nothing herein contained shall prevent a truck or truck-trailer and semi-trailer, or truck tractor and trailer combination, or truck and trailer combination from leaving or returning to its customary storage location at the owner or operator’s personal residence or a commercial or

industrial location in the City of Plattsmouth, provided the most direct route to and from a designated Truck Route is utilized.

8. The City Administrator, Public Works Director or the Assistant Public Works Director shall have authority to grant a written permit in special cases which would otherwise be in violation of the provisions of this Ordinance. The permit shall be issued, at the discretion of the City Administrator, Public Works Director or the Assistant Public Works Director, after application therefore and shall describe the vehicle, the time and dates of travel, and the route to be taken by the vehicle. The City Council may, by Ordinance or Resolution, set a fee for special permits.

9. The City Administrator, or his or her agent, shall procure and have posted appropriate signs along the designated Truck Routes and all other entrances to town as required by the laws of the State of Nebraska to so advise of the Truck Routes.

10. This Ordinance and the various parts, sections, subsections, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, subsection, phrase or clause is adjudged unconstitutional or invalid, it is hereby declared that the remainder of this Ordinance shall not be affected thereby.

11. Any person who violates this provision shall be deemed guilty of a misdemeanor and, upon conviction thereof, subject to fine of not less than $250 nor more than $500.00 dollars for each offense. It is hereby authorized that a person may plead guilty by waiver and pay a fine of $100.00 plus court costs.

Enacted - Ordinance No. 1837 10/3/2011 as 4-144; Ordinance No. 1857 3/4/2013 as 4-144; Ordinance No. 1898 8/3/2015)

SECTION 4-145 RIDING OUTSIDE VEHICLE

No person shall permit any other person to ride on the running board, hood, top or fenders of any motor vehicle, nor shall any person ride on the running board, hood, top or fenders of any motor vehicle.

SECTION 4-146 SCREECHING OF TIRES; PROHIBITED

The operation of any motor vehicle in such a manner as to cause the tires thereof to screech, except where necessarily caused by an emergency or an attempt by the vehicle operator to avoid an accident or infliction of damage or injury, is prohibited. (Ref. Neb. Rev. Stat. §60-680)

SECTION 4-147 BUS STOPS

All buses shall stop at the curb for the purpose of receiving and discharging passengers, at such locations as the City Council may, by resolution, designate. Appropriate signs or standards shall be erected at each location so designated. Alternately, the location may be designated by markings on the curb or pavement.

SECTION 4-148 TAXI STANDS

The City Council may, by resolution, designate parking locations throughout the City for licensed taxicabs. Appropriate signs or street or curb painting shall indicate the locations designated. When a location is designated as a taxi stand, no other vehicle may legally park in that location.

SECTION 4-149 RAILROAD CROSSING WATCHMAN; AUTHORITY

All watchmen, gatemen, trainmen or other agents of any railroad company, when stationed at a railway crossing, shall be vested with the authority to regulate and control traffic of all kinds at that intersection. It shall be his/her duty to direct the movement of traffic at the crossing in such a manner as will facilitate the movement of traffic and prevent congestion and accidents. He/she shall take appropriate measures to prevent any vehicle from entering the crossing when any engine, care or conveyance of the railway is approaching the crossing. It shall be unlawful for any person to violate the order or signal of any such watchman. (Neb. Rev. Stat. §60-6,125, 60-6,170)

SECTION 4-150 DISPLAY OF MERCHANDISE IN PARKING ZONE

It shall be unlawful for any person to use any parking stall, lane or space for the display of merchandise, goods or ware, or for any purpose whatsoever except the parking of motor vehicles; and no parking stall, lane or space shall be blocked or barricaded by any person; provided, however, parking areas may be temporarily blocked, used or barricaded for construction and other necessary purposes by obtaining special permission therefor from the city police. (Ref. Neb. Rev. Stat. §16-802)

SECTION 4-151 NEW PAVEMENT, DRIVING OVER

No person shall drive any vehicle over or across any newly laid pavement in any public street, across or around which pavement there is a barrier over or near which there is a person or a sign warning persons not to driver over or across such pavement. No person shall drive a vehicle over, against or upon any traffic barrier or sign stating that the street or alley is closed.

SECTION 4-152 VEHICLES; UNOBSTRUCTED VIEW

No person shall drive on a street any motor vehicle constructed or loaded in such a way as to prevent the driver from obtaining a view of the street to the rear unless such vehicle is equipped with a mirror so located as to reflect to the driver a view of the street for a distance of at least 200 feet to the rear of such vehicle. It shall be unlawful for any person to drive upon a street any vehicle with a sign, poster or other non-transparent material upon the front windshield, side windows or rear windows of such motor vehicle other than a certificate or paper required to be so displayed by law. Every windshield on a motor vehicle shall be equipped with a device for removing rain, snow or other moisture from the windshield, which device shall be so constructed as to be operated by the driver within the vehicle. (Neb. Rev. Stat. §60-6,254 through 60-6,256)

ARTICLE II - ABANDONED VEHICLES

SECTION 4-201 TERMS DEFINED

No person, firm, partnership, association, corporation or organization of any kind shall abandon any vehicle, as defined by Section 60-301(1), R.R.S. 1943, within the City of Plattsmouth. A motor vehicle shall be deemed to be an abandoned vehicle if left unattended:

1. With no number plates affixed thereto, for more than six hours on any public property;

2. For more than 24 hours on any public property, except a portion thereof on which parking is legally permitted;

3. For more than 48 hours, after the parking of such vehicle shall have become illegal if left on a portion of public property on which parking is legally permitted;

4. For more than seven days on private property if left initially without the permission of the owner, or after permission of the owner shall be terminated.

No person in charge or control of any private property, whether as owner, tenant, occupant, lessee or otherwise, shall allow any partially dismantled, nonoperating, wrecked, junked, discarded or unlicensed vehicle to remain on such property longer than seven continuous days. Any vehicle described in this paragraph shall be deemed to be an abandoned vehicle for purposes of this article.

For purposes of this article, "public property" shall mean (A) any public right of way, street, highway, alley, park or other city-owned property, and (B) any privately owned property which is not included within the definition of public property. Vehicles in an enclosed building, appropriate storage pound, or depository licensed by the City, or owned and being restored or repaired, with satisfactory progress being shown by the controller of the real property where said vehicle is located, is specifically hereby excluded from this section.

SECTION 4-202 ENFORCEMENT

The city police chief or his/her designated officer shall remove or cause to be removed any abandoned vehicle. Such vehicle shall be impounded until lawfully claimed or disposed of, as provided in Section 4-204 hereafter; provided, any such abandoned vehicle which is located on private property shall not be removed or impounded until the city police have given written notice of intent to remove said abandoned vehicle ten days prior thereto to the property owner upon whose property said abandoned vehicle is located. The city police may enter upon private property at all reasonable hours for the purpose of inspecting such abandoned vehicle, posting notice thereon and/or removing or impounding such abandoned vehicle. It shall be unlawful for any person to prevent the city police from entering on private property for the purpose of carrying out their duties. Neither the owner, lessee, occupant of the premises from which any abandoned vehicle shall be removed, nor the city shall be liable for any loss or damage to such abandoned vehicle which occurs during its removal, while in the possession of the City, or as a result of any subsequent disposition.

SECTION 4-203 NOTICE

Except for vehicles automatically becoming the property of the City as set forth in Section 4-205 hereunder, the chief of police or his/her designated officer shall make an inquiry concerning the last registered owner of such abandoned vehicle as follows:

1. Abandoned vehicles with numbered plates affixed---to the jurisdiction which issued said plates; or

2. Abandoned vehicles with no numbered plates affixed---to the Department of Motor Vehicles.

The city police shall notify the last registered owner, if any, that the vehicle in question has been recovered as an abandoned vehicle and that, if unclaimed, it will be sold at public auction after five days from the date that such notice was mailed. If the agency described in Subsections 1 or 2 of this section also notifies the city police that a lien or mortgage exists, such notice shall also be sent to the lien holder or mortgagee. Any person claiming such vehicle shall be required to pay the cost of its removal and storage. In the event the owner does not appear within the time prescribed herein, or in the event that the owner cannot be determined, such abandoned vehicle shall be disposed of as hereinafter provided.

SECTION 4-204 DISPOSITION

The city police shall sell said abandoned vehicle at public auction to the highest bidder within 60 days from the date that title to an abandoned vehicle is vested in the City as provided for in Section 4-205 hereafter. Such sale and the time and place thereof shall be advertised for one week in a newspaper of general circulation in the City. Any proceeds from the sale of an abandoned vehicle, less any expenses incurred by the City, shall be held by the City without interest for the benefit of the owner of such abandoned vehicle for a period of two years. If not claimed within such two year period, such proceeds shall be paid into the general fund of the City.

SECTION 4-205 TRANSFER OF TITLE

If an abandoned vehicle at the time of abandonment has no numbered plates of the current year affixed and is of a wholesale value of $250.00 or less, taking into consideration the vehicle's condition as determined by the city police, title shall immediately vest in the City and the city police are not required to follow Section 4-203 herein. With respect to those abandoned vehicles governed by Section 4-203 herein, title to such vehicles, if unclaimed, shall vest in the City five days from the date the notice referred to therein is mailed or, if the last registered owner cannot be determined, when notice of that fact is received by the city police. Upon the sale of an abandoned vehicle at auction, the City shall furnish the purchaser with the requisite affidavit to provide to the county clerk where the vehicle was last registered that said vehicle was abandoned and became the property of the City prior to the sale. (Ref. Neb. Rev. Stat. §60-1902)

SECTION 4-206 PENAL PROVISIONS

Any person who violates any of the prohibitions or provisions of this article shall be deemed guilty of a misdemeanor and fined in a sum of not more than $500.00.

ARTICLE III - PARKING

SECTION 4-301 PARKING GENERALLY

No person shall park any vehicle, or approach the curb with a vehicle, except when headed in the direction of the traffic. Vehicles, when parked, shall stand parallel with and adjacent to the curb or edge of the roadway, in such manner as to have both right wheels within 12" of the curb or edge of the roadway and so as to leave at least four feet between the vehicle so parked and any other parked vehicle, except where the City Council designates that vehicles shall be parked at an angle so as to have the front right wheel at the curb or edge of the roadway. Where stalls are designated either on the curb or pavement, vehicles shall be parked within such stalls. No vehicle shall be parked upon a roadway when there is a shoulder adjacent to the roadway which is available for parking. (Ref. Neb. Rev. Stat. §60-680, 60-6,167)

SECTION 4-302 DESIGNATION

The City Council may, by resolution, designate any street or portion thereof where vehicles shall be parked parallel with and adjacent to the curb or at an angle so as to have the right front wheel at the curb. (Ref. Neb. Rev. Stat. §60-6,167, 60-680)

SECTION 4-303 AREAS

The City Council may, by resolution, set aside any street, alley, public way or portion thereof where the parking of a particular kind or class of vehicle shall be prohibited or where the parking of any vehicle shall be prohibited. No vehicle prohibited from parking thereon shall stand or be parked adjacent to the curb of said street, alley, public way or portion thereof longer than a period of time necessary to load and unload freight or passengers. (Ref. Neb. Rev. Stat. §60-680)

SECTION 4-304 OBSTRUCTING ALLEY

No vehicle, while parked, shall have any portion thereof projecting into any alley entrance. (Ref. Neb. Rev. Stat. §60-680)

SECTION 4-305 ALLEYS

No vehicle shall be parked in any alley, except for the sole purpose of loading or unloading. Said vehicles' motors shall remain in operation while said vehicles are parked in the above described alleys and in any event, parking shall be limited to not more than one-half hour by any motor vehicle in such alley. Every vehicle while loading or unloading shall be parked in such manner as will cause the least obstruction possible to traffic in such alley. (Ref. Neb. Rev. Stat. §60-680)

SECTION 4-306 EMERGENCY VEHICLES

The provisions of this article regulating the movement, parking and standing of vehicles shall not apply to authorized emergency vehicles while the driver of such vehicle is operating the same in an emergency in the necessary performance of public duties.

SECTION 4-307 FIRE HYDRANTS AND STATIONS

No vehicle shall be parked within 15 feet in either direction of any fire hydrant nor within 20 feet of the driveway entrance to any fire station. (Ref. Neb. Rev. Stat. §60-6,166)

SECTION 4-308 CHURCHES, SCHOOLS, THEATERS

The City Council may, by resolution, prohibit the parking or stopping except for unloading of passengers or freight, of vehicles at the curb on streets directly in front of any entrance to a church, church building, schoolhouse, school building, or theater. (Ref. Neb. Rev. Stat. §60-680)

SECTION 4-309 CURB

No vehicle shall park on any street with its left side to the curb, unless said street has been designated to be a "one-way" street by the City Council. Vehicles must not be parked at any curb in such a position as to prevent another vehicle already parked at the curb from moving away. (Ref. Neb. Rev. Stat. §60-6,167)

SECTION 4-310 CURBS, PAINTED

It shall be the duty of the public works director or his/her designee to cause the curb space to be painted and keep the same painted as provided in this article. No person, firm or corporation shall paint the curb of any street, or in any manner set aside or attempt to prevent the parking of vehicles in any street, or part thereof, except at such places where the parking of vehicles is prohibited by the provisions of this article. The marking or designating of portions of streets or alleys where the parking of vehicles is prohibited or limited shall be done only by the City through its proper officers, at the direction of the City Council. (Ref. Neb. Rev. Stat. §60-680)

SECTION 4-311 DISPLAY OR REPAIR OF VEHICLES

It shall be unlawful for any person to park upon any street, alley or public place within this city any vehicle displayed for sale. No person shall adjust or repair any automobile or motorcycle, or race the motor of same, while standing on the public streets or alleys of this city, excepting in case of breakdown or other emergency requiring same. No person or employee connected with a garage or repair shop shall use sidewalks, streets or alleys in the vicinity of such garage or shop for the purpose of working on automobiles or vehicles of any description. (Ref. Neb. Rev. Stat. §60-680)

SECTION 4-312 TIME LIMIT

The City Council may, by resolution, entirely prohibit or fix a time limit for the parking and stopping of vehicles on any street, streets or district designated by such resolution, and the parking or stopping of any vehicle in any such street, streets or district for a period of time longer than fixed in such resolution shall constitute a violation of this article. The street which have any such time limitations shall have appropriate signs placed thereon to designate the same. (Ref. Neb. Rev. Stat. §60-680)

SECTION 4-313 MAXIMUM TIME LIMIT

The parking of a vehicle on a public street for over 24 consecutive hours is unlawful, except where a different maximum time limit is posted. (Ref. Neb. Rev. Stat. §§60-680)

Amended – Ordinance No. 2011 12/4/2023

SECTION 4-314 FLOOD AND SNOW ZONES

The following streets and parking lot areas are hereby designated as flood and snow zones in the City:

(a) Sixth Street, from Avenue A to First Avenue.
(b) Main Street, from the Burlington Northern Railroad right-of-way to the west curb line of Sixth Street inclusive.
(c) The city parking lot located west of Fourth Street between First Avenue and the alley north of First Avenue.

In the designated areas above, no motorized vehicle (except those authorized by Section 4-315 below) shall be parked or permitted to remain thereon for more than ten minutes between the hours of 2:00 A.M. and 6:00 A.M., throughout the year; provided, the owner of any vehicle parked within the above-designated areas during the prohibited time shall not be in violation hereof if the parking can be justified under a lawful business purpose and the vehicle remains subject to immediate removal as directed. (Ref. Neb. Rev. Stat. §60-680)

SECTION 4-315 FLOOD AND SNOW ZONES; EXEMPTIONS, CONDITIONS

In the areas designated in Section 4-314 as prohibited parking areas, the following residents shall be entitled to park a single motor vehicle in such designated areas:

Adult residents who reside in an apartment on Main Street between Third and Sixth Streets, or on Sixth Street from Avenue A to First Avenue.

Such parking exceptions shall be permitted under the following conditions:

1. That such parking shall be limited to one vehicle per apartment.

2. Parking under such permit shall be limited to one vehicle per apartment and only during the hours of 6:00 P.M. to 6:00 A.M. each day.

3. Such permitted parking shall be subject to immediate removal by the owner or proper city personnel as required for snow removal or flood damage prevention. Parking in these areas is prohibited during the hours of 2:00 A.M. to 6:00 A.M. following a snowfall of two inches or more. Vehicle not removed may be towed by a wrecker service at the owner's expense.

4. That the owner of the vehicle qualified for such parking exemption shall, prior to exercising the parking privilege:

    a. Secure and complete an application and registration form with the city clerk's office, describing the vehicle, the address of residence and phone number.

    b. Secure approval of such application, and obtain from the city clerk's office, a sticker or decal identifying the registered vehicle and owner.

    c. That the sticker or decal shall be affixed to either the rearview mirror of the vehicle or its rear windshield.

    d. Issuance of a permit is subject to the payment of the required fee and is valid for six months from the date of issuance.

In absence of compliance with these conditions, all parking regulations as set forth in this article shall apply to any such vehicle.

SECTION 4-316 TRUCKS; PROHIBITED PARKING AREA; PARKING LOTS

It shall be unlawful for any truck, truck-tractor, semi-trailer, or any vehicle with a trailer attached having an overall length of more than 18 feet, including load, to stop or park such vehicle for any period of time on any street in the City where the City Council shall prohibit such parking by resolution. In the case of such prohibition, signs, markers or traffic standards shall be to that effect.

The City Council may provide truck parking lots adjoining or adjacent to the no-truck parking area. When such lots are provided, it shall be the duty of the truck operators to use such lots for parking purposes.

SECTION 4-317 TRUCKS; LOADING OR UNLOADING

The operator of any truck covered by the truck parking area prohibition may stop or park in any alley adjoining or adjacent to premises abutting a street included in the "no-truck parking area" for the purpose of loading or unloading goods, wares, merchandise or other commodities intended for delivery at such premises. In no case shall such truck remain stopped longer than one-half hour. If stopping or parking such vehicle for loading or unloading its cargo in such alley requires a longer time, then oral application shall be made to the chief of police indicating that such loading or unloading cannot be accomplished in one-half hour. The chief of police may grant and allow such additional time for such loading or unloading, in each instance, as is reasonably necessary to do so.

If such consignor or consignee has no alley entrance to his/her premises or if loading or unloading the cargo of such vehicle while standing in such alley is inconvenient, then such consignor may be permitted or allowed to load or unload such cargo from certain designated street space abutting his/her premises in the "no-truck parking area" for such periods of time, not longer than one-half hour, upon oral application to and permission from the chief of police, who may extend the one-

half hour period in necessary cases.

Vehicles, regardless of length, if and when permitted to load or unload freight at the curb of any street, shall back to the curb and shall occupy as little of the street as possible. The cab, truck-tractor or first section of the combination of vehicles, as the case may be, shall during the time when the loading or unloading is in progress, be jack-knifed parallel with the curb and headed in the direction of the traffic. (Ref. Neb. Rev. Stat. §60-680)

SECTION 4-318 TRUCKS; MOTOR CARRIERS AND LIVESTOCK TRUCKS

No motor carrier, common carrier or contract carrier of property, as defined by statute, now existing or as hereafter amended, shall stop or park in any street or alley within the residential district between the hours of 5:00 P.M. of any one day and 9:00 A.M. of the succeeding day; and no such carrier shall use or employ any portion of the parking space in the residential district for any commercial purpose.

No livestock truck, whether or not loaded with livestock, shall stand or park for any period of time except in a "truck parking area." (Ref. Neb. Rev. Stat. §75-302)

SECTION 4-319 TRUCKS; TANKERS AND TRANSPORT TRUCKS

No oil tanker, gasoline transport or tank truck for transporting inflammable liquids, loaded or empty, shall park or stop for any period of time within any truck parking lot provided in this article or within the limits of any other street or alley of the City, except to load or unload its cargo in a safe and expeditious manner; provided that drivers of such oil tankers, gasoline transports or tank trucks may stop or park such vehicles one time while en route through the City within the limits of any truck parking lot designated in this article for a period of time not more than 30 minutes for rest and meals; provided further that in case of breakdown or stalling on account of exhaustion of fuel on any of such streets, the stopping of the disabled vehicle for the reasonable time necessary to remove the same to the next point where repairs can be made or to meet the emergency shall not be a violation of this section. No oil tanker, gasoline transport or tank truck, whether containing any inflammable materials or not, shall park or stop for any period of time on any private premises within the City except for the purpose of loading or unloading or breakdowns, unless such private premise is used and employed exclusively for the wholesale or retail petroleum business with ample facilities for parking oil tankers and gasoline transports or tank trucks if such use is not in violation with any other section of this code.

SECTION 4-320 HANDICAPPED OR DISABLED PERSONS; DESIGNATION OF ONSTREET PARKING SPACES; DISPLAY OF PERMITS

1. The City Council may designate parking spaces for the exclusive use of (a) handicapped or disabled persons whose motor vehicles display the distinguishing license plates issued to handicapped or disabled persons pursuant to Section 60-311.14 RS Neb., (b) handicapped or disabled persons whose motor vehicles display a distinguishing license plate issued to a handicapped or disabled person of another state, (c) such other handicapped or disabled persons or temporarily handicapped or disabled persons, as certified by the City, whose motor

vehicles display the permit specified in Section 18-1739, and (d) such other motor vehicles, as certified by the City, which display such permit. All such permits shall be displayed by hanging the permit from the motor vehicle's rearview mirror so as to be clearly visible through the front windshield. The permit shall be displayed on the dashboard only when there is no rearview mirror.

2. If the City Council so designates a parking space, it shall be indicated by posting aboveground and immediately adjacent to and visible from each space a sign which is in conformance with the Manual on Uniform Traffic Control Devices. In addition to such sign, the space may also be indicated by blue paint on the curb or edge of the street adjacent to the space. (Ref. Neb. Rev. Stat. §18-1736, 18-1737)

SECTION 4-321 HANDICAPPED OR DISABLED PERSONS; DESIGNATION OF OFFSTREET PARKING STALLS OR SPACES

The City Council and any person in lawful possession of any off-street parking facility may designate stalls or spaces in such facility for the exclusive use of (a) handicapped or disabled persons whose motor vehicles display the distinguishing license plates issued to handicapped or disabled persons pursuant to Section 60-311.14 RS Neb., (b) such other handicapped or disabled persons or temporarily handicapped or disabled persons, as certified by the City, whose motor vehicles display the permit specified in Section 18-1739, and (c) such other motor vehicles, as certified by the City, which display such permit. Such designation shall be made by posting aboveground and immediately adjacent to and visible from each stall or space a sign which is in conformance with the Manual on Uniform Traffic Control Devices. (Ref. Neb. Rev. Stat. §18-1737)

SECTION 4-322 HANDICAPPED OR DISABLED PERSONS; DEFINITIONS

“Handicapped or disabled person” shall mean any individual to whom the State of Nebraska has issued a handicap permit.

“Handicapped parking infraction” shall mean the violation of any section of this article regulating (a) the use of parking spaces designated for use by handicapped or disabled persons or (b) the obstruction of any wheelchair ramps constructed or created in accordance and in conformity with the federal Americans with Disabilities Act of 1990. (Ref. Neb. Rev. Stat. §18-1738, 18-1741.01)

SECTION 4-323 HANDICAPPED OR DISABLED PERSONS; PERMIT ISSUANCE

1. The city clerk shall take an application for a handicapped or disabled person parking permit upon presentation of the completed application and photo identification. Thereafter the city clerk shall forward the same to the Nebraska Department of Motor Vehicles. (Ref. Neb. Rev. Stat. §18-1738, 18-1738.02)

SECTION 4-324 HANDICAPPED OR DISABLED PERSONS; ISSUANCE OF CITATION; TRIAL; DISMISSAL

1. For any offense classified as a handicapped parking infraction, a handicapped parking citation may be issued by any peace officer or by any person designated by ordinance by the City Council to exercise the authority to issue a citation for any handicapped parking infraction.

2. When a handicapped parking citation is issued for a handicapped parking infraction, the person issuing the handicapped parking citation shall enter thereon all required information, including the name and address of the cited person or, if not known, the license number and description of the offending motor vehicles, the offense charged, and the time and place the person is cited to appear in court. Unless the person cited requests an earlier date, the time of appearance shall be at least three days after the issuance of the handicapped parking citation. One copy of the handicapped parking citation shall be delivered to the person cited or attached to the offending motor vehicle.

3. At least 24 hours before the time to set for the appearance of the cited person, either the city attorney or other person authorized by law to issue a complaint for the particular offense shall issue and file a complaint charging such person with a handicapped parking infraction or such person shall be released from the obligation to appear as specified.

4. For any handicapped parking citation issued for a handicapped parking infraction by reason of the failure to display a handicapped parking permit issued pursuant to Section 18-1738 or 18-1738.01 RS Neb., the complaint shall be dismissed if, within seven business days after the date of the issuance of the citation the person cited files with the court the affidavit included on the citation, signed by a peace officer certifying that the recipient is the lawful possessor in his or her own right of a handicapped parking permit issued under Section 18-1738 or 18-1738.01 RS Neb. and that the peace officer has personally viewed the permit. (Ref. Neb. Rev. Stat. §18-1741.01, 18-1741.04, 18-1741.06)

SECTION 4-325 HANDICAPPED OR DISABLED PERSONS; REMOVAL OF UNAUTHORIZED VEHICLE; PENALTY

1. The owner or person in lawful possession of an off-street parking facility, after notifying the police or sheriff's department and the City providing on-street parking or owning, operating or providing an off-street parking facility, may cause the removal, from a stall or space designated exclusively for handicapped or disabled persons or temporarily handicapped or disabled persons or motor vehicles for the transportation of such persons, of any vehicle not displaying the proper permit or the distinguishing license plates specified in this article if there is posted aboveground and immediately adjacent to and visible from such stall or space a sign which clearly and conspicuously states the area so designated as a tow-in zone.

2. Anyone who parks a vehicle in any on-street parking space which has been designated exclusively for handicapped or disabled persons or temporarily handicapped or disabled persons or motor vehicles for the transportation of such persons or in any so exclusively

designated parking space in any off-street parking facility without properly displaying the proper permit or when the handicapped or disabled person to whom or for whom the license plate or permit is issued will not enter or exit the vehicle where it is parked in the designated space shall be guilty of a handicapped parking infraction. The display on a motor vehicle of a distinguishing license plate or permit issued to a handicapped or disabled person by and under the duly constituted authority of another state shall constitute a full and complete defense in any action for a handicapped parking infraction. If the identity of the person who parked the vehicle in violation of this section cannot be readily determined, the owner or person in whose name the vehicle is registered shall be held prima facie responsible for such violation and shall be guilty and subject to the penalty provided for in this chapter.

3. In the case of a privately owned off-street parking facility, the owner or person in lawful possession of such facility shall not be required to inform the City of a violation of this section prior to the City issuing the violator a handicapped parking infraction citation.

SECTION 4-326 OWNER-OPERATOR

For any violation of this article the citation or complaint may be issued to or against either the owner or operator of the vehicle. It shall be unlawful for either to violate or allow a vehicle owned by him/her to violate any provision of this article.

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SECTION 4-331 CITY-OWNED PARKING LOTS; REGULATIONS

The following regulations in regard to the city-owned parking lot shall apply:

1. Except in those lots otherwise signed, the time limit permitted for parking in city-owned parking lots is 24 hours Monday through Friday and 48 hours on Saturday and Sunday.

2. Trailers and large trucks in excess of 10,000 lbs. gross motor vehicle weight may be allowed only for the purpose of expeditious loading and/or unloading. Authorization for such use may be granted by the Director of Public Works or Chief of Police. Closing of any parking lots for special events shall require City Council authorization.

Amended – Ordinance No. 1823 2/7/2011

SECTION 4-332 REMOVAL OF ILLEGALLY PARKED VEHICLES

1. In addition to all other penalties pursuant to this article, whenever any police officer shall find a vehicle standing upon a street, alley, or city-owned parking lot in violation of any of the provisions of this article, such individual may remove or have such vehicle removed, or require the driver or other person in charge of the vehicle to move such vehicle to a position off the

roadway of such street, alley or out of such parking lot.

2. If a vehicle is removed by the City, the owner or other person lawfully entitled to the possession of any vehicle towed or stored shall be charged with the reasonable cost of towing and storage. Any such towing or storage fee shall be a lien upon the vehicle prior to all other claims. Any person towing or storing a vehicle shall be entitled to retain possession of such vehicle until such charges are paid. The lien provided for in this section shall not apply to the contents of any vehicles. (Ref. Neb. Rev. Stat. §60-6,165, 60-680)

Amended – Ordinance No. 1823 2/7/2011

ARTICLE IV – BICYCLES, MINIBIKES, SNOWMOBILES, MOTORCYCLES, ALL-TERRAIN VEHICLES AND MOPEDS

SECTION 4-401 BICYCLE; DEFINED

For the purposes of this article, "bicycle" shall mean every device propelled solely by human power, upon which any person may ride and having two tandem wheels, either of which is more than 14 inches in diameter.

SECTION 4-402 OPERATION OF BICYCLES, COASTERS, SKATEBOARDS, ROLLER SKATES, SLEDS, SKIS OR OTHER TOY VEHICLES

1. Bicycles:

a. It shall be unlawful for any person to operate a bicycle on a street, highway or alley within the City with another person on the handlebars or in any position in front of the operator.

b. It shall be unlawful for any person to operate a bicycle faster than is reasonable and proper, or without reasonable regard to the safety of the operator and any other persons upon the streets, highways and alleys.

c. It shall be unlawful for any person to operate a bicycle to fail to observe all traffic signs and to fail to stop at all stop signs.

d. It shall be unlawful for any person to operate a bicycle on any street or highway from sunset to sunrise without a headlight visible from the front thereof for not less than 500 feet on a clear night and a red reflector on the rear of a type which shall be visible on a clear night from all distances between 100 feet and 600 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle. A red light visible from a distance of 500 feet to the rear may be used in addition to such red reflector.

e. It shall be unlawful for any person to operate a bicycle upon a street or highway more than single file except on parts of streets or highways set aside for the exclusive use of bicycles.

f. It shall be unlawful for any person to operate a bicycle upon a roadway at less than the normal speed of traffic at the time and place and under conditions then existing, or to fail to ride as near to the right-hand curb or right-hand edge of the roadway as practicable except when:

(1) Overtaking and passing another bicycle or vehicle proceeding in the same direction;

(2) Preparing for a left turn onto a private road or driveway at an

intersection;

(3) Reasonably necessary to avoid conditions that make it unsafe to continue along the right-hand curb or right-hand edge of the roadway, including fixed or moving objects, stopped or moving vehicles, bicycles, pedestrians, animals or surface hazards;

(4) Riding upon a lane of substandard width which is too narrow for a bicycle and a vehicle to travel safely side by side within the lane, or

(5) Lawfully operating a bicycle on the paved shoulders of a highway included in the state highway system as provided in Section 60-6,142 R.S. Neb.

g. Any person who operates a bicycle upon a roadway with a posted speed limit of 35 miles per hour or less on which traffic is restricted to one direction of movement and which has two or more marked traffic lanes may ride as near to the left-hand curb or left-hand edge of the roadway as practicable. Whenever a person operating a bicycle leaves the roadway to ride on the paved shoulder or leaves the paved shoulder to enter the roadway, the person shall clearly signal his/her intention and yield the right-of-way to all other vehicles.

h. It shall be unlawful for any person to park a bicycle on any sidewalk unless a bicycle stand is located on said sidewalk.

i. It shall be unlawful for any person to operate a bicycle on the sidewalks within the boundaries of the following streets: From and including the east side of Richey Street to and including the west side of 7TH Street and from and including the south side of 1ST Avenue to and including the north side of Avenue A. (Ref. Neb. Rev. Stat. §60-6,315, 60-6,317, 60-6,318)

2. Coasters, Skateboards, Roller Skates, Sleds, Skis or Other Toy Vehicles

a. It shall be unlawful for any person to operate coasters, skateboards, roller skates, sleds, skis or other toy vehicles which are unpowered on any street, highway or alleyway in the City of Plattsmouth.

b. It shall be unlawful for any person to operate coasters, skateboards, roller skates, sleds, skis or other toy vehicles which are unpowered on the sidewalks of the City of Plattsmouth within the boundaries of the following streets: From and including the east side of Richey Street to and including the west side of 7TH Street and from and including the south side of 1ST Avenue to and including the north side of Avenue A.

3. In addition to all other penalties for violations of this section, the judgment of conviction may include the impoundment of the bicycle, coaster, skateboard, roller skates, sled, skis or other

toy vehicle by the City Police Department for a period of not to exceed one hundred and eighty (180) days and the operator thereof may be ordered not to operate any such vehicle within the City for a period not to exceed thirty (30) days.

Amended – Ordinance No. 1802 4/5/2010

SECTION 4-403 CLINGING TO MOTOR VEHICLE

No person riding upon any bicycle, coaster, roller skates, sled, skis or toy vehicle shall attach himself/herself or the bicycle, coaster, roller skates, sled, skis or toy vehicle to any vehicle upon a roadway, and it shall be unlawful for the driver of any vehicle to suffer or permit any person riding upon any bicycle, coaster, roller skates, sled, skis, or toy vehicle to cling or attach himself/herself or the bicycle to such vehicle driven and operated by him/her. (Ref. Neb. Rev. Stat. §60-6,316)

SECTION 4-404 BICYCLES; IMPOUNDING

Upon the conviction of a violation of Sections 4-401 through 4-403, the judgment may include the impounding of any bicycle involved in such a violation and the operator may be ordered not to operate a bicycle within the City for a period of not to exceed 30 days.

SECTION 4-405 MINIBIKES; DEFINED

For purposes of this article, "minibike" shall mean a two-wheel motor vehicle which has a total wheel and tire diameter of less than 14 inches or an engine rated capacity of less than 45 cubic centimeters displacement or any other two-wheel motor vehicle primarily designed by the manufacturer for off-road use only. (Ref. Neb. Rev. Stat. §60-6,353)

SECTION 4-406 MINIBIKES; EMERGENCIES AND PARADES

Minibikes shall be exempt from the provisions of this article during any public emergency or while being used in parades by regularly organized units of any recognized charitable, social, education or community service organization.

SECTION 4-407 MINIBIKES; PUBLIC LANDS

Minibikes shall be prohibited upon the public lands owned by the City except where allowed by resolution of the City Council.

SECTION 4-408 SNOWMOBILES; DEFINED

For the purposes of this article, "snowmobile" shall mean a self-propelled motor vehicle designed to travel on snow or ice or a natural terrain steered by wheels, skis or runners and propelled by a belt-driven track with or without snow cleats.

SECTION 4-409 SNOWMOBILES; EQUIPMENT

Every snowmobile operated within the City shall be registered with the State of Nebraska as required by law and shall be equipped as required by state statutes.

SECTION 4-410 SNOWMOBILES; UNLAWFUL ACTS

It shall be deemed a misdemeanor for any person to allow a snowmobile, either owned or operated by him/her, to be operated:

1. Within the congested area of the City unless weather conditions are such that it provides the only practicable method of safe vehicular travel, or said snowmobile is engaged in responding to an emergency.

2. At a rate of speed greater than reasonable or proper under the surrounding circumstances.

3. In a careless, reckless or negligent manner so as to endanger person or property.

4. Without a lighted headlight and taillight when such would be required by conditions.

5. In any tree nursery or planting in a manner which damages or destroys growing stock.

6. Upon any private lands without first having obtained permission of the owner, lessee or operator of such lands.

(Ref. Neb. Rev. Stat. §60-6,337)

SECTION 4-411 SNOWMOBILES; STREETS

The operation of snowmobiles on any city street or other public property owned by the City, except in times of a snow emergency as defined below, is prohibited.

A “snow emergency” is defined to be that time during and immediately subsequent to snowfall within the City when two-wheel-drive vehicular travel is not possible and the City’s snow removal crew has not commenced work on removal of snow from city streets and alleys.

SECTION 4-412 SNOWMOBILES; REGISTRATION

All snowmobiles used for transportation purposes during times of snow emergency shall be registered with the State of Nebraska as required by law, and shall be equipped with at least one headlight, one taillight, reflective material of a minimum area of 16 square inches mounted on each side forward of the handlebars, and with brakes as prescribed by the director of motor vehicles. In addition, all laws applicable to the operation of other motor vehicles shall apply to snowmobiles, except those relating to required equipment and those which, by their nature, have no application.

SECTION 4-413 MOTORCYCLES; LIGHTS

No person shall ride a motorcycle upon the streets, alleys or highways from one-half hour after sunset to one-half hour before sunrise, unless the same shall be equipped with at least one and not more than two headlights plainly visible from the front and with a light on the rear exhibiting a red light visible under normal atmospheric conditions from a distance of at least 500 feet to the rear thereof; provided said lamps shall comply with the requirements and limitations of the statutes of the State of Nebraska.

SECTION 4-414 MOTORCYCLES; RIDING TANDEM

No person operating a motorcycle shall carry another person in front of the operator. Motorcycles shall not be operated more than two abreast in a single lane.

SECTION 4-415 ALL-TERRAIN VEHICLES; DEFINED

As used in this article, unless the context otherwise requires, "all-terrain vehicle" shall mean any motorized off-highway vehicle which (1) is 50 inches or less in width; (2) has a dry weight of 600 pounds or less, (3) travels on three or more low pressure tires, (4) is designed for operator use only with no passengers, (5) has a seat or saddle designed to be straddled by the operator, and (6) has handlebars or any other steering assembly for steering control.

All-terrain vehicles which have been modified to include additional equipment not required by Section 4-417 and 4-418 of this article shall not be registered under Chapter 60, Article 3. (Ref. Neb. Rev. Stat. §60-6,355)

SECTION 4-416 ALL-TERRAIN VEHICLES; OPERATION

1. Except as provided in subsections 2 through 5 of this section, an all-terrain vehicle shall not be operated on any street, road or highway within the City. The crossing of any controlled-access highway shall not be permitted.

2. The crossing of a street, road or highway shall be permitted only if:

    a. The crossing is made at an angle of approximately 90 degrees to the direction of the street, road or highway and at a place where no obstruction prevents a quick and safe crossing;
    b. The vehicle is brought to a complete stop before crossing the shoulder or roadway of the street, road or highway;
    c. The operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard;
    d. In crossing a divided street, road or highway, the crossing is made only at an intersection of such street, road or highway with another street, road or highway; and
    e. Both the headlight and taillight of the vehicle are on when the crossing is made.

3. An all-terrain vehicle may be operated on a street, road or highway when such operation occurs only between the hours of sunrise and sunset and such operation is incidental to the vehicle's

use for agricultural purposes. Any person operating an all-terrain vehicle on a street, road or highway shall have a valid Class O operator's license or a farm permit as provided in Neb. Rev. Stat. §60-4,126 and shall not operate such vehicle at a speed in excess of 30 miles per hour. When operated on a street, road or highway, the headlight and taillight of the vehicle shall be on and the vehicle shall be equipped with a bicycle safety flag which extends not less than five feet above the ground attached to the rear of such vehicle. The bicycle safety flag shall be triangular in shape with an area of not less than 30 square inches and shall be day-glow in color.

4. All-terrain vehicles may be operated on streets, roads or highways in parades which have been authorized by the State of Nebraska or the City.

5. All-terrain vehicles may be operated on highways outside the corporate limits of the City by electric utility personnel within the course of their employment in accordance with the operation requirements of subsection 3 of this section, except that the operation of the vehicle pursuant to this subsection need not be incidental to the use of the vehicle for agricultural purposes. (Ref. Neb. Rev. Stat. §60-6,356)

SECTION 4-417 ALL-TERRAIN VEHICLES; HEADLIGHTS

Every all-terrain vehicle shall display a lighted headlight and taillight during the period of time from one-half hour after sunset to one-half hour before sunrise and at any time when visibility is reduced due to insufficient light or unfavorable atmospheric conditions. (Ref. Neb. Rev. Stat. §60-6,357)

SECTION 4-418 ALL-TERRAIN VEHICLES; EQUIPMENT, REQUIREMENT

Every all-terrain vehicle shall be equipped with:

1. A brake system maintained in good operating condition;

2. An adequate muffler system in good working condition; and

3. A United States Forest Service qualified spark arrester. (Ref. Neb. Rev. Stat. §60-6,358)

SECTION 4-419 ALL-TERRAIN VEHICLES; MODIFICATIONS PROHIBITED

No person shall:

1. Equip the exhaust system of an all-terrain vehicle with a cutout, bypass or similar device.

2. Operate an all-terrain vehicle with an exhaust system so modified; or

3. Operate an all-terrain vehicle with the spark arrester removed or modified except for use in closed-course competition events.
(Ref. Neb. Rev. Stat. §60-6,359)

SECTION 4-420 ALL-TERRAIN VEHICLES; COMPETITION

All-terrain vehicles participating in competitive events may be exempted from Sections 3-415 to 3-417 of this article at the discretion of the Director of Motor Vehicles. (Ref. Neb. Rev. Stat. §60-6,360)

SECTION 4-421 ALL-TERRAIN VEHICLES; ACCIDENT REPORT

If an accident results in the death of any person or in the injury of any person which requires the treatment of the person by a physician, the operator of each all-terrain vehicle involved in the accident shall give notice of the accident in the same manner provided in Neb. Rev. Stat. §60-699. (Ref. Neb. Rev. Stat. §60-6,361)

SECTION 4-422 ALL-TERRAIN VEHICLES; PENALTY

Any violation of Section 4-416 to 4-421 of this article which is also a violation under Chapter 60 of R.S. Neb. may be punished under the penalty provisions of such chapter. (Ref. Neb. Rev. Stat. §60-6,362)

SECTION 4-423 MOPEDS; DEFINED

For the purposes of this article, "moped" shall mean a bicycle with fully operative pedals for propulsion by human power, an automatic transmission, and a motor with a cylinder capacity not exceeding 50 cubic centimeters which produces no more than two brake horsepower and is capable of propelling the bicycle at a maximum design speed of no more than 30 miles per hour on level ground. Mopeds, their owners and their operators shall be subject to Chapter 60, article 4, but shall be exempt from the requirements of Chapter 60, articles 1, 3 and 5. (Ref. Neb. Rev. Stat. §60-637, 60-6,309)

SECTION 4-424 MOPEDS; OPERATOR'S LICENSE REQUIRED

No person shall operate a moped upon the streets, alleys or public highways of the City unless such person has a valid motor vehicle operator's license or a valid school or learner's permit. (Ref. Neb. Rev. Stat. §60-6,310)

SECTION 4-425 MOPEDS; TRAFFIC REGULATIONS APPLICABLE

1. Any person who rides a moped upon a roadway shall have all the rights and shall be subject to all of the duties applicable to the driver of a motor vehicle under the Nebraska Rules of the Road except for special moped regulations in the rules and except for those provisions of the rules which by their nature can have no application.
2. Such regulations applicable to mopeds shall apply whenever a moped is operated upon any street, alley or highway within the City or upon any path set aside by the Department of Roads or the City for the use of mopeds. Notwithstanding any established maximum speed limits in

excess of 25 miles per hour, no person shall operate any moped at a speed in excess of 30 miles per hour. (Ref. Neb. Rev. Stat. §60-6,311)

SECTION 4-426 MOPEDS; OPERATION

1. Any person who operates a moped shall ride only upon a permanent and regular seat attached to the moped. A person operating a moped shall not carry any other person nor shall any other person ride on a moped unless such moped is designed by the manufacturer to carry more than one person.
2. A person shall ride upon a moped only while sitting astride the seat, facing forward.
3. No person shall operate a moped while carrying any package, bundle or other article which prevents him/her from keeping both hands on the handlebars.
4. No operator shall carry any person, nor shall any person ride, in a position that interferes with the operation or control of the moped or the view of the operator.
5. Any moped which carries a passenger shall be equipped with footrests for such passenger. (Ref. Neb. Rev. Stat. §60-6,312)

SECTION 4-427 MOPEDS; USE OF TRAFFIC LANES

1. A moped shall be entitled to full use of a traffic lane of any highway with an authorized speed limit of 45 miles per hour or less and no vehicle shall be operated in such a manner as to deprive any moped of the full use of such lane, except that mopeds and motorcycles may be operated two abreast in a single lane.
2. No person shall operate a moped between lanes of traffic or between adjacent lines or rows of vehicles.
3. Mopeds shall not be operated more than two abreast in a single lane.
4. Any person who operates a moped on a roadway with an authorized speed limit of more than 45 miles per hour shall ride as near to the right side of the roadway as practicable and shall not ride more than single file.
5. No person who rides upon a moped shall attach himself/herself to the moped to any other vehicle on a roadway.
6. Mopeds shall not be operated on the sidewalks. (Ref. Neb. Rev. Stat. §60-6,313)

SECTION 4-428 MOPEDS; EQUIPMENT

Any moped which carries a passenger shall be equipped with footrests for such passenger. No person shall operate any moped with handlebars more than 15 inches above the mounting point of the handlebars. (Ref. Neb. Rev. Stat. §60-680)

SECTION 4-429 ~~SKATEBOARDS, SCOOTERS AND OTHER MINIATURE UNPOWERED VEHICLES; UNLAWFUL OPERATION, IMPOUNDMENT~~

Repealed – Ordinance No. 1802 4/5/2010
REPLACED BY SECTION 4-402 Number 2

SECTION 4-430 MINIATURE MOTORIZED VEHICLES; DEFINITIONS

For purposes of this article, the following definitions apply:

"Miniature motor vehicle" means a motor powered vehicle which is not defined in Neb. Rev. Stat. §60-638 that (a) has an engine rated capacity of less than 45 cubic centimeters displacement; or (b) is not more than 76 inches in overall length or not more than 26 inches in height or not more than 50 inches in width; (c) or which has a total individual wheel and/or tire diameter of less than 14 inches; (d) has a dry weight of 600 pounds or less; or (e) is designed by the manufacturer for off-road use and travels on low-pressure tires; or (f) is otherwise a miniature motor vehicle that has been modified to include additional equipment to otherwise satisfy state law or this ordinance. "Miniature motor vehicle" also means a miniature motor vehicle as herein defined which has been modified so that it may be registered as a motor vehicle and display proper registration plates issued under the laws of the State of Nebraska.

"Minibike, motor scooter, motorcycle, bicycle, snowmobile and moped" - all such vehicles are as otherwise defined in other provisions of this article.

"Motor vehicle" shall mean all motor vehicles defined in Neb. Rev. Stat. §60-638, unless it is a miniature motor vehicle which has been modified to satisfy the requirement of state law as a motor vehicle defined by Neb. Rev. Stat. §60-638.

"Public property" means all public streets, alleys, roads, highways and sidewalks, including any state, city, county or any other governmental subdivision right-of-way.

Vehicles excluded from cover of this ordinance are (a) motor powered vehicles governed by other provisions of this code; (b) farm equipment other than miniature motor vehicles as defined by this article; (c) self-propelled equipment designed and used exclusively on, and for the care of yards and lawns, which are not operated on public property for any purpose other than loading on to and unloading from vehicles on which the equipment was transported to the yard or lawn or as used in the actual performance of lawn or yard care; (d) road and general-purpose construction and maintenance machinery not designed or used primarily to transport people and which is operated on public property for the actual purpose of construction or while in transit to or from a construction site, including but not limited to, ditch digging apparatus, asphalt spreaders, bucket loaders, leveling graders, earth moving carryalls, power shovels, earth moving equipment and crawler tractors, and (e) self-propelled invalid chairs.

SECTION 4-431 MINIATURE MOTORIZED VEHICLES; OPERATION ON PUBLIC PROPERTY PROHIBITED; EXCEPTION

Miniature motor vehicles shall not be operated on public property, with the following exceptions:

Crossing public property is permitted only if (a) crossing is made at an angle of approximately 90° to the direction of the public property at a place where no obstruction prevents a quick and safe crossing; (b) the vehicle is brought to a complete stop before crossing the public property; (c) the operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential

hazard; (d) in crossing public property, the crossing is made only at an intersection of public property; and (e) the miniature motor vehicle has both a headlight and taillight in operation when the crossing is made.

Miniature motor vehicles may be operated on public streets, roads or highways as an integral part of a parade authorized or approved by the State, County or City.

It shall not be unlawful for any person to operate a miniature motor vehicle on private property owned by that person or owned by another person if the operation is with that person's permission.

SECTION 4-432 MINIATURE MOTORIZED VEHICLES; ENFORCEMENT

Any peace officer of the State, County or City, including conservation officers of the Game and Parks Commission, shall have the authority to enforce this article.

SECTION 4-433 UTILITY-TYPE VEHICLES (UTVS) DEFINED

As used in this article, unless the context otherwise requires, "utility-type vehicle" or "UTV" means any motorized off-highway vehicle which (a) is 74 inches in width or less; (b) is not more than 180 inches, including the bumper, in length; (c) has a dry weight of 2,000 pounds or less; and (d) travels on four or more nonhighway tires. "Utility-type vehicle" does not include all-terrain vehicles or golf-car vehicles.

Enacted – Ordinance No. 1943 11/5/2018

SECTION 4-434 UTVS; OPERATION

1. No person shall operate a UTV on any street, road, or highway within the City except in compliance with this article.

2. The operation of a UTV on City streets, roads, and highways shall be subject to each of the following requirements and restrictions:

    a. Operation between the hours of sunset and sunrise is prohibited;
    b. Operation on streets, roads, and highways with a posted speed limit in excess of 30 miles per hour is prohibited;
    c. Operation in excess of the posted speed limit or 30 miles per hour, whichever is less, is prohibited;
    d. The operator of the vehicle shall be at least 18 years of age;
    e. The operator and all passengers of a UTV shall be seated in permanent and regular seats and shall use available manufacturer-installed occupant protection systems, if any, such as lap belts, shoulder belts, or a combination of belts;
    f. The vehicle shall be equipped with operable headlight(s) and taillights and such headlight(s) and taillights shall be on at all times during operation;
    g. The vehicle shall be equipped with a bicycle safety flag which extends not less than five feet above the ground attached to the rear of such vehicle, and such bicycle safety

flag shall be triangular in shape with an area of not less than 30 square inches and shall be day-glow in color;

h. The vehicle shall be equipped with (i) a brake system maintained in good operating condition; (ii) an adequate muffler system in good working condition; and (iii) a United States Forest Service qualified spark arrester; and
i. No person shall: (i) equip the exhaust system of a UTV with a cutout, bypass, or similar device; (ii) operate a UTV with an exhaust system so modified; or (iii) operate a UTV with the spark arrester removed or modified except for use in closed-course competition events.

3. The crossing of a controlled-access highway with more than two marked traffic lanes by a UTV is prohibited.

4. The crossing of a highway other than a controlled-access highway with more than two marked traffic lanes by a UTV shall be permitted only if:

    a. The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;
    b. The vehicle is brought to a complete stop before crossing the shoulder or roadway of the highway;
    c. The operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard;
    d. In crossing a divided highway, the crossing is made only at an intersection of such highway with another highway; and
    e. Both the headlight and taillight of the vehicle are on when the crossing is made.

Enacted – Ordinance No. 1943 11/5/2018

SECTION 4-435 UTVS; REGISTRATION REQUIRED

1. Except for UTVs owned by the City, the State of Nebraska, or another political subdivision thereof, only UTVs registered with the City shall be authorized to operate on roads, streets, and highways within the City. The owner of a UTV desiring to register his or her vehicle with the City shall submit the following to the City Clerk as a registration application:

    a. The owner's name and address;
    b. A copy of the owner's valid Class O operator's license;
    c. Proof of liability insurance coverage for the vehicle specifically listing the vehicle as referenced by year, make, model, and serial number and in the amounts required by this article; and
    d. The annual registration fee required by the City's Fee Ordinance.

2. Upon receipt of a completed registration application, the City will issue the owner a registration sticker. The registration sticker shall be affixed on the lower driver's side of the vehicle's windshield, if equipped, or if the vehicle is not equipped with a windshield, then the sticker shall be affixed on the driver's side front to such vehicle. In the event the registration sticker

is lost or destroyed, the City, upon the owner's request and payment of the reissue fee set forth in the City's Fee Ordinance, shall issue a replacement registration sticker. The registration sticker shall entitle the vehicle to be operated on the streets, roads, and highways within the City, subject to this article, during the calendar year of issuance. The annual registration fee will not be prorated and is not transferrable. No refunds shall be allowed for any reason.

Enacted – Ordinance No. 1943 11/5/2018

SECTION 4-436 UTVS; OPERATOR'S LICENSE REQUIRED

No person shall operate a UTV on any street, road, or highway within the City unless such person shall have a valid Class O operator's license.

Enacted – Ordinance No. 1943 11/5/2018

SECTION 4-437 UTVS; INSURANCE REQUIRED

No person shall operate a UTV on any street, road, or highway within the City without liability insurance coverage as follows: $25,000 because of bodily injury to or death of one person in any one accident and, subject to such limit for one person, $50,000 because of bodily injury to or death of two or more persons in any one accident, and $25,000 because of injury to or destruction of property of others in any one accident. The operator of any such UTV shall provide proof of such insurance coverage to any peace officer requesting such proof within five days of such request.

Enacted – Ordinance No. 1943 11/5/2018

SECTION 4-438 UTVS; ACCIDENT REPORT

If an accident results in the death of any person or in the injury of any person which requires the treatment of the person by a physician, the operator of each UTV involved in the accident shall give notice of the accident in the same manner provided in Neb. Rev. Stat. § 60-699. (Ref. Neb. Rev. Stat. § 60-6,361)

Enacted – Ordinance No. 1943 11/5/2018

SECTION 4-439 UTVS; PENALTY

1. Any violation of Sections 4-433 to 4-440 which is also a violation under any provision of Chapter 60 of the Revised Statues of Nebraska may be punished under the penalty provisions of such chapter. In addition, any violation of Section 4-433 to 4-440 may be punishable by a fine of up to $500.

2. Upon conviction of a violation of Section 4-433 to 4-440, under either this Section 4-439 or any provision of Chapter 60 of the Revised Statues of Nebraska, the City shall revoke the registration and suspend the eligibility for registration of the vehicle operated by the person convicted of such violation as follows:

a. If, at the time of violation, the registration for the vehicle had not been previously revoked during the two-year period prior to such violation, the City shall revoke its registration, if any, and the vehicle shall not be eligible for registration until the next annual registration period.

b. If, at the time of violation, the registration for the vehicle had been previously revoked during the two-year period prior to such violation, the City shall revoke its registration, if any, and the vehicle shall not be eligible for registration until two (2) years after the date of the violation.

Enacted – Ordinance No. 1943 11/5/2018

SECTION 4-440 ~~UTVS; SUNSET PROVISION~~

Enacted – Ordinance No. 1943 11/5/2018; Repealed – Ordinance No. 1988 11/15/2021

SECTION 4-441 GOLF CAR VEHICLE; DEFINITION

As used in this article, golf car vehicle means a vehicle that (a) has at least four wheels; (b) has a maximum level ground speed of less than 20 miles per hour; (c) has a maximum payload capacity of 1,200 pounds; (d) has a maximum gross vehicle weight of 2,500 pounds; (e) has a maximum passenger capacity of not more than four persons; (f) is designed and manufactured for operation on a golf course for sporting and recreational purposes; and (g) is not being operated within the boundaries of a golf course.

Enacted – Ordinance No. 1943 11/5/2018

SECTION 4-442 GOLF CAR VEHICLE; OPERATION

1. No person shall operate a golf car on any street, road, or highway within the City except in compliance with this article.

2. The operation of golf cars on City streets, roads, and highways shall be subject to each of the following requirements and restrictions:

    a. Operation is prohibited between the hours of sunset and sunrise;
    b. Operation on streets, roads, and highways with a posted speed limit in excess of 30 miles per hour is prohibited;
    c. Operation is not authorized on any state or federal highway except for the purpose of crossing such highway as directed in subsection (4) below;
    d. The vehicle shall not be operated at a speed in excess of 20 miles per hour or the posted speed limit, whichever is less;
    e. The operator of the vehicle shall be at least 18 years of age; and
    f. The vehicle shall be equipped with a bicycle safety flag which extends not less than five feet above the ground attached to the rear of such vehicle, and such bicycle safety

flag shall be triangular in shape with an area of not less than 30 square inches and shall be day-glow in color.

3. The crossing of a controlled-access highway with more than two marked traffic lanes by a golf car is prohibited.

4. The crossing of a highway other than a controlled-access highway with more than two marked traffic lanes by a golf car shall be permitted only if:

    a. The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;
    b. The golf car vehicle is brought to a complete stop before crossing the shoulder or roadway of the highway;
    c. The operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard; and
    d. In crossing a divided highway, the crossing is made only at an intersection of such highway with a street or road, as applicable.

Enacted – Ordinance No. 1943 11/5/2018

SECTION 4-443 GOLF CAR VEHICLE; REGISTRATION REQUIRED

1. Only golf car vehicles registered with the City shall be authorized to operate on streets, roads, and highways within the City. The owner of a golf car vehicle desiring to register his or her vehicle with the City shall submit the following to the City Clerk as its registration application:

    a. The owner's name and address;
    b. A copy of the owner's valid Class O operator's license;
    c. Proof of liability insurance coverage for the vehicle specifically listing the vehicle as referenced by year, make, model, and serial number and in the amounts required by this article; and
    d. The annual registration fee required by the City's Fee Ordinance.

2. Upon receipt of a completed registration application, the City will issue the owner a registration sticker. The registration sticker shall be affixed on the lower driver's side of the vehicle's windshield, if equipped, or if the vehicle is not equipped with a windshield, then the sticker shall be affixed on the driver's side front to such vehicle. In the event the registration sticker is lost or destroyed, the City, upon the owner's request and payment of the reissue fee set forth in the City's Fee Ordinance, shall issue a replacement registration sticker. The registration sticker shall entitle the vehicle to be operated on the streets, roads, and highways within the City, subject to this article, during the calendar year of issuance. The annual registration fee will not be prorated and is not transferrable. No refunds shall be allowed for any reasons.

Enacted – Ordinance No. 1943 11/5/2018

SECTION 4-444 GOLF CAR VEHICLE; OPERATOR'S LICENSE REQUIRED

No person shall operate a golf car on any street, road, or highway within the City unless such person shall have a valid Class O operator's license.

Enacted – Ordinance No. 1943 11/5/2018

SECTION 4-445 GOLF CAR VEHICLE; INSURANCE REQUIRED

No person shall operate a golf car vehicle on streets within the City without liability insurance coverage as follows: $25,000 because of bodily injury to or death of one person in any one accident and, subject to such limit for one person, $50,000 because of bodily injury to or death of two or more persons in any one accident, and $25,000 because of injury to or destruction of property of others in any one accident. The operator of a golf car shall provide proof of such insurance coverage to any peace officer requesting such proof within five days of such request.

Enacted – Ordinance No. 1943 11/5/2018

SECTION 4-446 GOLF CAR VEHICLES; PENALTY

1. Any violation of Section 4-441 to 4-447 of this article which is also a violation under Chapter 60 of the Revised Statues of Nebraska may be punished under the penalty provisions of such chapter. In addition, any violation of Section 4-441 to 4-447 may be punishable by a fine of up to $500.

2. Upon conviction of a violation of Section 4-441 to 4-447, under either this Section 4-446 or any provision of Chapter 60 of the Revised Statues of Nebraska, the City shall revoke the registration and suspend the eligibility for registration of the golf car vehicle operated by the person convicted of such violation as follows:

    a. If, at the time of violation, the registration for the vehicle had not been previously revoked during the two-year period prior to such violation, the City shall revoke its registration, if any, and the vehicle shall not be eligible for registration until the next annual registration period.

    b. If, at the time of violation, the registration for the vehicle had been previously revoked during the two-year period prior to such violation, the City shall revoke its registration, if any, and the vehicle shall not be eligible for registration until two (2) years from the date of the violation.

Enacted – Ordinance No. 1943 11/5/2018

SECTION 4-447 ~~GOLF CAR VEHICLES; SUNSET PROVISION~~

Enacted – Ordinance No. 1943 11/5/2018; Repealed – Ordinance No. 1988 11/15/2021

ARTICLE V - PENAL PROVISION

SECTION 4-501 VIOLATION; PENALTY

Any violations of this Chapter which are also a violation under Chapter 39 or Chapter 60 of the Revised Statutes of Nebraska may be punished under the penalty provisions of such Chapter of the Revised Statutes of Nebraska.

Violations of this chapter which are the equivalent of state statutes listed in the Nebraska Supreme Court's fine/waiver schedule, as the same may be amended by the Court, may be disposed of pursuant to a waiver of appearance, a plea of "guilty", and the payment of court costs and the corresponding fine for such violation listed on the Nebraska Supreme Court's fine/waiver schedule; provided, if the amount of the fine for any parking violation listed on the Nebraska Supreme Court's fine/waiver schedule exceeds the amount of the fine for such parking violation listed in the City's fee ordinance, the amount of the fine shall be that listed on the City's fee ordinance.

Violations of this chapter which are listed on the City's fine/waiver schedule may be disposed of pursuant to a waiver of appearance, a plea of "guilty", and the payment of courts costs and the corresponding fine for such violation listed in the City's fine/waiver schedule.

Amended – Ordinance No. 1681 11/4/2002; Ordinance No. 1765 4/7/2008; Ordinance No. 1930 12/18/2017

MUNICIPAL CODE

CHAPTER 5

BUSINESS REGULATIONS

ARTICLE I - ALCOHOLIC BEVERAGES

SECTION 5-101 DEFINITIONS

All words and phrases herein used are to have the definitions applied thereto as defined in the Liquor Control Act of the State of Nebraska. (Ref. Neb. Rev. Stat. §53-103)

SECTION 5-102 LICENSE REQUIRED

It shall be unlawful for any person to manufacture for sale, sell, keep for sale, or to barter any alcoholic liquors within the City unless said person shall have in full force and effect a license as provided by the Nebraska Liquor Control Act. (Ref. Neb. Rev. Stat. §53-168.06)

SECTION 5-103 RIGHT OF ENTRY TO POLICE

All police officers of the City are hereby authorized and directed to enter upon the premises of all licensees at frequent intervals, to determine whether any of the provisions of this article or of the Nebraska Liquor Control Act have been or are being violated.

SECTION 5-104 DWELLINGS

Except in the case of hotels and clubs, no alcoholic liquor shall be sold at retail upon any premise which has any access which leads from such premise to any other portion of the same building used for dwelling or lodging purposes and which is permitted to be used by the public. Nothing herein shall prevent any connection with such premise and such other portion of the building which is used only by the licensee, his/her family or personal guests. (Ref. Neb. Rev. Stat. §53-178)

SECTION 5-105 LICENSE DISPLAYED

Every licensee under the Nebraska Liquor Control Act shall cause his/her license to be framed and hung in plain public view in a conspicuous place on the licensed premise. (Ref. Neb. Rev. Stat. §53-148)

SECTION 5-106 LICENSEE REQUIREMENTS

It shall be unlawful for any person or persons to own an establishment that sells at retail any alcoholic beverages unless said person is a person of good character and reputation; a citizen of the United States; a person who has never been convicted of a felony or any Class I misdemeanor pursuant to Chapter 28, Article 3, 4, 7, 8, 10, 11 or 12 Reissue Revised Statutes of Nebraska, 1943, or any similar offense under a prior criminal statute or in another state; a person who has never had a liquor license revoked for cause; a person whose premises, for which a license is sought, meets standards for fire safety as established by the State Fire Marshal. (Ref. Neb. Rev. Stat. §53-125)

SECTION 5-107 LIQUOR APPLICATION; MUNICIPAL EXAMINATION

1. Any person desiring to obtain a license to sell alcoholic liquor at retail shall file an application with the Liquor Control Commission. Upon receipt from the Commission of the notice and copy of the application as provided in Section 53-131, RS Neb., the City Council shall fix a time and place at which time the City Council shall receive evidence, under oath, either orally or in writing, from the applicant and any other person concerning the propriety of the issuance of such license. Such hearing shall be held not more than 45 days after the receipt of notice from the Commission. The City Council may examine, or cause to be examined, under oath, any applicant; examine, or cause to be examined, the books and records of any such applicant; to hear testimony, and to take proof for its information in the performance of its duties. For purposes of obtaining any of the information desired, the City Council may authorize its agent, the city clerk or the city attorney, to act on its behalf.

2. Notice of the time and place of such hearing shall be published in a legal newspaper in, or of general circulation in, the City one time not less than seven nor more than 14 days before the time of the hearing. Such notice shall include, but not be limited to, a statement that all persons desiring to give evidence before the City Council in support of or in protest against the issuance of such license may do so at the time of the hearing.

3. The City Council shall, after the hearing provided in subsection (1), consider making a recommendation favorable or non-favorable to the Nebraska Liquor Control Commission. This recommendation must be made within 45 days of receipt of such application from the Commission, and shall cause to be spread at large in the minute record of its proceedings. The city clerk shall thereupon mail or deliver to the Commission a copy of the minute record within ten days of the decision to approve or deny the application.

4. Any minute record to recommend denying an application shall be in writing or stated in the record and shall be accompanied by findings. The findings shall consist of concise statements of the conclusions upon each contested issue. The applicant shall be notified of the decision in person or by mail. (Ref. Neb. Rev. Stat. §53-131, 53-132, 53-134, RS, Neb.)

SECTION 5-108 LIQUOR LICENSE RENEWAL

Retail or bottle club licenses issued by the Commission and outstanding may be automatically renewed in the absence of a request by the City Council to require the said licensee to issue an application for renewal. Any licensed retail or bottle club establishment located in an area which is annexed to the City shall file a formal application for a license, and while such application is pending, the licensee shall be authorized to continue all license privileges pursuant to this Article until the original license expires, is canceled, or revoked. If such license expires within 60 days following the annexation date of such area, the license may be renewed by order of the Commission for not more than one year. The city clerk, upon notice from the Commission, between January 10th and January 30th of each year, shall cause to be published in a legal newspaper in or of general circulation in the City, one time, a notice in the form prescribed by law of the right of automatic renewal of each retail liquor and beer license within the City; provided, Class C license renewal notices shall be published between the dates of July 10th and July 30th of

each year. The city clerk shall then file with the Commission proof of publication of said notice on or before February 10th of each year or August 10th of each year for Class C licenses. Upon the conclusion of any hearing required by this section, the City Council may request a licensee to submit an application. (Ref. Neb. Rev. Stat. §53-135, 53-135.01)

SECTION 5-109 MUNICIPAL POWERS AND DUTIES

The City Council is authorized to regulate by ordinance not inconsistent with the provisions of the Nebraska Liquor Control Act, the business of all retail and bottle club licensees carried on within the corporate limits. The City Council shall further have the power and duties in respect to licensed retailers of alcoholic beverages to cancel or revoke for cause retail or bottle club licenses to sell or dispense alcoholic liquors issued to persons for premises within its jurisdiction subject to the right of appeal to the Commission; to enter or to authorize any law enforcement officer to enter at any time upon any premise licensed by the State of Nebraska to determine whether any of the provisions of the Municipal laws, or the laws of the State of Nebraska, are being violated; to receive signed complaints from any citizens within its jurisdiction that any of the Municipal laws or laws of the State of Nebraska are being violated, and to act upon such complaints in the manner herein provided; to cancel or revoke on its own motion any license if, upon the same notice and hearing as provided in Section 5-124, it determines that the licensee has violated any of the provisions of the Nebraska Liquor Control Act or any valid and subsisting ordinance or regulation duly enacted relating to alcoholic liquors; and to collect for the benefit of the State of Nebraska and the City all license fees and occupation taxes as prescribed by law. (Ref. Neb. Rev. Stat. §53-134)

SECTION 5-110 OWNER OF PREMISES

The owner of any premise used for the sale at retail of alcoholic beverages shall be deemed guilty of a violation of these laws to the same extent as the said licensee if the owner shall knowingly permit the licensee to use the said licensed premise in violation of any Municipal Code section or Nebraska Statute. (Ref. Neb. Rev. Stat. §53-1,101)

SECTION 5-111 EMPLOYER

The employer of any officer, director, manager or employees working in a retail liquor establishment shall be held to be liable and guilty of any act of omission or violation of any law or ordinance, and each such act or omission shall be deemed and held to be the act of the employer, and will be punishable in the same manner as if the said act or omission had been committed by him/her personally. (Ref. Neb. Rev. Stat. §53-168.06)

SECTION 5-112 PUBLIC ENTRANCES REQUIRED

No person holding a license for the sale at retail of alcoholic liquors, including beer, shall sell at retail any such beverages on a premise which is not provided with a public entrance at the front thereof opening upon a public street. During the hours when alcoholic beverages may legally be sold, all public entrances at the front thereof shall be unlocked or otherwise unsecured, so that the general public and law enforcement officers may have easy access to such premises.

SECTION 5-113 MINORS AND INCOMPETENTS

It shall be unlawful for any person or persons to sell, give away, dispose of, exchange, permit the sale of or make a gift of, any alcoholic liquors, or to procure any such alcoholic liquors to or for any minor, or to any person who is mentally incompetent. (Ref. Neb. Rev. Stat. §53-180)

SECTION 5-114 CREDIT SALES

No person shall sell or furnish alcoholic liquor at retail to any person or persons for credit of any kind, barter, or services rendered; provided, nothing herein contained shall be construed to prevent any bona fide club from permitting checks or statements for alcoholic liquor to be signed by members or guests of members and charged to the accounts of the said members or guests in accordance with the by-laws of any such club; and provided further, nothing herein shall be construed to prevent any hotel from permitting checks or statements for liquor to be signed by bona fide guests residing in the said hotel, and charged to the accounts of such guests. (Ref. Neb. Rev. Stat. §53-183)

SECTION 5-115 SPIKING BEER

It shall be unlawful for any person or persons who own, manage or lease any premise in which the sale of alcoholic beverages is licensed, to serve or offer for sale any beer to which there has been added any alcohol, or permit any person or persons to add alcohol to any beer on the licensed premise of such licensee. (Ref. Neb. Rev. Stat. §53-174)

SECTION 5-116 ORIGINAL PACKAGE

It shall be unlawful for any person or persons who own, manage or lease any premise in which the sale of alcoholic beverages is licensed, to have in their possession for sale at retail any alcoholic liquor contained in casks or other containers, except in the original package. Nothing in this section shall prohibit the refilling of original packages of alcoholic liquor for strictly private use and not for resale. (Ref. Neb. Rev. Stat. §53-184)

SECTION 5-117 HOURS OF SALE

1. It shall be unlawful for any licensed person or persons or their agents to sell any alcoholic beverages, for consumption off the premises, within the City except during the hours provided herein:

Alcoholic Liquors (except beer and wine)	
Secular Days	6:00 A.M. to 1:00 A.M.
Sundays	6:00 A.M. to 1:00 A.M.
Beer and Wine	
Secular Days	6:00 A.M. to 1:00 A.M.
Sundays	6:00 A.M. to 1:00 A.M.

2. It shall be unlawful for any licensed person or persons or their agents to sell any alcoholic beverages, for consumption on the premises, within the City except during the hours provided herein:

Alcoholic Liquors (except beer and wine)	
Secular Days	6:00 A.M. to 1:00 A.M.
Sundays	6:00 A.M. to 1:00 A.M.
Beer and Wine	
Secular Days	6:00 A.M. to 1:00 A.M.
Sundays	6:00 A.M. to 1:00 A.M.

3. No person or persons shall consume any alcoholic beverages on licensed premises for a period of time longer than 15 minutes after the time fixed herein for stopping the sale of alcoholic beverages on said premises. For the purposes of this section, "on sale" shall be defined as alcoholic beverages sold by the drink for consumption on the premises of the licensed establishment; "off sale" shall be defined as alcoholic beverages sold at retail in the original container for consumption off the premises of the licensed establishment.

4. Nothing in this section shall be construed to prohibit licensed premises from being open for other business on days and hours during which the sale or dispensing of alcoholic beverages is prohibited by this section. (Ref. Neb. Rev. Stat. §53-179)

Amended – Ordinance No. 1689 9/2/2003; Ordinance No. 1879 8/18/2014

SECTION 5-118 SANITARY CONDITIONS

It shall be unlawful to open for public use any retail liquor establishment that is not in a clean and sanitary condition. Toilet facilities shall be adequate and convenient for customers and patrons and said licensed premise shall be subject to any health inspections the City Council or the City Police may make or cause to be made. All applications for liquor licenses shall be viewed in part from the standpoint of the sanitary conditions, and a report concerning the said sanitary conditions shall be made at all hearings concerning the application for, or renewal of, a liquor license.

SECTION 5-119 HIRING MINORS

It shall be unlawful for any person to hire a minor, regardless of sex, under the age of 19 years to serve or dispense alcoholic liquors, including beer, to said licensee's customers. (Ref. Neb. Rev. Stat. §53-168.06)

SECTION 5-120 CONSUMPTION IN PUBLIC PLACES; LICENSE REQUIRED

It shall be unlawful for any person owning, operating, managing or conducting any dance hall, restaurant, café, club or any other place open to the general public to permit or to allow any person

to consume alcoholic beverages upon such premises, or for any person to consume alcoholic liquor in any dance hall, restaurant, café, club or any place open to the general public, except as permitted by a license theretofore issued to such premises pursuant to Nebraska statutes.

This section shall not apply to a retail licensee while lawfully engaged in the catering of alcoholic beverages. (Ref. Neb. Rev. Stat. §53-168.01)

SECTION 5-121 ACQUISITION AND POSSESSION

It shall be unlawful for any person to purchase, receive, acquire, accept or possess any alcoholic liquor acquired from any other person other than one duly licensed to handle alcoholic liquor under the Nebraska Liquor Control Act; provided, nothing in this section shall prevent (1) the possession of alcoholic liquor for the personal use of the possessor and his or her family and guests, as long as the quantity of alcoholic liquor transported, imported, brought or shipped into the State does not exceed nine liters in any one calendar month; (2) the making of wine, cider or other alcoholic liquor by a person from fruits, vegetables or grains, or the product thereof, by simple fermentation and without distillation, if made solely for the use of the maker and his or her family and guests; (3) any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his or her profession, any hospital or other institution caring for the sick and diseased persons from possessing and using alcoholic liquor for the treatment of bona fide patients of such hospital or other institution, or any drug store employing a licensed pharmacist from possessing or using alcoholic liquor in compounding of prescriptions of licensed physicians; (4) the possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by such church; (5) persons who are sixteen years old or older from carrying alcoholic liquor from licensed establishments when they are accompanied by a person not a minor; (6) persons who are sixteen years old or older from handling alcoholic liquor containers and alcoholic liquor in the course of their employment; (7) persons who are sixteen years old or older from removing and disposing of alcoholic liquor containers for the convenience of the employer and customers in the course of their employment; or (8) persons who are nineteen years old or older from serving or selling alcoholic liquor in the course of their employment. (Ref. Neb. Rev. Stat. §53-168.06, 53-175, 53-194.03)

SECTION 5-122 NUDE ENTERTAINMENT

It shall be cause for suspension or revocation of any liquor license if licensee, his/her manager or agent shall allow any live person to appear, or have reasonable cause to believe that any live person shall appear, on any licensed premises in a state of nudity to provide entertainment, to provide service, to act as hostess, manager or owner, or to serve as an employee in any capacity.

For the purposes of this section, the term "nudity" shall mean the showing of the human male or female genitals, pubic area or buttocks or the human female breast including the areola, the nipple or any portion below the nipple with less than a full opaque covering.

SECTION 5-123 INSPECTIONS

It shall be the duty of the City Council to cause frequent inspections to be made on the premises of all retail and bottle club licensees. If it is found that any such licensee is violating any provision of the Nebraska Liquor Control Act or regulations of the Nebraska Liquor Control Commission, or is failing to observe in good faith the purposes of said Act, the license may be suspended, canceled or revoked after the licensee has been given an opportunity to be heard by the City Council. (Ref. Neb. Rev. Stat. §53-116.01)

SECTION 5-124 CITIZEN COMPLAINTS

Any five residents of the City shall have the right to file a complaint with the City Council stating that any retail or bottle club licensee, subject to the jurisdiction of the City Council, has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant thereto. Such complaint shall be in writing in the form prescribed by the City Council and shall be signed and sworn by the parties complaining. The complaint shall state the particular provision, rule or regulation believed to have been violated and the facts in detail upon which belief is based. If the City Council is satisfied that the complaint substantially charges a violation and that from the facts alleged there is reasonable cause for such belief, it shall set the matter for hearing within ten days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of such hearing and of the particular charge in the complaint; provided that the complaint must in all cases be disposed of by the City Council within 30 days from the date the complaint was filed by resolution thereof, said resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission as provided by law. (Ref. Neb. Rev. Stat. §53-134.04)

SECTION 5-125 LIQUOR APPLICATION; NOTICE; PROCEDURE

A. Notice. Notice of a hearing held pursuant to Neb. Rev. Stat. Section 53-134 shall be given to the applicant by the city clerk and shall contain the date, time and location of the hearing. Two or more proceedings which are legally or factually related may be heard and considered together unless any party thereto makes a showing sufficient to satisfy the City Council that prejudice would result there from.

B. Procedure. Hearings will be informal and conducted by the city attorney. The intent is an inquiry into the facts, not an adversarial action. Each witness may present their testimony in narrative fashion or by question and answer.

The City Council or the applicant may order the hearing to be recorded by the clerk, at the expense of the applicant(s).

The City Council may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent individuals. The city attorney may limit testimony where it appears incompetent, irrelevant or unduly repetitious. If there is opposition to any application and such opposition desires the opportunity to present arguments and to cross-examine the applicant and any witnesses in favor of such application, they shall choose a spokesperson to

perform such function who shall notify the city attorney of his/her representation prior to the start of the hearing.

The order of the proceeding is as follows:

1. Exhibits will be marked in advance by the clerk and presented to the city attorney during the presentation;
2. Presentation of evidence, witnesses and arguments by applicant;
3. Testimony of any other citizens in favor of such proposed license;
4. Examination of applicant, witnesses or citizens by city attorney, City Council, or duly appointed agent;
5. Cross-examination of applicant, witnesses or citizens by spokesperson for opposition, if any;
6. Presentation of evidence and witnesses by opposition;
7. Testimony of any other citizens in opposition to such proposed license;
8. Presentation of evidence by City and law enforcement personnel;
9. Cross-examination by applicant;
10. Rebuttal evidence by both parties, and by city administration and agent;
11. Summation by applicant and opposition spokesperson, if any.

In all cases, the burden of proof and persuasion shall be on the party filing the application.

Any member of the City Council and the city attorney may question any witness, call witnesses, or request information.

All witnesses shall be sworn.

The City Council may make further inquiry and investigation following the hearing.

The City Council or the applicant may order the hearing to be recorded by the clerk, at the expense of the applicant(s). (Ref. Neb. Rev. Stat. §53-134)

SECTION 5-126 LIQUOR APPLICATIONS; RETAIL LICENSING STANDARDS; BINDING RECOMMENDATIONS

Local governing bodies shall only have authority to approve applications and deny licenses pursuant to the Nebraska Liquor Control Act. The City Council shall only consider the following licensing standards and criteria at the hearing and an evaluation of any applicant for a retail alcoholic liquor license, for the upgrading of a license to sell alcoholic liquor, or for the expansion or change in location of the premises, and for the purpose of formulating a recommendation from the City Council to the Nebraska Liquor Control Commission in accordance with the Nebraska Liquor Control Act:

a. The adequacy of existing law enforcement resources and services in the area;
b. The recommendation of the Police Department or any other law enforcement agency;
c. Existing motor vehicle and pedestrian traffic flow in the vicinity of the proposed licensed premises, potential traffic and parking problems, and the proximity and availability of on-street

and off-street parking;

d. Zoning restrictions and the local governing body's zoning and land-use policies;
e. Sanitation or sanitary conditions on or about the proposed licensed premises;
f. The existence of a citizen's protest and similar evidence in support of or in opposition to the application;
g. The existing population and projected growth within the jurisdiction of the local governing body and within the area to be served;
h. The existing liquor licenses, the class of each such license, and the distance and times of travel between establishments that were issued such licenses;
i. Whether the proposed license would be compatible with the neighborhood or community where the proposed premises are located;
j. Whether the type of business or activity proposed to be operated or presently operated in conjunction with the proposed license is and will be consistent with the public interest as declared in Section 53-101.01;
k. Whether the applicant can ensure that all alcoholic beverages, including beer and wine, will be handled by persons in accordance with Section 53-102;
l. Whether the applicant has taken every precaution to protect against the possibility of shoplifting of alcoholic liquor, which alcoholic liquor shall be displayed and kept in and sold from an area which is reasonably secured;
m. Whether the applicant is fit, willing and able to properly provide the service proposed in conformance with all provisions and requirements of and rules and regulations adopted and promulgated pursuant to the act;
n. Whether the applicant has demonstrated that the type of management and control exercised over the licensed premises will be sufficient to ensure that the licensee can conform to all the provisions and requirements of and rules and regulations adopted and promulgated pursuant to the act;
o. The background information of the applicant established by information contained in the public records of the Commission and investigations conducted by law enforcement agencies;
p. Past evidence of discrimination involving the applicant as evidenced by findings of fact before any administrative board or agency of the local governing body, any other governmental board or agency of the local governing body, any other governmental unit, or any court of law;
q. Whether the applicant or the applicant's representatives suppressed any fact or provided any inaccurate information to the Commission or local governing body or the employees of the Commission in regard to the license application or liquor investigations. The applicant shall be required to cooperate in providing a full disclosure to the investigating agents of the local governing body;
r. Proximity of and impact on schools, hospitals, libraries, parks and public institutions;
s. Whether activities proposed to be conducted on the licensed premises or in adjacent related outdoor areas will create unreasonable noise or disturbance; and
t. Compliance with state laws, liquor rules and regulations, and municipal ordinances and regulations and whether or not the applicant has ever forfeited bond to appear in court to answer charges of having committed a felony or charges of having violated any law or ordinance enacted in the interest of good morals and decency or has been convicted of violating or has forfeited bond to appear in court and answer charges for violating any law or ordinance relating to alcoholic liquor.

It shall be the applicant's duty to produce evidence pertaining to the designated criteria prescribed in this subsection. The burden of proof and persuasion shall be on the party filing the application. When applicable for purposes of this section, "applicant" shall be synonymous with "licensee." (Ref. Neb. Rev. Stat. §53-134)

SECTION 5-127 CATERING LICENSE

1. The holder of a Class C, Class D, or Class I license issued under subdivision (5) of Neb. Rev. Stat. §53-124, or a brewpub license, may obtain an annual catering license as prescribed in this section. Any such licensee desiring to obtain a catering license shall file an application with the Liquor Control Commission.

2. Upon receipt from the Commission of the notice and copy of the application as provided in Section 53-124.12 RS Neb., the City Council shall fix a time and place at which a hearing will be held and at which time the City Council shall receive evidence, under oath, either orally or in writing, from the applicant and any other person concerning the propriety of the issuance of such license. Such hearing shall be held not more than 45 days after the receipt of the notice from the Commission. The City Council may examine, or cause to be examined, under oath, any applicant; examine, or cause to be examined, the books and records of any such applicant, to hear testimony, and to take proof for its information in the performance of its duties. For purposes of obtaining any of the information desired, the City Council may authorize its agent, the city clerk or the city attorney, to act on its behalf.

3. Notice of the time and place of such hearing shall be published in a legal newspaper in, or of general circulation in, the City one time not less than seven nor more than 14 days before the time of the hearing. Such notice shall include, but not be limited to, a statement that all persons desiring to give evidence before the City Council in support of or in protest against the issuance of such license may do so at the time of the hearing.

4. The City Council shall, after the hearing provided in subsection (2), consider making a recommendation favorable or non-favorable to the Nebraska Liquor Control Commission. This recommendation must be made within 45 days of receipt of such application from the Commission, and shall cause to be spread at large in the minute record of its proceedings. The city clerk shall thereupon mail or deliver to the Commission a copy of the minute record within ten days of the decision to approve or deny the application.

5. Any minute record to recommend denying an application shall be in writing or stated in the record and shall be accompanied by findings. The findings shall consist of concise statements of the conclusions upon each contested issue. The applicant shall be notified of the decision in person or by mail.

6. The City Council, with respect to catering licensees within its corporate limits, may cancel a catering license for cause for the remainder of the period for which such license is issued. Any person whose catering license is canceled may appeal to the District Court. (Ref. Neb. Rev. Stat. §53-124.12)

SECTION 5-128 REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY

Any law enforcement officer with the power to arrest for traffic violations may take a person who is intoxicated and in the judgment of the officer dangerous to himself/herself or others, or who is otherwise incapacitated, from any public or quasi-public property. An officer removing an intoxicated person from public or quasi-public property shall make a reasonable effort to take such person to his/her home or to place such person in any hospital, clinic, alcoholism center, or with a medical doctor as may be necessary to preserve life or to prevent injury. Such effort at placement shall be deemed reasonable if the officer contacts those facilities or doctors which have previously represented a willingness to accept and treat such individuals and which regularly do accept such individuals. If such efforts are unsuccessful or are not feasible, the officer may then place such intoxicated person in civil protective custody, except that civil protective custody shall be used only as long as is necessary to preserve life or to prevent injury, and under no circumstances longer than 24 hours. The placement of such person in civil protective custody shall be recorded at the facility or jail at which he/she is delivered and communicated to his/her family or next of kin, if they can be located, or to such person designated by the person taken into civil protective custody.

The law enforcement officer who acts in compliance with this section shall be deemed to be acting in the course of his/her official duty and shall not be criminally or civilly liable for such actions. The taking of an individual into civil protective custody under this section shall not be considered an arrest. No entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

For purposes of this section, "public property" shall mean any public right-of-way, street, highway, alley, park or other state, county or city-owned property; and "quasi-public property" shall mean and include private or publicly-owned property utilized for proprietary or business uses which invites patronage by the public or which invites public ingress and egress. (Ref. Neb. Rev. Stat. §53-1,121)

ARTICLE II - NON-RESIDENT SALESPEOPLE

SECTION 5-201 APPLICATION FOR PERMIT

Any non-resident salesperson intending to sell or attempting to sell at retail any merchandise, magazines, books, services or other items of value or attempting to take orders or subscriptions for the same within the corporate limits of the City shall prior to making any attempt to sell such items, register with the City Clerk. Such registration may be for periods of either one week of one year.

There shall be a registration fee of $25.00 per day for a week long permit and a fee of $500.00 for an annual permit. At the end of each permit period, the sales person shall be required to obtain a new permit. The fee is due upon the issuance of the permit by the City Clerk.

The City Clerk may issue the permit after the following is provided:

(1) The applicant's full name, current address, telephone number and proof of identity (which will be verified by law enforcement);

(2) A brief description of the nature, character and quality of goods, wares or merchandise to be offered for sale;

(3) The specific location, if any, in which the vendor intends to conduct business;

(4) If the applicant is employed by another, the name and address of the person, firm, association, organization, company or corporation;

(5) If a motor vehicle is to be used, a description of the vehicle together with the motor vehicle registration number and permit number;

(6) A sales tax permit as required by Neb. R.S. § 77-2705; and,

(7) Proof of a public liability bond or insurance policy in an amount not less than $300,000.00 for property damage and injuries, including death, caused by the operation of the business.

Amended – Ordinance No. 1811 8/2/2010

SECTION 5-202 REGISTRATION, EXCEPTIONS

The provisions of Section 5-201 shall not extend to individuals calling on retail merchants in corporate limits of the City for the purpose of taking orders or selling of merchandise for resale by such merchants, or farmers selling produce raised in their gardens or on their farms.

Amended – Ordinance No. 1811 8/2/2010

SECTION 5-203 ISSUANCE OF PERMIT

The applicant shall be notified in writing by the City Clerk of his or her decision to issue or deny the permit no earlier than three (3) days, nor later than thirty (30) days, after the applicant has filed a completed application for the permit with the City Clerk. Each permit shall show the name and address of the applicant; the duration of the permit; the kind of goods to be sold; the amount of the permit fee; the date of issuance and expiration; the license plate number of any vehicle the applicant will use in conducting business; the permit number; an identifying description of any vehicle or conveyance used by the permit plus, where applicable, the motor vehicle registration number.

Amended – Ordinance No. 1811 8/2/2010

SECTION 5-204 DUTY TO CARRY AND DISPLAY PERMIT

The permit herein provided shall at all times be carried on the person of said salesperson and shall be displayed by the salesperson upon the request of any citizen of the City or any police officer of the City.

Permits are non-assignable and non-transferable, and permits may be revoked or suspended by the Mayor upon a vote of the City Council following a public hearing of which the applicant is notified by mail not less than 10 days prior to the hearing.

Amended – Ordinance No. 1811 8/2/2010

SECTION 5-205 HOURS OF SOLICITATION

It shall be unlawful for any solicitor, salesperson or peddler to solicit any individual between the hours of 6:00 P.M. and 8:00 A.M., unless they have a previous appointment with the resident or residents on the premises solicited.

Amended – Ordinance No. 1811 8/2/2010

SECTION 5-206 FAILURE TO OBTAIN A PERMIT; VIOLATION

A salesperson who has failed to obtain a permit or who violates Section 5-205 shall be guilty of a misdemeanor. A new violation shall be deemed to have been committed for each 24 hours of continued non-compliance.

Amended – Ordinance No. 1811 8/2/2010

ARTICLE III - OCCUPATION TAXES

SECTION 5-301 TELECOMMUNICATIONS SERVICES OCCUPATION TAX

1. Commencing October 1, 2024, there is hereby charged on all telecommunications companies an occupation tax equaling the lesser of (i) five percent (5%) on the gross receipts resulting from any toll services and charges on basic local exchange services; inter-exchange services; mobile services; and other telecommunication services as provided for herein, or (ii) the maximum percentage on such gross receipts as allowed by law.

    a. Basic local exchange services shall include the access and transmission of two-way switched communications within the city, including local telephone and telecommunication services.

    b. Inter-exchange services shall mean the access and transmission of communications between two or more local exchange areas, provided that such inter-exchange service either (a) originates from an end user within the city or (b) terminates with an end user within the city, and is charged to a service address within the city regardless of where the charges are actually paid.

    c. Mobile services shall include any radio or similar communication services provided pursuant to license or authority granted by the Federal Communications Commission, charged to a service address within the city regardless of where the charges are actually paid, including cellular, radio paging, and mobile radio services.

    d. Any other similar telecommunication services involving any electronic or electromagnetic transmission of messages originating and terminating in the State of Nebraska and charged to a service address in the City, regardless of where the charges are actually paid.

    e. Gross receipts shall not include any toll services and charges as follows:

        (1) For interstate telecommunications between persons in this city and persons outside of this state.

        (2) For local carrier access charges, transmission facilities and switching services provided to telecommunications companies.

        (3) From accounts charged to the United States government or any of its departments, or the State of Nebraska, or any of its agencies, subdivision or departments.

2. This occupation tax on telecommunications services shall be due, and made payable to the Plattsmouth City Treasurer, as follows:

a. For services provided from January through March of each year, said tax shall be due on May 1 of that year;

b. For services provided from April through June of each year, said tax shall be due on August 1 of that year;

c. For services provided from July through September of each year, said tax shall be due on November 1 of that year; and

d. For services provided from October through December of each year, said tax shall be due on February 1 of the following year.

3. The City Treasurer shall give a receipt, properly dated, and specifying the person paying the said tax, and the amount paid. The revenue collected shall then be immediately deposited into the General Fund by the City Treasurer. The City treasurer shall keep an accurate account of all revenue turned over to him/her. All forms, and receipts herein mentioned shall be issued in duplicate. One copy shall then be kept by each party in the transaction. (Ref. *Neb. Rev. Stat.* §§ 16-205 and 86-704).

Amended – Ordinance No. 1784 3/2/2009; Ordinance No. 2025 10/7/2024

SECTION 5-302 FIRE INSURANCE COMPANIES OCCUPATION TAX

There is hereby charged an occupation tax of not more than five dollars per annum on each fire insurance corporation, company or association, doing business in the City of Plattsmouth, for the use, support, and benefit of volunteer fire department. The City Clerk shall collect with diligence the occupation tax so imposed and upon receipt shall pay over the proceeds to the City Treasurer who shall credit the same to a fund to be known as special occupation tax fund for benefit of the volunteer fire department. Upon proper claim filed by the chief of the fire department and allowed by the local governing body of the municipality, the City Treasurer shall pay over the proceeds of the tax in the fund from time to time for the use of the fire department, as hereinbefore provided. Said tax shall be due each year no later January 31. (Ref. *Neb. Rev. Stat.* §§ 16-205 and 35-106)

Amended – Ordinance No. 1784 3/2/2009

SECTION 5-303 RETAIL LIQUOR LICENSEES AND CRAFT BREWERY LICENSEES OCCUPATION TAX

There is hereby charged an occupation tax on all retail liquor licensees and craft brewery licensees doing business within the corporate limits of the City of Plattsmouth in an amount equal to the license fee imposed under the Nebraska Liquor Control Act to obtain such license. Said fee is due upon the issuance and renewal of such licenses by the Liquor Control Commission. Said tax shall be paid to the City Treasurer who shall give a receipt, properly dated, and specifying the person paying the said tax, and the amount paid. The revenue collected shall then be immediately deposited into the General Fund by the City Treasurer. The City Treasurer shall keep an accurate

account of all revenue turned over to him/her. All forms, and receipts herein mentioned shall be issued in duplicate. One copy shall then be kept by each party in the transaction. (Ref. *Neb. Rev. Stat.* §§ 16-205 and 53-132)

Amended – Ordinance No. 1785 3/2/2009

SECTION 5-304 CERTIFICATES

The receipt issued after the payment of any occupation tax shall be the occupation tax certificate. The said certificate shall specify the amount of the tax and the name of the person and business that paid the said tax. The occupation tax certificate shall then be displayed in a prominent place, or carried in such a way as to be easily accessible, while business is being conducted. (Ref. Neb. Rev. Stat. §16-205)

SECTION 5-305 FAILURE TO PAY

If any person, company or corporation fails or neglects to pay the occupation taxes as provided herein on the day it becomes due and payable, the City shall then proceed by civil suit to collect the amount due. All delinquent taxes shall bear interest at the rate of 1% per month until paid. (Ref. Neb. Rev. Stat. §16-205)

ARTICLE IV - FAIR HOUSING REGULATIONS

SECTION 5-401 PURPOSE

The purpose of this article is to promote the general welfare of the residents of Plattsmouth, Nebraska, by endorsing the provisions of the Nebraska Fair Housing Act, Sections 20-301 through 20-344 RS Neb., to the effect that there shall be no discrimination in the City of Plattsmouth, Nebraska, in the acquisition, ownership, possession or enjoyment of housing in accordance with Article I, Section 25, of the Constitution of the State of Nebraska.

SECTION 5-402 DEFINITIONS

As used in this article unless the context otherwise requires:

1. “Aggrieved person” shall include any person who: (a) claims to have been injured by a discriminatory housing practice, or (b) believes that he or she will be injured by a discriminatory housing practice that is about to occur;

2. “Commission” shall mean the Nebraska Equal Opportunity Commission;

3. “Dwelling” shall mean any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence for one or more families and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof;

4. “Familial status” shall mean one or more minors being domiciled with: (a) a parent or another person having legal custody of such individual; or (b) the designee of a parent or other person having legal custody, with written permission of the parent or other person;

5. “Handicap” shall mean, with respect to a person: (a) a physical or mental impairment, excluding the current illegal use of or addiction to a controlled substance as defined in Section 28-401 RS Neb., which substantially limits one or more of such person's major life activities, (b) a record of having such an impairment, or (c) being regarded as having such an impairment;

6. “Person” shall include one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries;

7. “Rent” shall include lease, sublease, let, and otherwise grant for consideration the right to occupy premises not owned by the occupant; and

8. “Restrictive covenant” shall mean any specification limiting the transfer, rental or lease of any housing because of race, creed, religion, color, national origin, sex, handicap, familial status or ancestry.

SECTION 5-403 UNLAWFUL ACTS

Except as exempted by Section 5-407, it shall be unlawful to:

1. Refuse to sell or rent after the making of a bona fide offer, refuse to negotiate for the sale or rental of or otherwise make unavailable or deny, refuse to show, or refuse to receive and transmit an offer for a dwelling to any person because of race, color, religion, national origin, familial status or sex;

2. Discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection therewith because of race, color, religion, national origin, familial status or sex;

3. Make, print, publish, or cause to be made, printed or published any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, national origin, handicap, familial status or sex or an intention to make any such preference, limitation or discrimination;

4. Represent to any person because of race, color, religion, national origin, handicap, familial status or sex that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

5. Cause to be made any written or oral inquiry or record concerning the race, color, religion, national origin, handicap, familial status or sex of a person seeking to purchase, rent or lease any housing;

6. Include any transfer, sale, rental or lease of housing any restrictive covenants or honor or exercise or attempt to honor or exercise any restrictive covenant pertaining to housing;

7. Discharge or demote an employee or agent or discriminate in the compensation of such employee or agent because of such employee's compliance with this article on the Nebraska Fair Housing Act; and

8. Induce or attempt to induce, for profit, any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, handicap, familial status or sex.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any minor.

SECTION 5-404 HANDICAPPED PERSON; DISCRIMINATORY PRACTICES PROHIBITED; DESIGN AND CONSTRUCTION STANDARDS

1. Except as exempted by Section 5-407, it shall be unlawful to:

(a) Discriminate in the sale or rental of or otherwise make unavailable or deny a dwelling to any buyer or renter because of a handicap of:

(i) The buyer or renter;
(ii) Any person associated with the buyer or renter; or
(iii) A person residing in or intending to reside in the dwelling after it is so sold, rented or made available; or

(b) Discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with a dwelling because of a handicap of:

(i) Such person;
(ii) Any person associated with such person; or
(iii) A person residing in or intending to reside in the dwelling after it is so sold, rented or made available.

2. For purposes of this section, "discrimination" shall include:

(a) A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises, except that in the case of rental, the landlord may, when it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear expected;

(b) A refusal to make reasonable accommodations in rules, policies, practices or services when such accommodations may be necessary to afford the handicapped person equal opportunity to use or enjoy a dwelling; and

(c) In connection with the design and construction of covered multi-family dwellings, a failure to design and construct the dwellings in such manner that:

(i) The public use and common use portions of the dwelling are readily accessible to and usable by handicapped persons;
(ii) All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
(iii) All premises within the dwellings contain the following features of adaptive design:

(A) An accessible route into and through the dwelling;
(B) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
(C) Reinforcements in bathroom walls to allow later installation of grab bars; and

(D) Kitchens and bathrooms such that a handicapped person In a wheelchair can maneuver about the space.

3. Compliance with the appropriate requirements of the American National Standards Institute standard for buildings and facilities providing accessibility and usability for physically handicapped people, ANSI A117.1, shall satisfy the requirements of subdivision (2)(c)(iii) of this section.

4. For purposes of this section, "covered multifamily dwellings" shall mean:

   (a) Buildings consisting of four or more units if such buildings have one or more elevators; and
   (b) Ground floor units in other buildings consisting of four or more units.

5. Nothing in this section shall require that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

SECTION 5-405 TRANSACTION RELATED TO RESIDENTIAL REAL ESTATE; DISCRIMINATORY PRACTICES PROHIBITED

1. It shall be unlawful for any person or other entity whose business includes engaging in transactions related to residential estate to discriminate against any person in making available such a transaction because of race, color, religion, sex, handicap, familial status or national origin.

2. For purposes of this section, "transaction related to residential estate" shall mean any of the following:

   (a) The making or purchasing of loans or providing other financial assistance:

      (i) For purchasing, constructing, improving, repairing or maintaining a dwelling; or
      (ii) Secured by residential real estate; or

   (b) The selling, brokering or appraising of residential real property.

3. Nothing in this section shall prohibit a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, national origin, handicap, familial status or sex.

SECTION 5-406 MULTIPLE LISTING SERVICE; OTHER SERVICE; DISCRIMINATORY PRACTICES PROHIBITED

It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization or facility relating

to the business of selling or renting dwellings or to discriminate against any person in the terms or conditions of such access, membership or participation on account of race, color, religion, national origin, handicap, familial status or sex.

SECTION 5-407 RELIGIOUS ORGANIZATION, PRIVATE HOME, PRIVATE CLUB, OR HOUSING FOR OLDER PERSONS; RESTRICTING USE NOT PROHIBITED

1. Nothing in this article shall prohibit a religious organization, association or society or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society from limiting the sale, rental or occupancy of a dwelling which it owns or operates, for other than commercial purposes, to persons of the same religion or from giving preferences to such persons unless membership in such religion is restricted on account of race, color, national origin, handicap, familial status or sex.

2. Nothing in this article shall prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than commercial purposes, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.

3. Nothing in this article shall prohibit or limit the right of any person or his or her authorized representative to refuse to rent a room or rooms in his or her own home for any reason or for no reason or to change tenants in his or her own home as often as desired, except that this exception shall not apply to any person who makes available for rental or occupancy more than four sleeping rooms to a person or family within his or her home.

4. Nothing in this article regarding familial status shall apply with respect to housing for older persons. For purposes of this subsection, “housing for older persons” shall mean housing:

    (a) Provided under any state program that the commission determines is specifically designed and operated to assist elderly persons or defined in the program;

    (b) Intended for and solely occupied by persons 62 years of age or older; or

    (c) Intended and operated for occupancy by at least one person 55 years of age or older per unit.

SECTION 5-408 INFORMATION

The city clerk, upon request, shall make available to an aggrieved person, or any other person, information regarding the Nebraska Fair Housing Act and the Nebraska Equal Opportunity Commission without cost to such individual. (Ref. Neb. Rev. Stat. §20-301 through 20-322)

ARTICLE V - MINIMUM RENTAL HOUSING STANDARDS

SECTION 5-501 RENTAL HOUSING STANDARDS CODE

To provide certain minimum standards, provisions and requirements for safe and stable design, construction, uses of materials, and maintenance of rental residential dwellings, the regulations promulgated by the U.S. Department of Housing and Urban Development and known as Section 8 Existing Housing Program, published by the U.S. Department of Housing and Urban Development and printed in book or pamphlet form, is hereby incorporated by reference in addition to all amended editions as though printed in full herein insofar as said regulations do not conflict with the statutes of the State of Nebraska. The City Council shall have the authority to establish regulations differing from the Section 8 Existing Housing Program, by resolution, and any such resolution is hereby incorporated by reference, together with the regulations known as Section 8 Existing Housing Program, shall constitute the Rental Housing Standards Code for the City. Three copies of the Rental Housing Standards Code are on file at the office of the city clerk and are available for public inspection at any reasonable time. The provisions of the Rental Housing Standards Code shall be controlling throughout the City. (Ref. Neb. Rev. Stat. §17-1001, 18-132, 19-902)

SECTION 5-502 INSPECTION

To ensure compliance with the Rental Housing Standards Code, every residential dwelling unit within the City which is not occupied by a person who is a record title owner of said unit shall be inspected by the City and brought into compliance with this Code by the owner of said dwelling at the time of any change of occupancy of said unit.

SECTION 5-503 INSPECTION; EXEMPTION, FEE

An inspection shall not be required if, within the two-year period immediately preceding the change of occupancy, a change of occupancy occurred in the unit which resulted in an inspection and certification of compliance with the Rental Housing Standards Code. All costs of compliance with the Rental Housing Standards Code shall be paid by the owner of the unit. The owner of the dwelling shall pay a fee of $50.00 for the inspection required under this section.

SECTION 5-504 TIME LIMIT TO BRING OCCUPANCY INTO COMPLIANCE; EXTENSION, FEE

The owner of a residential dwelling unit shall have a period of 90 days from the date of initial inspection to bring the unit into compliance with the code. An additional 60-day period shall be allowed, upon payment of a fee of $25.00 for said extension to the City, provided that the extension fee must be paid prior to the expiration of the initial 90-day period. Any further extension request will be charged an additional $25.00 fee and must be approved by the City Council prior to the expiration of the original period allowed for compliance. The City Council shall have the authority to grant or deny requests for additional extensions of time.

SECTION 5-505 VIOLATION

An owner of a residential dwelling unit who has failed to report a change of occupancy which requires an inspection; failed to allow the City to inspect a residential dwelling covered by this section; failed to pay fees required under this section; failed to bring a dwelling into compliance with the Code within the time allowed to said owner; or an owner in violation of any other aspect of this ordinance shall be guilty of a misdemeanor. A new violation shall be deemed to have been committed for each 24 hours of continued non-compliance.

SECTION 5-506 INSPECTION ORDERED BY HOUSING INSPECTOR

Notwithstanding the above, the city housing inspector shall have the authority to order an inspection of any residential dwelling covered by this section for the purpose of determining whether or not said dwelling is in compliance with the Code. No fee shall be required for the inspection ordered by the housing inspector under this provision. If it is determined, after any such inspection, that a dwelling is not in compliance, a $50.00 inspection fee will be collected and all owners of said dwelling shall be in violation of this section until said dwelling is brought into compliance with this section, and a new violation shall be deemed to have been committed for each 24 hours of continued non-compliance.

SECTION 5-507 CONTINUOUS VIOLATION; NUISANCE, ABATEMENT

Any violation of this ordinance or any part thereof which continues for more than seven consecutive days is hereby declared to be a threat to public safety and a nuisance. The City may proceed by a suit in equity to enjoin, prevent, abate and remove the same in the manner provided by law. (Ref. Neb. Rev. Stat. §17-123, 18-1720)

ARTICLE VI - TRAILER REGULATIONS

SECTION 5-601 TERMS DEFINED

The term "court" as used in this code shall mean and include any tract of land upon which are located two or more trailers or other temporary enclosures used for living purposes, whether a charge is made or not.

The term "trailer" as used in this code shall mean and include any vehicle commonly designated as such, also called "mobile home," and constructed to permit occupancy for sleeping, advertising, or business purposes, and so designed that it is or may be mounted on wheels and used as a conveyance on the public ways, and does not comply with the city building code.

The term "unit space" as used in this code shall mean and include the ground space that is actually set aside in a trailer court for the occupancy by and use of a trailer or other temporary dwelling.

SECTION 5-602 TRAILER COURTS; PERMIT REQUIRED

It shall be unlawful for any person to establish a trailer court within the City or within two miles beyond the corporate limits until he or she shall first obtain a permit for such purpose from the City Council. The city clerk shall provide permit application forms, which shall require: the name and address of the applicant; the name and residence of the proposed manager of the premises; the location and size of the court; a plat of the court showing the number and location of each unit space; the water service available; the toilet or sewer facilities available; the proposed means of disposing of garbage; the electrical current sources available; and the type of buildings proposed to be erected thereon.

Upon receipt of any such permit application, the city clerk shall furnish the city inspector with a copy of the said application. The city inspector shall then examine the premises involved and the proposed unit spaces for the purpose of determining whether the proposed court will violate any of the provisions of the municipal code or the laws of the State of Nebraska. The city inspector's findings shall then be submitted in writing to the City Council.

The City Council at its next regular meeting shall consider such application, and if the members find that all of the provisions of this ordinance are complied with, shall issue a permit for the operation of the trailer court. In the event that any of the provisions of this ordinance shall not be provided for in such permit application, then such trailer court permit shall not be issued until the City Council receives assurances that all provisions of this ordinance shall be complied with.

In the event that all of the terms and conditions of this ordinance have been complied with and the City Council votes to permit such trailer court to exist, then the city clerk shall issue a permit to such applicant, which permit shall be for a one-year period, to be renewed annually. All permits shall run from March 1 through the last day of February of the next calendar year.

Amended – Ordinance No. 1874 2/17/2014; Ordinance No. 1891 3/2/2015; Ordinance No. 1910 8/15/2016

SECTION 5-603 PERMIT RENEWAL

Applications for renewal, and all required documentation associated therewith, shall be due by December 31. If the same together with the applicable fee are not received by the City Clerk by December 31, then the applicant shall be assessed a late fee in the amount of $100 on the immediately following January 1 and on the first day of each month thereafter until the application, required documentation, fee, and late fee are received by the City Clerk; provided, applicant shall remain subject to the penalty set forth in Section 5-1101 for each day applicant operates a trailer court without such permit on and after March 1.

The annual fee for such permit shall be set by resolution of the City Council and shall be on file at the office of the city clerk. Except to the extent provided in this Section, the same procedure shall apply for the renewal of a permit as was heretofore prescribed for the issuance of a permit. No permit shall be issued for any period longer than one year.

Amended – Ordinance No. 1910 8/15/2016

SECTION 5-604 ASSIGNING PERMIT PROHIBITED

It shall be unlawful to assign or transfer without the written consent of the city clerk and the authorization of the City Council any permit issued by the City for the purpose of allowing the operation of a trailer court.

SECTION 5-605 PERMIT REVOCATION

Any permit granted under the provisions of this code shall be subject to revocation at any time by the City Council. Notice shall be served by the city clerk upon the person holding such permit, setting forth the manner in which the owner or operator of the court has failed to comply with the provisions of this code and allowing him/her an opportunity for a hearing before the City Council at a day and hour therein specified. The said hearing shall be held not less than three days after the personal service of the said notice. The owner or operator shall then be required to show cause why the said permit should not be revoked. Any owner or operator allowed an appearance under the provisions herein shall have the right to be represented by counsel.

SECTION 5-606 UNIT SPACES

Each trailer home shall be located on a site not less than 1,000 square feet. No trailer home shall be parked closer than five feet to the lot lines of the trailer court without the permission of the City Council; provided, nothing herein shall be construed to allow any trailer to be parked or located in such a manner as to obstruct the traffic on or the use of any public way or public property, and in the event that the lot line is adjacent to the public ways and property, the trailer shall be parked not less than ten feet therefrom. Each unit space shall abut a driveway of not less than 20 feet in width and shall have unobstructed access to a public street or alley. There shall be an open space of at least ten feet between the ends of the trailers located thereon, and there shall be on each trailer space an additional parking space for one vehicle for each unit in said court.

SECTION 5-607 DRAINAGE

Every trailer court shall be located on a well-drained area and the premises of such shall be properly graded so as to prevent the accumulation of stagnant water thereon.

SECTION 5-608 PLUMBING FACILITIES

The owner or operator of a trailer court shall make available connections with the sewer system for the trailer homes thereon unless other arrangements are agreed to in writing by the City Council.

SECTION 5-609 WASTE DISPOSAL

For garbage and refuse collection, tight receptacles of the type permitted for use within the City shall be provided for each unit space within the trailer court.

SECTION 5-610 ELECTRICAL SUPPLY

Each unit space within the trailer court shall be provided with an electrical service outlet installed and maintained in accordance with the current issue of the National Electrical Code.

SECTION 5-611 UNLAWFUL PARKING

It shall hereafter be unlawful for any person to place, allow to be placed, or occupy for any purpose a trailer home within the City or two miles beyond the corporate limits unless the same shall be located within the boundaries of a duly established trailer court. Modular homes shall not be subject to this prohibition if they have their towing tongue and axles removed and are placed on a permanent concrete or concrete block foundation.

SECTION 5-612 CONVERSION

It shall be unlawful for any person to remove the wheels or transporting device from any trailer or to otherwise affix the said trailer to the ground without first obtaining a written permit from the City Council; provided, the trailer so converted shall be subject to all rules and regulations prescribed herein for other habitable dwellings. Applications for such permits shall be made through the city clerk.

SECTION 5-613 COURTS LIMITED

There shall be a limit of three trailer home courts which shall be licensed within the City or within two miles beyond the corporate limits.

SECTION 5-614 LIABILITY

The owner of the property upon which any trailer or trailer court is located shall be primarily liable for any violations of the provisions of this article and shall also be primarily liable for the cost of any and all utility services provided by the City to the owner or occupant of a trailer located thereon.

SECTION 5-615 INSPECTIONS

It shall be the duty of the owner, manager, or occupants of any public trailer court to allow any city officials to enter upon the premises for the purpose of inspection at any reasonable time.

SECTION 5-616 COMPLIANCE WITH NUISANCE ORDINANCES

It shall be the duty of the licensee to assure that the Trailer Park licensed by the City Council is, at all times, compliant with the nuisance ordinances of the City of Plattsmouth, Nebraska.

Enacted – Ordinance No. 1874 2/17/2014

ARTICLE VII - RAILROAD COMPANIES

SECTION 5-701 DRAINAGE

Any railroad company doing business within the City shall construct and keep in repair ditches, drains and culverts along and under its railroad tracks at all places within the City where the same may be necessary for the escape of water and the proper draining of the areas on either side of the tracks. When any such drainage, ditch or culvert may be necessary, the City Council may, by resolution, call upon the proper company to construct or repair the ditch, drain or culvert and to put the same in a proper condition for the escape of water. A copy of such resolution shall be served upon the local agent of the company. The provisions of the resolution shall be carried out within 14 days, and failure thereof for each 24-hour period thereafter shall constitute a separate and distinct offense.

SECTION 5-702 SAFE CROSSINGS

It shall be the duty of every railroad company doing business in or traveling through the City to keep in a suitable and safe condition the crossings and right-of-way in the City. If any such crossing shall at any time fall into disrepair and become unsafe or inconvenient for public travel, the City Council may, by resolution, call upon the said company to make whatever repairs that they may deem necessary to correct the dangerous condition. Notice of the said resolution shall be served upon the local agent of the said company. In the event that the railroad shall fail or neglect to repair and correct the said condition as aforesaid within 48 hours, neglect for each 24 hours thereafter shall be deemed and is hereby made a separate and distinct offense against the provisions herein. (Ref. Neb. Rev. Stat. §16-212)

SECTION 5-703 SPEED

It shall be unlawful for any railroad company, its employees, agents or servants to operate a railroad engine, locomotive or other vehicle on its tracks within or through the City at a speed in excess of 45 miles per hour.

SECTION 5-704 OBSTRUCTING TRAFFIC

It shall be unlawful for any railroad company, its employees, agents or servants operating a railroad through the City to obstruct traffic on any public street, except in the event of an emergency, for a period longer than 15 minutes at one time.

SECTION 5-705 OBSTRUCTING VIEW AT CROSSING PROHIBITED

It shall be unlawful for any railroad company to obstruct or obscure the traveling public's view by storing or parking any railroad car on a railroad track within 25 feet of the crossing of any such railroad track and a public road within the corporate limits of the City; provided, however, in no instance shall any person who is authorized to control the movement of such railroad car within such distance be prevented from reasonably conducting his/her business. (Ref. Neb. Rev. Stat. §16-212)

ARTICLE VIII - SALVAGE YARDS

SECTION 5-801 DEFINITIONS

"Junk" as used in this article shall include scrap metals; scrap materials, whether liquids, solids, or gases; branches of trees; and dismantled or wrecked automobiles, tractors and machinery or parts thereof.

"Junk collector" shall be construed to mean any person going from place to place or house to house collecting or buying iron, copper, brass and zinc scraps, rags, bottles or old paper, and selling the same to a junk dealer.

"Junk dealer" is hereby defined as meaning and including any person engaged in the business of buying, selling, receiving, collecting or dealing in metals of any kind and in any form including scrap iron, bottles, rags and used tires; the dismantling or taking apart of automobiles, other than for repair, or the wrecking of automobiles; the storage of automobiles unfit for operation; the storage of automobile bodies and parts thereof; the storage of automobiles or parts thereof kept for salvage; the storage of scraps from automobiles; and/or the storage of iron, metals or junk.

"Junk yard" is hereby defined as meaning and shall include any place in the City where or from which any person shall conduct, engage in and/or carry on the business of junk dealer as herein defined.

SECTION 5-802 REGULATION

It shall be unlawful for any person to own, operate or hold open for public use any junk yard as herein defined without first obtaining a license to do so from the City. Application for a license to own, operate or hold open for public use any junk yard shall be made in writing to the city administrator and shall require such information and documents, or copies thereof, that the city administrator deems necessary to determine whether to grant or reject the said application. Upon approval of the application, the city clerk shall issue the license upon the payment of a fee set by resolution of the City Council. The licensee shall then be subject to the city zoning ordinance and any occupation taxes, bond requirements and other rules and regulations which the City Council may determine to be beneficial to the City. Any such bond shall be set by resolution of the City Council and will be conditioned upon the faithful observance of the provisions of this Code. The bond shall be held for the benefit of any person who may suffer damage by the improper management of the said junk yard.

SECTION 5-803 OWNER'S RESPONSIBILITY

The owner of the premise upon which a junk yard is located shall be equally responsible with the operator, director or employee thereof to see that the provisions of this Code will not be violated. In the event the provisions of this Code are violated, he/she shall be equally liable with the operator, director or employee for the said violation of the provisions herein.

SECTION 5-804 INSPECTIONS; NOTICE OF HEALTH HAZARD

The city police or health official shall have the power and authority to inspect and examine the premise on which a junk yard is located; provided that the said inspection is at a reasonable time. Upon a finding that the owner, operator, director or employee has allowed a health or safety hazard to develop, the health official or city police shall give written notice to the owner to remove the said health hazard within 30 days.

SECTION 5-805 NUISANCE

Any junk yard that becomes a danger to the public health or is not operated in the manner herein provided shall be deemed to be a public nuisance after the 30 days grace period as provided in Section 5-804. The city police or health official shall then request the city attorney to prosecute the owner, operator, director or employee of the said junk yard for violation of the provisions of this article.

SECTION 5-806 RECORDS

Any person who shall be engaged in the junk business shall keep a book which shall be legibly written in ink at the time of any purchase of goods or articles at the time the same are received and the name, residence, and description of the person doing the selling. The said book, as well as the articles purchased, shall, at all reasonable times, be subject to the inspection of the city police or city administrator.

SECTION 5-807 RODENTS

Any person who owns, operates, directs or is employed at a junkyard shall make a diligent and continuous effort to exterminate all rats, mice and other harmful rodents frequenting the said junk yard.

SECTION 5-808 ADDITIONAL JUNKYARDS PROHIBITED

There shall be no additional junk yards licensed within the City or within the two-mile zoning jurisdiction of the City.

ARTICLE IX - LOTTERY

SECTION 5-901 PARTICIPATION; RESTRICTIONS

1. No person under 19 years of age shall play or participate in any way in the lottery established and conducted by the City.
2. No owner or officer of a lottery operator with whom the City contracts to conduct its lottery shall play any lottery conducted by the City. No owner or officer of an authorized sales outlet location for the City shall play any lottery conducted by the City. No employee or agent of the City, lottery operator, or authorized sales outlet location shall play the lottery of the City for which he/she performs work during such time as he/she is actually working at such lottery or while on duty.
3. Nothing shall prohibit any member of the City Council, a city official, or the immediate family of such member or official from playing the lottery conducted by the City; provided that such person is 19 years of age or older.
4. For purposes of this section, immediate family shall mean (a) a person who is related to the member or official by blood, marriage, or adoption and resides in the same household, or (b) a person who is claimed by the member or official, or spouse of the member or official as a dependent for federal income tax purposes. (Ref. Neb. Rev. Stat. §9-646)

SECTION 5-902 LOTTERY; SALES OUTLET LOCATIONS; APPROVAL REQUIRED; QUALIFICATION STANDARDS

1. The lottery operator with whom the Plattsmouth City Council contracts to conduct its lottery shall not operate the lottery at a sales outlet location other than the location of the lottery operator without prior approval of the sales outlet location by the City Council. The City Council shall approve or disapprove each sales outlet location and individual, sole proprietorship, partnership, limited liability company, or corporation which desires to conduct the lottery at its sales outlet location solely on the basis of the qualification standards prescribed in division Section 2 below.

2. Any individual, sole proprietorship, partnership, limited liability company, or corporation which seeks to have its location approved as an authorized sales outlet location shall:

   (a) Obtain a retail liquor license for consumption on the premises pursuant to Chapter 53, article 1, of the Nebraska Revised Statutes;

   (b) Not have been convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any offense or crime, whether a felony or a misdemeanor, involving any gambling activity or fraud, theft, willful failure to make required payments or reports, or filing false reports with a governmental agency at any level;

   (c) Not have been convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any felony other than those described in section 2 (b) above within the 10 years preceding the filing of the application;

(d) Not have had a gaming license revoked or canceled under the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act;

(e) Be fit, willing, and able to properly provide the service proposed in conformance with all provisions and requirements of the Nebraska County and City Lottery Act and the rules and regulations adopted and promulgated pursuant to the act.

3. If the person seeking to have its location approved as an authorized sales outlet location is a partnership, limited liability company, or corporation, the qualification standards shall apply to every partner of such partnership, every member of such limited liability company, every officer of such corporation and every stockholder owning more than 10% of the stock of such corporation.

4. The City shall notify the Department of Revenue of all approved lottery locations within 30 days of approval. (Ref. *Neb. Rev. Stat.* § 9-642.01)

Amended – Ordinance No. 1749 5/7/2007

ARTICLE X - TOBACCO AND TOBACCO PRODUCTS SALES

SECTION 5-1001 DEFINITIONS

"Business" means any sole proprietorship, joint venture, corporation or other business entity, including retail establishments where goods or services are sold.

"Minor" means any person under 18 years of age.

"Person" means any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee or other legal entity.

"Self-service merchandising" means any open display of tobacco or tobacco products and point-of-sale tobacco-related promotional products to which customers have access without the assistance or intervention of an employee.

"Tobacco product" means any tobacco cigarette or cigar, pipe tobacco, smokeless tobacco, chewing tobacco, or any other form of tobacco which may be utilized for smoking, chewing, inhalation or other means of ingestion.

"Tobacco retailer" means any person or entity operating a store, stand, booth, concession or other place which sells tobacco or tobacco products to customers for consumption or use, whether utilized primarily for the sale of tobacco or tobacco products or in which the sale of tobacco or tobacco products is incidental.

"Tobacco vending machine" means any electronic or mechanical device utilizing the insertion of money, whether coin or paper currency, or other things of value, which dispenses or releases tobacco or tobacco products.

"Vendor-assisted access" means access to tobacco or tobacco products only with the assistance of a store employee so that customers do not have direct access to take possession without assistance from a store employee.

SECTION 5-1002 PROHIBITED ACTS; EXCEPTION

1. No person may (a) sell, permit to be sold, or offer for sale tobacco or tobacco products by means other than vendor-assisted access, or (b) display tobacco or tobacco products in a manner allowing customers access to tobacco or tobacco products without vendor assistance.

2. No person subject to this ordinance shall sell, offer to sell or permit to be sold any tobacco or tobacco product to an individual without requesting and examining identification establishing the purchaser's age as 18 years or greater.

3. This ordinance shall not apply to tobacco vending machine regulated by Nebraska state law, tobacco retail stores or to any business, retailer or establishment which is licensed by the Nebraska Liquor Control Commission for a dispensing license and required to be posted

preventing any minors from access to the premises, nor shall this ordinance apply to other forms of sale or distribution which is specifically allowed by federal or state law. This exception shall not apply to the sale of tobacco or tobacco products by vending machine or other similar distribution method which is not regulated by the Nebraska Liquor Control Commission or by other state or federal laws.

SECTION 5-1003 DUTIES

Any person selling or tobacco products shall:

1. Post plainly visible signs at points of purchase or display of tobacco or tobacco products stating that the sale of tobacco or tobacco products to persons under the age of 18 is prohibited and that photo identification is required for purchase.

2. Request identification from any person buying tobacco or tobacco products which shows the purchaser is of legal age unless the seller has a reasonable basis for determining that the buyer is of legal age to purchase tobacco or tobacco products.

3. Except as otherwise provided in this article, vendors of tobacco or tobacco products shall eliminate self-service merchandising.

ARTICLE XI - PENAL PROVISION

SECTION 5-1101 VIOLATION; PENALTY

Any person who violates or refuses to comply with any of the provisions of this chapter, which is incorporated by reference, shall be guilty of a misdemeanor, and upon conviction shall be subject to fine of not more than $500.00 dollars and/or imprisonment for up to 30 days for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

Amended – Ordinance No. 1681 11/4/2002

ARTICLE XII – SIDEWALK CAFÉ

SECTION 5-1201 OPERATION OF SIDEWALK CAFÉ WITHOUT PERMIT PROHIBITED

It shall be unlawful for any person or entity to own or operate a sidewalk café on the public sidewalks of the City of Plattsmouth, Nebraska, without first having obtained written permit therefore from the city clerk. Temporary sidewalk and street vendors subject to Chapter V, Article II, are exempt from this section.

Amended – Ordinance No. 1820 12/6/2010

SECTION 5-1202 DEFINITIONS

Abutting property owners or occupants. Any owner or occupant of property, which abuts the subject sidewalk café site excluding public right-of-way, and any other person who has requested in writing to be provided such notice.

Alcoholic beverages. Any beverage derived from a process of distillation and or fermentation.

Adjacent sidewalk area. That portion of the public sidewalk between the curb line and the property line demarcated by extending the side building line of the premises until they intersect with the curb.

Food. Any raw, cooked or processed edible substance or ingredient, used or intended for use in whole or in part for human consumption, and shall include nonalcoholic beverages allowed to be sold in accordance with this article, but this definition shall not include alcoholic beverages.

Operation of a sidewalk café. Serving food or alcoholic beverages from a business establishment to patrons seated at tables located within the permitted sidewalk area adjacent to said business.

Sidewalk Café. A permitted fenced area located in the adjacent sidewalk area intended for the operation of a sidewalk café.

Temporary Sidewalk or Street Vendors. Non-resident sales vendors serving food for a short period of time and outside of a permitted sidewalk café.

Amended – Ordinance No. 1820 12/6/2010

SECTION 5-1203 PERMIT FEE: DISPOSITION OF FUNDS

The city clerk shall at the time a person or entity makes application to operate a sidewalk café in Plattsmouth, charge and collect a fee of one-hundred dollars ($100.00). All such fees collected shall be credited to the general fund of the city, to be used to defray the costs and expense of administering this Chapter and thereafter for general purposes.

Amended – Ordinance No. 1820 12/6/2010

SECTION 5-1204 APPLICATION REQUIREMENTS

1. The application to obtain a permit to operate a sidewalk café shall be made at city hall on a form provided by the city clerk and shall contain:

    a. A completed application, signed by the operator of the establishment and if different from the owner of property, then the property owner also shall sign the application.

    b. A diagram of the sidewalk area to be used including the dimensions thereof, and a description of the tables and materials to be used.

    c. A certificate of insurance showing the applicant has acquired public liability, food products liability and property damage insurance in the sum of not less than five hundred thousand dollars ($500,000.00) combined single limit, which insurance may not be cancelled prior to the expiration of the permit without providing thirty (30) days written notice to the city. The City of Plattsmouth, Nebraska, shall be named a secondary insured party on such policy.

    d. By signing the application, the applicant shall agree to indemnify the City of Plattsmouth, its elected officials, and employees, for any claims for damages to property, or injury to persons, which may occur in connection with any activity carried on under the terms of the permit, pursuant to the indemnity provision contained within the application form.

Amended – Ordinance No. 1820 12/6/2010

SECTION 5-1205 REVIEW OF APPLICATIONS

1. The City Inspector shall review all initial applications for compliance with the following criteria and shall recommend approval or denial to the City Council, which shall then approve or deny each initial application.

    a. The operation of a sidewalk café is limited to structures which abut a public sidewalk, and which are located in the Central Business District (downtown business).

    b. Sidewalk Café locations shall be limited to one of the following per permitted use (see Figure 1 attached for illustrative descriptions of locations A, B, C, D, and E):

        (1) Sidewalk café allowed on decorative brick banding six feet wide, leaving full eight feet width for sidewalk. (A)

(2) Sidewalk café allowed on decorative brick banding, plus spillover onto sidewalk giving a larger eight foot width for café use. Sidewalk through way shall always be at least six feet. (B)

(3) Sidewalk café location allowed in the six feet closest to the building. There shall be a minimum of six feet remaining for pedestrian through way. Cafes in this area shall be located so as to assure a minimum of six feet remains for pedestrian through way around street light poles, edge of planter boxes, benches, and other permanent fixtures and appurtenances. (C)

(4) Sidewalk café location allowed on decorative brick banding six feet wide plus two feet closest to the building may be used for private establishment use to locate small table, chairs, dining material storage, etc. (D)

(5) Sidewalk café location of three feet closest to the building for small table or chairs. (E)

c. The type of barrier, construction materials and style, and all items placed in the designated sidewalk area shall be subject to approval in the application process.

d. The sidewalk café shall be located at least five (5) feet from driveways and alleys, and at least ten (10) feet from intersections.

e. Following approval, the sidewalk café boundaries shall be marked on the sidewalk, by city employees, to identify the area designated.

2. If, at the time an applicant submits an application for a sidewalk café permit, the applicant holds a sidewalk café permit in good standing, such applicant may submit a renewal application under this subsection (2) in lieu of submitting an initial application under subsection (1) above. A renewal application shall be reviewed for compliance using the same criteria as set forth in subsection (1) above; provided, the City Inspector shall have the authority to approve or deny renewal applications.

Amended – Ordinance No. 1820 12/6/2010; Ordinance No. 1942 10/15/2018

SECTION 5-1206 CONDITIONS OF OPERATION

1. Each permit issued shall terminate December 31st of the year in which it is issued. Such permits may be renewed up to 30 days before expiration.

2. The permit shall be personal to the applicant only and is not transferable in any manner.

3. A sidewalk café permit shall only authorize food and alcoholic beverage service in the sidewalk café. Regardless of what other activity may take place inside the establishment pursuant to

license or permit, such activity shall not be allowed in the sidewalk café by virtue of the sidewalk café permit.

4. The permit is specifically limited to the area approved or as modified by the city council, and will include a diagram indicating the area, including dimensions, approved for the sidewalk café.

5. A sidewalk café may be operated only between the hours of 7:00 a.m. and midnight.

6. The sidewalk and all elements placed there shall at all times be maintained in a clean and orderly condition. Only those elements approved by the City Council and specifically authorized by the permit are allowed on the public sidewalk.

7. Storage of tables and chairs will not be allowed on the public sidewalk except inside of an approved barrier. Furnishings may not be attached, even in a temporary manner, to the sidewalk or other public property, except that covers and railings may be secured by means of flush-mounted anchors in an approved manner. The property owner who signs the application, regardless of whether the applicant/operator, shall be responsible for restoration of the sidewalk or public right-of-way if any damage results from the operation of a sidewalk café.

8. Trash containers shall be placed within all operating sidewalk cafes.

9. No signs shall be attached to any furniture, gates, fencing, or other structure related to the operation of a sidewalk café, except as provided below and as the same relate to the purchase and consumption of alcoholic beverages or as required by state law. Signage on umbrellas and awnings may be approved when consistent with Article Ten of the City of Plattsmouth Land Development Ordinance.

10. Tables, chairs, and other structures associated with the sidewalk café shall be kept free of litter and other debris at all times.

11. Sidewalk cafes and adjoining properties shall remain clear of litter, food scraps and soiled dishes. All areas surrounding a sidewalk café shall be policed by the permitee or the permitee's staff to ensure removal of all wrappings, litter, debris and food. Daily sanitary cleaning is required. Sidewalks shall be washed down on a daily basis, and food from the Café shall not be disposed of in City containers, nor washed into the storm sewers.

12. No activity is allowed within the limits of the sidewalk café outside of its approved operating hours as noted on the respective permit

13. The sidewalk café permit shall be visibly displayed on the premises.

14. The City of Plattsmouth has the right to repeal or amend this article and thereby terminate or modify all sidewalk café operations. No permittee shall gain any property right in the continued private commercial use of the public sidewalk.

15. No portion of the Sidewalk Café can be elevated in the style of a deck.

16. Sidewalk cafes cannot operate under scaffolding or construction canopies.

17. Sidewalk cafes shall meet all requirements of the State of Nebraska Department of Health, and if applicable those of the Nebraska Liquor Control Commission.

18. The sale and consumption of alcoholic beverages may be permitted in the designated sidewalk area so long as the following conditions are met:

    a. The City enters into an agreement of revocable consent with the applicant to authorize the use of that portion of the sidewalk where the alcohol will be served.

    b. A license to sell alcohol has been obtained from the Nebraska Liquor Control Commission and includes the area of the sidewalk café.

    c. The fence shall be not less than thirty (30) inches in height nor more than forty-two (42) inches in height and easily removable from the sidewalk. Provided, however, that to the extent that the Nebraska Liquor Control Commission mandates other guidelines, the permitee shall comply with the Commission mandates.

    d. All fences used for sidewalk cafes shall also conform to local building codes, provided that the Nebraska Liquor Control Commission mandates do not conflict therewith.

    e. Outdoor areas serving alcoholic beverages shall be supervised by employees of the establishment. A one-foot square sign reading "no food or beverages allowed beyond railing" shall be posted at a conspicuous location within the perimeter of outdoor cafes serving alcoholic beverages.

Amended – Ordinance No. 1820 12/6/2010

SECTION 5-1207 DENIAL, REVOCATION, OR SUSPENSION OF PERMIT

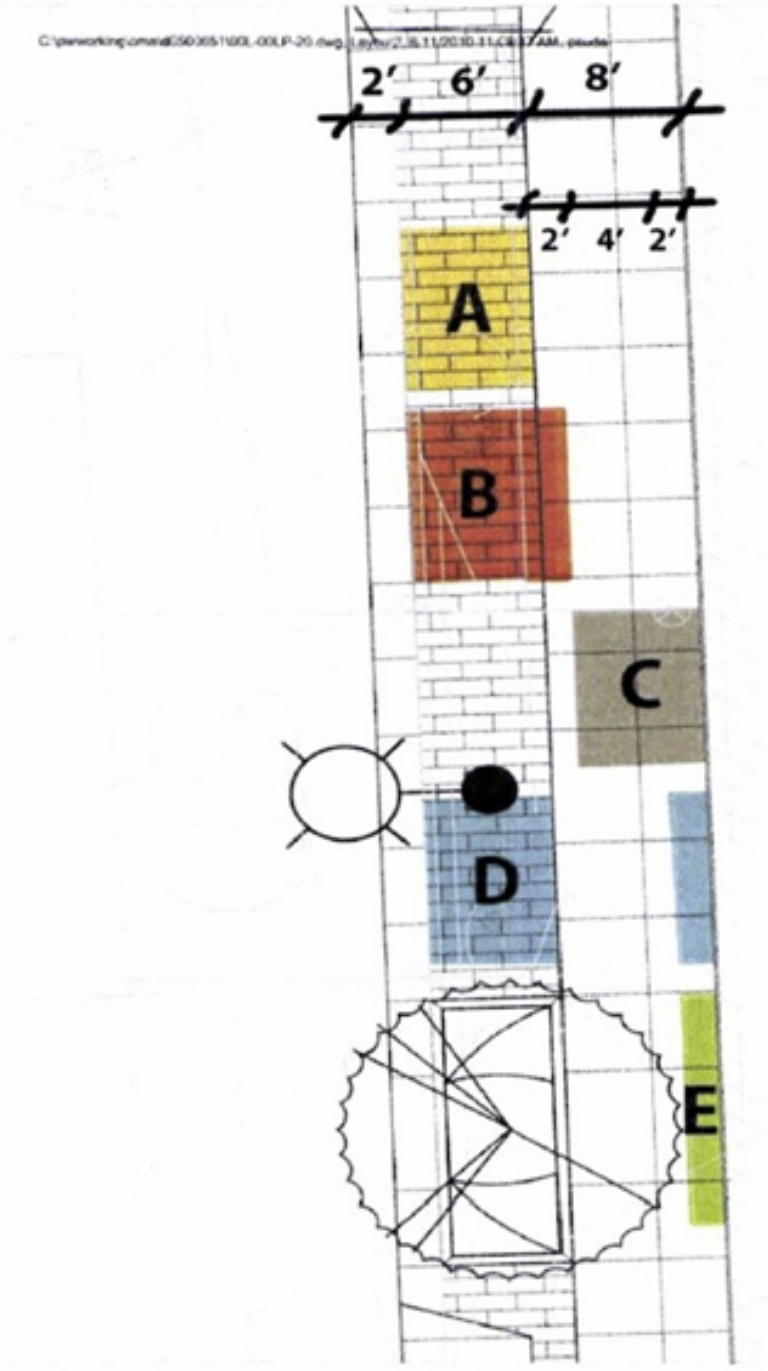
1. The City Council may deny an initial application upon finding that any provision of this article or condition of approval will be or has been violated. The City Inspector may deny a renewal permit application or may revoke or suspend a permit upon finding that any provision of this article or condition of approval will be or has been violated.

2. Upon denial, revocation, or suspension the City Inspector shall give notice of such action to the applicant or permittee, in writing, stating the action, which has been taken and the reason therefore. The action shall be effective immediately, but the applicant or permittee may make written request, within ten (10) calendar days after the notice is issued, for a hearing by the

City Council. Upon hearing the matter, the City Council shall render a final decision concerning the permit.

Amended – Ordinance No. 1820 12/6/2010; Ordinance No. 1942 10/15/2018

Figure 1, Permitted Sidewalk Café Locations



MUNICIPAL CODE

CHAPTER 6

PUBLIC WAYS & PROPERTY

ARTICLE I - MUNICIPAL PROPERTY

SECTION 6-101 DEFINITIONS

The following definitions shall be applied throughout this chapter. When no definition is specified, the normal dictionary usage of the word shall apply.

The term "sidewalk space," as used herein, shall mean that portion of a street between curb lines and adjacent property lines.

SECTION 6-102 MAINTENANCE AND CONTROL

The City Council shall have the care, supervision and control of all public highways, bridges, streets, alleys, public squares and commons within the City, and shall cause the same to be kept open, in repair and free from nuisances. (Ref. Neb. Rev. Stat. §16-201)

SECTION 6-103 OBSTRUCTIONS

Trees and shrubs growing upon public property may be removed or trimmed at any time by the City. Trees and shrubs growing on private property which overhang public property may be trimmed by the City to remove such overhanging growth. Such trimming operation shall not give rise to a cause of action against the City for damage to the affected tree or shrub. It shall be unlawful for any person, firm or corporation to obstruct or encumber any of the streets, alleys or sidewalks of the City by fences, gates, buildings, structures or otherwise. (Ref. Neb. Rev. Stat. §16-207)

SECTION 6-104 REMOVAL OF OBSTRUCTIONS NEAR UTILITIES

The City or any public utility affected may cause the trimming or removal of any tree or shrub growing on or over any public right-of-way so close as to interfere with the maintenance of any utility wires or pipes. Whenever possible, notice of the intention of such removal shall be given to the owner or occupant prior to trimming or removal.

SECTION 6-105 PERMITTED OBSTRUCTIONS

Persons engaged in the erection, construction, reconstruction, wrecking or repair of any building, or the construction or repair of a sidewalk along any street, may occupy the public street space with such building material and equipment as long as necessary if such persons shall make application to and receive a permit in writing from the Public Works Director or his/her designee to do so; provided, no permit for the occupancy of the sidewalk space, and more than 1/3 of the roadway of the public space adjacent to the real estate on which said building is to be constructed, erected, reconstructed, wrecked or repaired shall be granted; and provided further, a suitable passageway for pedestrians shall be maintained within the public space included in the permit, which space shall be protected and lighted in the manner required by the street and property maintenance superintendent.

Amended – Ordinance No. 1776 9/15/2008

SECTION 6-106 COUNCIL APPROVAL FOR IMPROVEMENTS, PARKING

The City Council may, by resolution or ordinance, order or permit the use of any area which is part of the city right-of-way for parking or improvements by an adjoining owner when, in the judgment of the City Council, such portion of any street right-of-way shall not be necessarily required for actual travel. The City Council may, at the adoption of such ordinance or resolution, impose conditions of approval and limit the period of such approved use. In any event, any such approved use shall require an annual renewal thereof by application to the office of the city clerk, but renewal shall not require City Council approval unless otherwise described in the grant or permit or by other City Council action.

SECTION 6-106.01 TEMPORARY USE OF RIGHTS-OF-WAY

The City Council may permit the temporary use of any area which is part of the city right-of-way for retail or other uses when, in the judgment of the City Council, such portion of any sidewalk space or other public right-of-way adjoining such area shall not be necessary for actual travel and the temporary use of the same for retail or other purposes will not adversely impact the health and safety of right-of-way users. Any such temporary use of the public right-of-way shall require the issuance of a license from the City. The City Council will limit the duration of any license issued pursuant to this section and may impose other conditions on the use of the public right-of-way pursuant to such license. The City Council may grant a license upon application made by an individual user, or the City Council may by resolution establish conditions for the issuance of licenses for certain types of right-of-way use and authorize an appropriate City officer to issue licenses to applicants in compliance with such conditions.

Enacted – Ordinance No. 1975 9/8/2020

SECTION 6-107 UNLAWFUL STORAGE OR BUSINESS USE

It shall be unlawful for any person to use any public property for storage or business purposes of any kind or nature except as may be specifically permitted by any other section in this Code.

SECTION 6-108 SALE AND CONVEYANCE

Real estate now owned or hereafter owned by the City may be conveyed without consideration to the State of Nebraska for state armory sites or, if acquired for state armory sites, such property shall be conveyed strictly in accordance with the conditions of Neb. Rev. Stat. §18-1001 to 18-1006. (Ref. Neb. Rev. Stat. §16-202)

The power to sell and convey any real estate owned by the City, including land used for park purposes and public squares, except real property used in the operation of public utilities or real estate for state armory sites for the use of the State of Nebraska as provided in Neb. Rev. Stat. §16-201, shall be exercised by ordinance directing the conveyance of such real estate and the manner and terms thereof.

Notice of such sale and the terms thereof shall be published for three consecutive weeks in a legal newspaper published in or of general circulation in the City immediately after the passage and publication of such ordinance.

If within 30 days after the passage and publication of such ordinance, a remonstrance against such sale, signed by registered voters of the City equal in number to 30% of the registered voters of the City voting at the last regular city election held therein, is filed with the City Council, such property shall not then, nor within one year thereafter, be sold. If the date for filing the remonstrance falls upon a Saturday, Sunday or legal holiday, the signatures shall be collected within the 30 day period, but the filing shall be considered timely if filed or postmarked on or before the next business day.

Upon receipt of the remonstrance, the City Council, with the aid and assistance of the election commissioner or county clerk, shall determine the validity and sufficiency of signatures on the remonstrance. The City Council shall deliver the remonstrance to the election commissioner or county clerk by hand carrier, by use of law enforcement officials or by certified mail, return receipt requested. Upon the receipt of the remonstrance, the election commissioner or county clerk shall issue to the City Council a written receipt that the remonstrance is in his/her custody.

The election commissioner or county clerk shall compare the signature of each person signing the remonstrance with the voter registration records to determine if each signer was a registered voter on or before the date on which the remonstrance was filed with the City Council. The election commissioner or county clerk shall also compare the signer's printed name, street and number or voting precinct, and municipal or post office address with the voter registration records to determine whether the signer was a registered voter. The signature and address shall be presumed to be valid only if the election commissioner or county clerk determines that the printed name, street and number or voting precinct, municipal or post office address matches the registration records and that the registration was received on or before the date on which the remonstrance was filed with the City Council. The determinations of the election commissioner or county clerk may be rebutted by any credible evidence which the City Council finds sufficient. The express purpose of the comparison of names and addresses with the voter registration records, in addition to helping to determine the validity of the remonstrance, the sufficiency of the remonstrance, and the qualifications of the signer, shall be to prevent fraud, deception and misrepresentation in the remonstrance process.

Upon the completion of the comparison of names and addresses with the voter registration records, the election commissioner or county clerk shall prepare in writing a certification under seal setting forth the name and address of each signer found not to be a registered voter and the signature page number and line number where the name is found, and if the reason for the invalidity of signature or address is other than the nonregistration of the signer, the election commissioner or county clerk shall set forth the reason for the invalidity of the signature. If the election commissioner or county clerk determines that a signer has affixed his/her signature more than once to the remonstrance and that only one person is registered by that name, the election commissioner or county clerk shall prepare in writing a certification under seal setting forth the name of the duplicate signature and shall count only the earliest date signature.

The election commissioner or county clerk shall certify to the City Council the number of valid signatures necessary to constitute a valid remonstrance. The election commissioner or county clerk shall deliver the remonstrance and the certifications to the City Council within 40 days after the receipt of the remonstrance from the City Council. The delivery shall be by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. No more than 20 signatures on one signature page shall be counted.

The City Council shall, within 30 days after the receipt of the remonstrance and certifications from the election commissioner or county clerk, hold a public hearing to review the remonstrance and certifications and receive testimony regarding them. The City Council shall, following the hearing, vote on whether or not the remonstrance is valid and shall uphold the remonstrance if sufficient valid signatures have been received.

SECTION 6-109 ACQUISITION OF PROPERTY; APPRAISAL

The City shall not purchase, lease-purchase, or acquire for consideration real property having an estimated value of $100,000.00 or more unless an appraisal of such property has been performed by a certified real estate appraiser. (Ref. Neb. Rev. Stat. §13-403)

SECTION 6-110 ACQUISITION OF REAL PROPERTY

When acquiring an interest in real property by purchase or eminent domain, the City shall do so only after the City Council has authorized the acquisition by action taken in a public meeting after notice and public hearing. (Ref. Neb. Rev. Stat. §18-1755)

SECTION 6-111 DESTRUCTION OR DAMAGE TO PROPERTY

It shall be unlawful for any person to intentionally cause damage to any property owned or under the jurisdiction of the City, or for any person to cause the destruction or injury to sidewalk space or any improvement placed thereon by an adjoining owner by driving any vehicle over the curb and onto such area or in any other manner.

ARTICLE II - SIDEWALKS

SECTION 6-201 OVERHANGING BRANCHES

The owner or occupant of any lot, piece or parcel of ground abutting or adjacent to any street or sidewalk over which tree branches or limbs extend shall at all times keep such branches or limbs trimmed to the height of at least seven and one-half feet above the surface of said walk. Whenever the limbs or branches of any tree extend over sidewalks contrary to the provisions herein so as to interfere with the lighting of the street from street lights, or with the convenience of the public using said sidewalk, the City Council at any regular or special meeting may pass a resolution ordering the owner or occupant to cut or remove said obstructions within five days after having received a copy of the resolution. Such resolution shall state that the City will remove said branches and charge the costs thereof to the owner or occupant as a special assessment for improvements as herein provided, if said resolution is not complied with. In the event the property owner is a nonresident of the county in which the property lies, the City shall, before levying any special assessment against that property, send to the last known address of the nonresident property owner by means of certified mail, return receipt requested, a copy of any notice required by law to be published. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

SECTION 6-202 KEPT CLEAN; NOTICE

It shall be unlawful for the occupant of any lot or lots or the owner of any vacant lot or lots within the corporate limits to permit any snow, sleet, ice, mud or other substance to remain upon the sidewalks. All sidewalks within the business district shall be cleaned within five hours after the cessation of a storm, unless the storm or fall of snow shall have taken place during the night, in which case the sidewalk shall be cleaned before 8:00 A.M. the following day. Sidewalks within the residential areas of the City shall be cleaned within 12 hours after the cessation of the storm.

Notice to remove snow, sleet, mud, ice or other substance shall be made upon the owner of the premises, said notice to demand the removal of said substance forthwith. If the person owning such premises is unknown or cannot be found, or if any reasonable service cannot be made upon any such owner, agent or occupant within the City, then such service of said notice shall be made by posting a copy thereof in some conspicuous place on the premises; and in case the owner or occupant shall fail to remove the snow, sleet, mud, ice or other substance, then it shall be the duty of the Public Works Director or his/her designee to remove such substance and the expense thereof shall be charged against the property and the owner thereof, and may be recovered by proper action in the name of the City or be chargeable against the property as a special assessment for improvements. (Ref. Neb. Rev. Stat. §16-207, 16-663)

Amended – Ordinance No. 1776 9/15/2008

SECTION 6-203 MAINTENANCE

Every owner of any lot, lots or piece of land within the corporate limits shall at all times keep and maintain the sidewalk along and contiguous to said lot, lots or pieces of land, as the case may be,

in good and proper repair and in a condition reasonably safe for all travelers thereon. In the event that the owner or owners of any lot, lots or lands, abutting on any street, avenue or part thereof shall fail to construct or repair any sidewalk in front of his/her/their lot, lots or lands, within the time and in the manner as directed and required herein after having received due notice to do so, said owner shall be liable for all damages or injury occasioned by reason of the defective or dangerous condition of any sidewalks or lack thereof, and the City Council shall have power to cause any such sidewalks to be constructed or repaired and assess the costs thereof against such property. In the event the property owner is a nonresident of the county in which the property lies, the City shall, before levying any special assessment against that property, send to the last known address of the nonresident property owner by means of certified mail, return receipt requested, a copy of any notice required by law to be published. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published. (Ref. Neb. Rev. Stat. §16-661, 16-662)

SECTION 6-204 REPAIR

The City Council may require sidewalks of the City to be repaired. Notice to the owners of property upon which such sidewalks in disrepair are located shall require said owners to repair said sidewalks within 30 days after issuance of said notice. Upon receiving notice, the owner of the property adjacent to the sidewalk in disrepair shall immediately put up barricades and warning lights by night and after receiving notice to repair the sidewalk shall forthwith contract with a competent contractor to repair the sidewalk within the time specified herein. No special assessment shall be levied against the property unless said owner shall neglect or refuse to repair within the time prescribed; and in the event that such owner fails to repair, the City shall cause the repairs to be made and assess the property owner the expense of such repairs. In the event the property owner is a nonresident of the county in which the property lies, the City shall, before levying any special assessment against that property, send to the last known address of the nonresident property owner by means of certified mail, return receipt requested, a copy of any notice required by law to be published. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published. (Ref. Neb. Rev. Stat. §16-661, 16-662)

SECTION 6-205 CONSTRUCTION BY OWNER

Any person desiring to construct, causing to be constructed or required by a building permit of the City to construct any sidewalk, shall do so only as herein provided. It shall be unlawful for any person to construct any sidewalk without first having obtained a permit.

Said owner shall make application in writing for a permit and file such application in the office of the city clerk. The permit fee, which shall be set by resolution of the City Council and on file at the office of the city clerk, shall be paid to the city treasurer. The permit shall give a description of the lot or piece of land along which the sidewalk is to be constructed. The building inspector shall issue the desired permit unless good cause shall appear why said permit should be denied; provided, if it is desirable to construct the sidewalk at a location, grade or elevation other than that regularly prescribed, the building inspector shall submit the application to the City Council, who shall determine whether the permit should be granted or denied. When a permit is issued for the

construction of a sidewalk, the building inspector shall approve placement of stakes indicating the location, grade and elevation of the sidewalk. It shall be unlawful for any person to construct, or cause to be constructed, said sidewalk at any other location, grade or elevation than so designated. All sidewalks shall be built and constructed on the established grade or elevation, and if there is no established grade, then on the grade or elevation indicated by the city official in charge of sidewalks. (Ref. Neb. Rev. Stat. §16-250)

SECTION 6-206 MUNICIPAL CONSTRUCTION

The City Council may, by resolution, order the construction of a sidewalk on any lot or piece of ground within the City. Notice of the City Council's intention to construct said sidewalk shall be given by the city clerk by publication of notice one time in a legal newspaper of general circulation in the City.

A copy of said notice shall be personally served upon the occupant in possession of such property, or, when personal service is not possible, said notice shall be posted upon such premises 30 days prior to the commencement of construction. The notice required in this section shall be prepared by the city attorney in accordance with the provisions of this section. Such service shall include a form of return evidencing personal service or posting as herein required.

Said notice shall notify the owner of the premises of the passage of the resolution ordering him/her to construct or cause to be constructed a sidewalk within 30 days after the date of publication, and further, that if he/she fails to construct the sidewalk or cause the same to be done within the time allowed, the City will cause the sidewalk to be constructed and the cost thereof shall be levied and assessed as a special tax against the premises; provided, the notice shall contain the official estimate of the cost of said construction and no special assessment in excess of this estimate shall be assessed against the property. In the event the property owner is a nonresident of the county in which the property lies, the City shall, before levying any special assessment against that property, send to the last known address of the nonresident property owner by means of certified mail, return receipt requested, a copy of any notice required by law to be published. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published. (Ref. Neb. Rev. Stat. §16-250, 16-664, 16-666)

SECTION 6-207 CONSTRUCTION BIDS

Whenever the City shall construct, widen, replace or reconstruct any sidewalk, notice shall be prepared by the city clerk, specifying the work to be done and calling for bids for doing such work and supplying the necessary materials and labor. Such notice shall be published in at least one issue of a legal newspaper of general circulation in the City; provided, bids so invited shall be filed in the office of the city clerk within ten days after the date of publication. Bids shall be opened at the next regular or special meeting of the City Council and the City Council shall then award the work to the lowest responsible bidder.

SECTION 6-208 CONSTRUCTION STANDARDS AND SPECIFICATIONS

All sidewalks shall be constructed in conformity with such specifications as are adopted by the

city engineer and approved by the City Council. The city engineer may reject the use of any materials that do not comply with such requirements and specifications or any materials that are lacking in quality, and it shall be unlawful to construct any sidewalks from any material so rejected. In case any lot owner within the City, under notice given or otherwise, shall construct a sidewalk in violation of this chapter, the building inspector, or Public Works Director or his/her designee, may stop the work of such construction and order the same to be constructed in accordance with this chapter and order the work already done to be changed. Upon the failure of such owner to change any such work, the Public Works Director or his/her designee may forthwith change said work and the expense of the same shall be assessed and taxed to said lot.

All sidewalks shall be a minimum of four feet from the curb lines; provided that a waiver of requirement of location of not less than four feet from curb line may be granted by the City Council upon application therefor and under conditions acceptable to the Council.

Amended – Ordinance No. 1776 9/15/2008

SECTION 6-209 DANGEROUS STAIRWAY OR OPEN GRATE

It shall be unlawful for any person to construct or maintain any stairway, cellarway, open basement, or open entrance thereto in or adjacent to any sidewalk, pavement or street; provided that all such existing conditions may be permitted to remain from and after the effective date of this Code if the person responsible therefor shall protect the public from harm by installation of an appropriate balustrade or coping, and shall furnish a bond as determined by the City Council for compensation to any person suffering injury or damage by reason of the existence of such open stairway, cellarway or basement. No sidewalk shall be constructed containing any opening or grates.

SECTION 6-210 TREE PLANTING

Any person may plant trees in the sidewalk space if application is first made to the City Council to do so. Applications shall be filed at the office of the city clerk upon forms supplied by the City requesting such information as the City Council may deem necessary to determine the propriety of granting a tree planting permit. Notwithstanding such permit to plant, the City shall retain the right to remove such tree or shrub when convenience or necessity demand such removal.

ARTICLE III - STREETS

SECTION 6-301 NAMES AND NUMBERS

All houses or buildings fronting on any of the public streets or alleys of the City shall be numbered as follows:

1. Each house or lot with frontage of 22 feet shall be entitled to receive a number.
2. The numbering shall be done in accordance with what is known as the Philadelphia system.
3. The numbers provided for in this section shall be at least three inches high in size, of good and substantial material and placed on the front of the house or building in a conspicuous place.
4. On all streets running east and west, the numbers shall commence at First Street as a base street.
5. On all streets running north and south, the numbers shall commence at Main Street as a base line.
6. The owner of each building shall place upon his/her house or building the proper number as provided in this section.

(Ref. Neb. Rev. Stat. §16-614)

SECTION 6-302 WIDENING OR OPENING

The City Council shall have the power to open, control, name, rename, extend, widen, narrow, vacate, grade or pave, install curbs and gutters, or otherwise improve and control any street, alley or lane within or without the limits of the City and keep the same in good repair and condition, in any manner it may deem proper. (Ref. Neb. Rev. Stat. §16-609)

SECTION 6-303 DRIVING STAKES

It shall be unlawful for any person to drive any peg or stake of any kind into the pavement in any street or alley without first procuring the written consent of the Public Works Director or his/her designee.

Amended – Ordinance No. 1776 9/15/2008

SECTION 6-304 MIXING CONCRETE

It shall be unlawful for any person to mix any concrete or plastering material directly on the street pavement for any reason whatsoever.

SECTION 6-305 HARMFUL LIQUIDS

It shall be unlawful for any person to place or permit to leak in the gutter of any street any waste gasoline, kerosene, or high lubricating oils, which damage or act as a solvent upon said streets.

SECTION 6-306 EAVE AND GUTTER SPOUTS

It is hereby declared unlawful for any person to erect or maintain any dwelling house or business building within the limits of the City where the said dwelling or building abuts on any sidewalk or street without providing proper guttering and eave spouts to receive the waste waters that collect on the said sidewalks and streets. All eave spouts erected on any dwelling house or business building shall be constructed to drain into the alleys or, where it is found to be impossible to drain any eave spout into the alley, it shall be buried beneath the sidewalk and drain into the street.

SECTION 6-307 HEAVY EQUIPMENT

It shall hereafter be unlawful for any person(s) to move or operate heavy equipment across any curb, gutter, bridge, culvert, sidewalk, crosswalk or crossing on any unpaved street without first having protected it with heavy plank sufficient in strength to warrant against breakage or damage. Hereafter, it shall be unlawful to run, drive, move, operate or convey over or across any paved street a vehicle, machine or implement with sharp discs or sharp wheels that bear upon said pavement with wheels having cutting edges; with wheels having lugs, protruding parts, or bolts thereon that extend beyond a plain tire so as to cut, mark, mar, indent, or otherwise injure or damage any pavement, gutter or curb; provided, where heavy vehicles, structures, and machines move along paved or unpaved streets the city police are hereby authorized and empowered to choose the route over which the moving of such vehicles, structures or machines will be permitted and allowed. Nothing in this section shall be construed to apply to pneumatic tires with metal or metal-type studs not exceeding five-sixteenths (5/16) of an inch in diameter inclusive of the stud-casting with an average protrusion beyond the tread surface of not more than seven sixty-fourths (7/64) of an inch, between October 1st and April 15th; provided that school buses and emergency vehicles shall be permitted to use metal or metal-type studs all year; farm machinery with tires having protuberances which will not injure the streets shall be permissible; and tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to slide or skid shall also be permissible. (Ref. Neb. Rev. Stat. §60-6,250)

SECTION 6-308 CONSTRUCTION NOTICE

The city clerk shall notify the owners of real estate abutting a street, alley, or a part thereof which is to be put under contract for paving or repaving. Notice shall also be given to all gas, electric service and telephone companies and all consumers of gas, water and sewer services which will be discontinued during such construction. Said notice shall be published one time in a legal newspaper at least 20 days prior to the beginning of such construction by the party undertaking such construction; said notice shall state at what date connections must be made and excavation completed. All gas, water, sewer and underground connections must be made prior to the paving or repaving of the street under construction. After expiration of such time, permits for excavation will not be issued, nor will excavation be allowed, until after the completion of the paving in said street or alley, and the formal final acceptance thereof by the proper officials of the City.

SECTION 6-309 PIPELINES AND WIRES

Poles, wires, fiber optics, gas mains, pipelines, and other appurtenances of public service companies shall be located or erected over, upon, or under the streets, alleys, and common grounds of the City, and shall be confined to the alleys whenever possible. All poles, wires, fiber optics, gas mains, pipelines or other appurtenances shall be reset, placed, or erected in such a manner that they will not interfere with the water system; sewerage system; poles, wires, fiber optics, and mains of any public utility; adjacent buildings; or with travel on the public ways and property. Application for location of the above shall be made to the Public Works Director in writing, and approval by the Public Works Director shall be issued in writing. Any public service company granted a right-of-way for the erection and maintenance of poles, fiber optics, conduits, gas mains, pipelines and wires shall at all times erect and locate their poles, fiber optics, wires, gas mains, pipelines and other appurtenances at such places and in such manner as shall be designated by the Public Works Director. Such poles, fiber optics, wires, gas mains, pipelines and other appurtenances shall be removed or relocated by said companies at their own expense when requested to do so by the City. Any such relocation shall be ordered by the Public Works Director, and the city clerk shall notify any and all companies affected. Said companies shall, within 24 hours after receiving notice, at their own expense, cause the poles, fiber optics, wires, gas mains, pipelines or other appurtenances to be removed. The Public Works Director shall designate another location as close as possible to their original location where said poles, fiber optics, wires, gas mains, pipe lines or other appurtenances may be reset or placed.

Amended – Ordinance No. 1949 3/4/19

SECTION 6-310 CONSTRUCTION ASSESSMENT

To defray the costs and expenses of street improvements, as may be authorized by law, the City Council shall have power and authority to levy and collect special taxes and assessments upon the lots and pieces of ground adjacent to, abutting upon, or especially benefiting from, the street, avenue, alley or sidewalk in whole or in part opened, widened, curbed, curbed and guttered, graded, paved, repaired, graveled, macadamized, parked, extended, constructed, or otherwise improved or repaired. The City Council, sitting as the Board of Equalization, shall review all such improvements in accordance with the procedure provided by law. All special assessments shall be made by the City Council at a regular or special meeting by resolution, taking into account the benefits derived or injuries sustained in consequence of such improvements and the amount charged against same. The vote shall be recorded in the minutes. Notice of the time of such meeting and the purpose for which it is to be held shall be published in a legal newspaper published or of general circulation in the City at least four weeks before the same shall be held. In lieu of such aforementioned notice, personal service may be had upon the persons owning or occupying the property to be assessed. Such assessments shall be known as "special assessments for improvements" and, with the cost of notice, shall be levied and collected as a special tax in addition to the taxes for general revenue purposes, subject to the same penalties and collected in like manner as other city taxes. Said assessments shall be certified to the county clerk by the city clerk forthwith after the date of levy for collection by the treasurer of said county unless otherwise specified. After it shall become delinquent, said assessment shall draw interest at the legal interest rate per annum. In the event the property owner is a nonresident of the county in which the

property lies, the City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

SECTION 6-311 PETITION FOR IMPROVEMENTS

Owners of lots or land abutting upon any street, avenue or alley within the City representing 75% of the front footage thereon may petition the City Council to create an improvement district, so that such district when created will make up one continuous or extended thoroughfare or more without cost to the City. The City Council shall assess the entire cost of any such improvements on any such street, alley or avenue, including intersections of streets or avenues and spaces opposite alleys, against the private property within such improvement districts. It shall be the duty of the City Council to create the proper improvement districts, which shall be consecutively numbered, and to improve the same and to proceed in the same manner and form as hereinbefore provided for in other paving and improvement districts; provided, the City Council shall have power to levy the entire cost of such improvements of any such street, avenue or alley, including intersections of streets or avenues and spaces opposite alleys, against the private property within such district, and to issue street improvement bonds to pay for such improvements. Such bonds shall be issued to cover the entire cost of so improving such streets or avenues, including intersections of the same, and spaces opposite alleys. If the assessments hereinbefore provided for, or any part thereof, shall fail, or for any reason shall be invalid, the City Council shall make other and further assessments upon such lots or lands as may be required to collect from the same the cost of any improvements properly chargeable thereto, as herein provided. The City Council shall have the discretion to deny the formation of the proposed district when the area has not previously been improved with a water system, sewer system, and grading of streets. If the City Council should deny a requested improvement district formation, it shall state the grounds for such denial in a written letter to interested parties. (Ref. Neb. Rev. Stat. §16-624)

SECTION 6-312 DEFERRAL FROM SPECIAL ASSESSMENTS

Whenever the City Council creates an improvement district as specified in Section 6-311 which includes land adjacent to the City which is within an agricultural use zone and is used exclusively for agricultural use, the owners of record title of such adjacent land may apply for a deferral from special assessments. For purposes of this section, the terms “agricultural use” and "agricultural use zone” shall have the meaning specified in Neb. Rev. Stat. §77-1343.

Any owner of record title eligible for the deferral granted by this section shall, to secure such assessment, make application to the City Council within 90 days after creation of an improvement district as specified in Section 6-108. Any owner of record title who makes application for the deferral provided by this section shall notify the county register of deeds of such application in writing prior to approval by the City Council. The City Council shall approve the application of any owner of record title upon determination that the property (a) is within an agricultural use zone and is used exclusively for agricultural use, and (b) the owner has met the requirements of this section.

The deferral provided for in this section shall be terminated upon any of the following events:

1. Notification by the owner of record title to the City Council to remove such deferral;
2. Sale or transfer to a new owner who does not make a new application within 60 days of the sale or transfer, except as provided in subdivision 3 of this section;
3. Transfer by reason of death of a former owner to a new owner who does not make application within 125 days of the transfer;
4. The land is no longer being used as agricultural land; or
5. Change of zoning to other than an agricultural zone.

Whenever property which has received a deferral pursuant to this section becomes disqualified for such deferral, the owner of record title of such property shall pay to the City an amount equal to:

A. The total amount of special assessments which would have been assessed against such property, to the extent of special benefits, had such deferral not been granted; and
B. Interest upon the special assessments not paid each year at the rate of 6% from the dates at which such assessments would have been payable if no deferral had been granted.

In cases where the deferral provided by this section is terminated as a result of a sale or transfer described in subdivision 2 or 3 of this section, the lien for assessments and interest shall attach as of the day preceding such sale or transfer. (Ref. Neb. Rev. Stat. §19-2428 through 19-2431)

SECTION 6-313 VACATING PUBLIC WAYS; DEFINITIONS AND ASCERTAINING DAMAGES

A. "Special damages" shall mean only those losses or damages or injuries which a property owner suffers that are peculiar or special or unique to his/her property, and which result from the City Council vacating such street, avenue, alley, lane or similar public ways.

Special damages shall not mean those losses or damages or injuries that a property owner suffers that are in common with the rest of the City or public at large, even though those losses or damages or injuries suffered by the property owner are greater in degree that the rest of the City or public at large.

B. The mayor shall appoint three or five or seven disinterested residents of the City to a special commission to ascertain the amount of special damages that the abutting property owners are entitled to receive and which resulted from the City Council vacating such street, avenue, alley, lane or similar public way. The appointees of the special commission shall be approved by the Council. Only special damages, as herein defined, shall be awarded to the abutting property owners.

C. In determining the amount of compensation to award the abutting property owners as special damages, the aforementioned commission shall use the following rule:

The abutting property owner is entitled to recover as compensation the difference between the

value of such property immediately before and immediately after the vacating of such street, avenue, alley, lane or similar public way. However, if no difference in value exists the abutting property owner is entitled to no compensation. (Ref. Neb. Rev. Stat. §16-904)

SECTION 6-314 VACATING PUBLIC WAYS; PROCEDURE

Whenever the City Council decides that it would be in the best interests of the City to vacate a street, avenue, alley, lane or similar public way, the City Council shall comply with the following procedure:

A. Notice. Notice shall be given to all abutting property owners either by First Class mail to their last known address or if there is no known address then by publishing the notice in a newspaper that is of general circulation in the City. The content of the notice will advise the abutting property owners that the City Council will consider vacating such street, avenue, alley, lane or similar public way at their next regular meeting or if a special meeting is scheduled for such discussion, then the date, time and place of such meeting.

B. Consent/Waiver. The City Council may have all the abutting property owners sign a form stating that they consent to the action being taken by the City Council and waive their right of access. The signing of such form has no effect on claims for special damages, as defined in Section 6-313, by the abutting property owners, but does create the presumption that the City Council's action was proper.

However, if all the abutting property owners do not sign the consent/waiver form, the City Council may still proceed with vacating such street, avenue, alley, lane or similar public way under the authority granted them by Neb. Rev. Stat. §16-611.

C. Ordinance. The City Council shall pass an ordinance that shall state essentially the following:

1. A declaration that the action is expedient for the public good or in the best interests of the City.
2. A statement that the City shall have an easement for maintaining all utilities.
3. A method or procedure for ascertaining special damages to abutting property owners.

D. Filing. The clerk shall file a copy of the ordinance with the county register of deeds to ensure that abutting property owners can gain title to their share of the vacated street, avenue, alley, lane or similar public way and so that such land will be drawn to the attention of the county assessor. (Ref. Neb. Rev. Stat. §16-611)

SECTION 6-315 INTERSECTION IMPROVEMENTS

The cost of improving the intersections of streets, avenues or the spaces opposite alleys shall be paid by the City. The City Council is hereby authorized to assess such improvements, issue improvement bonds, and levy a special tax on all of the taxable property in the City in the manner provided by law for the payment thereof. All improvements to any streets, avenues or alleys within the City for which a special tax shall be levied shall be done by contract with the lowest responsible

bidder to be determined by the City Council.

SECTION 6-316 IMPROVEMENTS; ACCEPTANCE BY CITY ENGINEER

When any improvement is completed according to contract, it shall be the duty of the city engineer to inspect the same and if the improvement is found to be properly done, he/she shall accept the same and report his/her acceptance to the mayor, who shall report the improvement to be approved or disapproved. The City Council may confirm or reject such acceptance. When the ordinance levying the special assessment tax makes the same due as the improvement is completed, the city engineer may accept the same in sections from time to time, if they are found to be finished according to the contract.

SECTION 6-317 CUTTING PAVING, CURB OR SIDEWALK

It shall be unlawful for any person to cut into any paving, curb or sidewalk for the purpose of constructing a driveway or any other purpose whatsoever without first having obtained a written permit from the city building inspector, or the Public Works Director or his/her designee. The application for such permit shall contain the following information:

1. The addition, block and lot which the improvement is to serve.

2. The location of the proposed improvement with reference to adjacent lot lines.

3. The width of the improvement and type of surface which the improvement will connect.

Upon the application being filed, it shall be the duty of the Public Works Director or his/her designee to inspect the place of entry into the paving, sidewalk or curb, and approve such application on such terms and conditions, including starting and completion dates, as he/she determines necessary. When cutting into any paving, it shall be the duty of the party to cut the paving under such rules and regulations as may be prescribed by the street and property maintenance superintendent. When the applicant is ready to close the opening made, he/she shall inform the Public Works Director or his/her designee, who shall supervise and inspect the materials used and the work done in closing the opening. It shall be discretionary with the City Council, to order the Public Works Director or his/her designee to do the work of cutting and closing the paving and charge the costs thereof to the party who obtained such permit. Before any permit is issued, the applicant for such permit shall deposit with the city treasurer a sum set by resolution of the City Council for all paving, curb or sidewalk to be cut. Such sum shall be set on a per square foot cost of construction basis. The deposit shall be retained by the City for the purpose of replacing the paving, curb or sidewalk, in the event the work is done by the City. In the event the City elects to require the applicant to replace the paving, curb or sidewalk, the deposit shall be retained by the City until the work is completed to the satisfaction of the Public Works Director or his/her designee. In lieu of making the deposit above set forth, the applicant may, before any permit is issued, execute a bond to the City with a good and sufficient surety or sureties to be approved by the City Council, for the total cost of the improvement.

In the event that the work has not been completed by the completion date as set forth on the

approved application the City may cancel the permit, if work has not commenced, complete the work and retain a sufficient sum of the deposit to reimburse the City for such completion work or serve notice on the applicant's bonding company of such failure to compete the work and if necessary file legal action on applicant's bond.

Amended – Ordinance No. 1776 9/15/2008

SECTION 6-318 PROTECTION OF PAVING

No person shall remove, destroy or tear down any barricade, fence, railing or other device erected or constructed for the purpose of protecting paving or any other work while in the course of construction or after it has been constructed on any of the streets, alleys or public grounds of the City. No person shall drive over or upon or go upon any paving or other public work in any of the streets, alleys or public grounds of the City while the same is protected by any barrier, fence or railing, or until such barrier, fence or railing has been removed by the contractors in charge of such work, or by the duly authorized officials of the City.

SECTION 6-319 UNAUTHORIZED REMOVAL OF MARKERS

It shall be unlawful for any person to break, remove or destroy any stone, stake, landmark or other marker on any street, block, lot or public ground except by proper authority.

SECTION 6-320 UNLAWFUL ACCUMULATION OF DIRT OR OTHER MATERIAL

It shall be unlawful for any person to allow the accumulation of any dirt or other material upon the city streets.

SECTION 6-321 WASHING VEHICLES ON STREETS

It shall be unlawful for any person to wash any automobile or other vehicle on any paved street or alley in the City.

SECTION 6-322 EXCAVATION AND BACKFILL; SUPERVISION OF CITY OFFICIALS

All practices within the scope of Sections 6-322 through 6-327 in respect to street right-of-way, including pavement of sidewalks within the street right-of-way, shall be under the control and supervision of the Public Works Director or his/her designee.

All practices within the scope of the above-named sections in respect to private property or non-street right-of-way shall be under the control and supervision of the building inspector. (Ref. Neb. Rev. Stat. §16-232, 16-308)

Amended – Ordinance No. 1776 9/15/2008

SECTION 6-323 EXCAVATION AND BACKFILL; COMPLIANCE

The responsibilities for compliance with the requirements of these sections shall rest with the owners of property with respect to private owned property, and shall rest with the primary contractor or the sub-department of the City in respect to publicly owned or right-of-way property, and in each case the delegation of responsibility to the contractor(s), whether primary or sub-contractors, shall not operate to relieve the primary responsibility as herein established.

SECTION 6-324 EXCAVATION AND BACKFILL; BOND

All work done in the street right-of-way or upon city property shall not be done until a bond for completion of work and a certificate showing adequate public liability insurance are filed with the city clerk under rules to be established from time to time by resolution of the City Council.

SECTION 6-325 EXCAVATION AND BACKFILL; SAFETY REQUIREMENTS

Proper barricades and warning lights shall be erected and installed at any open ditch or other obstruction to the normal use of the street or on private property where a hazard exists, and such barricades and warning lights shall comply with rules established by the Public Works Director or his/her designee or the building inspector.

Amended – Ordinance No. 1776 9/15/2008

SECTION 6-326 EXCAVATION AND BACKFILL; TIME LIMITATIONS

Paving cuts or open ditches in streets or on private property shall not be permitted to remain open longer than is necessary for the completion of the work. Rules as to the time reasonably necessary shall be established by the Public Works Director or his/her designee and the building inspector, respectively, and extension of time beyond those established in such rules shall not be permitted without the written permission of the Public Works Director or his/her designee or building inspector, as the case may be, and then only for good cause shown.

Amended – Ordinance No. 1776 9/15/2008

SECTION 6-327 EXCAVATION AND BACKFILL; PERMIT APPLICATION, REQUIREMENTS

Any party desiring to make an excavation on public property shall first make application for a permit to do so with the street and property maintenance superintendent. Such application shall contain such information deemed necessary by the Public Works Director or his/her designee and shall be issued on such terms and conditions as set forth in writing by the Public Works Director or his/her designee. No application shall be accepted until the requirements of Section 6-324 have been complied with.

Excavation and backfill requirements shall be established by the Public Works Director or his/her designee. Each applicant shall acknowledge, in writing, receipt of the requirements as established

by the Public Works Director or his/her designee. Any permit holder who violates any of the written requirements issued with the permit shall be deemed guilty of a misdemeanor and fined in a sum not to exceed $500.00 per day. Each day's violation shall be deemed to be a separate offense.

Amended – Ordinance No. 1776 9/15/2008

ARTICLE IV - PENAL PROVISION

SECTION 6-401 VIOLATION; PENALTY

Any person who violates or refuses to comply with any of the provisions of this chapter, which is incorporated by reference, shall be guilty of a misdemeanor, and upon conviction shall be subject to fine of not more than $500.00 dollars and/or imprisonment for up to 30 days for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

Amended – Ordinance No. 1681 11/4/2002

ARTICLE V – PERMITS TO OCCUPY THE RIGHT-OF-WAY

SECTION 6-501 DEFINITIONS

For purposes of this Article, the definitions of this Section shall apply**.**

A. "Applicant" shall mean any person submitting an application for a permit under this Article.

B. "Facilities" shall mean pipes, conduits, wires, cables, towers, switches, amplifiers, transformers, fiber optic lines, antennae, poles, ducts, conductors, lines, mains, vaults, appliances, attachments, equipment, structures, manholes, fixtures, appurtenances, and such other objects, devices, or facilities that are designed, constructed, installed, used or operated in, upon, across, above or below the right-of-way.

C. "Franchise agreement" shall mean a franchise agreement, consent agreement, or similar agreement pursuant to which the City has granted a person the right to place facilities in its rights-of-way.

D. "Right-of-way" shall mean any public street, public alley, public sidewalk, public right-of-way, or other public ground within the City.

E. "Technically feasible" means that by virtue of engineering or, if applicable, spectrum usage, the proposed placement, design, or site location of a facility can be implemented without a reduction in the functionality.

Enacted – Ordinance No. 1966 2/3/2020; Re-enacted – Ordinance No. 1966A 4/20/2020

SECTION 6-502 PURPOSE; SCOPE; EXCEPTIONS

A. *Purpose.* This Article provides principles and procedures for the placement, construction, operation, maintenance, modification, repair, and removal of facilities in the rights-of-way. These principles and procedures are intended to protect the integrity of the City's rights-of-way and infrastructure and to promote the safe and orderly use of the rights-of-way among all right-of-way users. To achieve these purposes, it is necessary to require permits for all right-of-way uses, except as prohibited by law, and to establish uniform and nondiscriminatory rules which govern such permits.

B. *Scope*. This Article shall apply to all facilities located in the City's rights-of-way, subject to the limitations in this subsection (B), the exceptions provided in subsection (C) below, and preemption by applicable state or federal law. Any person in good-standing under a current, unexpired franchise agreement may continue to use the City's rights-of-way pursuant to the terms of such franchise agreement, unless otherwise prohibited by law, until the franchise agreement expires or is terminated. This Article shall not apply to the following right-of-way uses which are governed elsewhere as noted:

1. Use of a right-of-way by an adjoining property owner for parking or similar improvements, provided such use shall require a permit issued pursuant to Section 6-106.

2. Operation of a sidewalk café in the right-of-way, provided such use shall require a permit issued pursuant to Chapter 5, Article XII.

3. Closure and use of a right-of-way for an event, provided such closure and use shall have been approved by the City Council pursuant to Plattsmouth City Council Resolution No. 11-009.

C. *Exceptions*. The City shall not require an application, permit, or other approval or charge fees or rates under this Article for (1) routine maintenance of facilities where such maintenance is conducted by or on behalf of an applicant issued a permit for such facilities hereunder or (2) replacement of facilities with substantially similar facilities where such replacement is conducted by or on behalf of an applicant issued a permit for such facilities hereunder.

Enacted – Ordinance No. 1966 2/3/2020; Re-enacted – Ordinance No. 1966A 4/20/2020

SECTION 6-503 PERMITS

A. *Permit Required.* Unless otherwise specifically provided by law, it shall be unlawful for any person to lay, construct, operate, maintain, offer for lease, or make available for any use whatsoever, any facilities across, along, over, above, or under any public right-of-way for any private or commercial purpose unless such person been issued a permit to occupy such right-of-way under this Article.

B. *Permit Applications.* Applications for permits under this Article shall be made in writing to the Public Works Director. Each such application shall include the following:

1. A set of completed construction plans for all facilities to be located in the right-of-way under the permit, bundled into a single file, formatted to 11” by 17”, which includes:

(a) the name, location, address (if available), and GPS coordinates for the facilities;

(b) labeled and dimensioned site plan and elevation plans of the facilities with, as applicable, key symbols, ROW lines, property lines, street information, topographical information, existing and proposed utilities, adjacent property uses, and easements;

(c) structural plans of the facilities signed and stamped by a professional engineer licensed in Nebraska;

(d) dimensions of the facilities, and a description of type, color, and finish of all visible construction materials;

(e) accurate visual depictions or representations of all above-ground components of the facilities; and

(f) additional detail requested by the City to clarify the proposed work required for the facilities.

2. An attestation that the proposed facilities satisfy each of the aesthetic and design standards set forth in this Article, except for such standards, if any, for which applicant is concurrently submitting a request for relief under Section 6-507.

3. Evidence that, prior to commencement of any work in the right-of-way pursuant to the application, the applicant will procure the performance or construction bond required under this Article.

4. Evidence of the applicant's insurance required under this Article.

5. All applicable building and permit fees.

6. The deposit, if any, requested by the City pursuant to Section 6-506 for independent technical and legal review.

7. Such other submission requirements set forth in the City's published application form.

C. *Review; Issuance; Denial*. The Public Works Director shall review the application and, within 20 days after receipt, shall notify the applicant in writing whether the application is complete. If an application is incomplete, the City will specifically identify the missing information in writing and the applicant may resubmit the completed application within 30 days without additional charge. If the applicant makes any material changes in a resubmission, other than the material changes required by the City, the applicant shall be required to make a new application and submit a new application fee. The City will notify the applicant in writing whether its application has been approved or denied. If the application is denied, the City shall document the basis for denial, including any specific provisions of this Article or other applicable law on which the denial was based. The applicant may cure the deficiencies identified by the City and resubmit the application within 30 days without paying an additional application fee

D. *Term and Renewal.* The term of each permit to occupy the right-of-way issued under this Article shall be set forth in the permit. The applicant may apply to renew a permit issued hereunder for an equivalent duration and the City shall renew the permit for such period provided the applicant demonstrates compliance with the criteria set forth in in this Section. Applications for permit renewal may be submitted no earlier than 180 days prior to the

expiration of the then current permit and no later than 90 days prior to the expiration of the then current permit.

E. *Permit Conditions.* All permits to occupy the right-of-way issued under this Article are issued subject to the following conditions, and each applicant agrees, by accepting such permit, to be bound by the same:

1. All facilities shall be constructed, operated, maintained, repaired, removed, modified, and restored in strict compliance with all current applicable technical, safety, and safety-related codes adopted by the City, the State of Nebraska, or the federal government. The applicant shall, at its sole cost and expense, inspect, keep, and maintain its facilities in the right-of-way in safe condition, in good order and repair, and as otherwise according to best industry practices.

2. The applicant shall, at its sole cost and expense, promptly restore the right-of-way to its original condition after it completes work related to the facilities. The City may require an applicant to repair all damage to a right-of-way directly caused by the activities of the applicant in the right-of-way and return the right-of-way to equal or better condition to that before the damage occurred. If the applicant fails to make the repairs that are reasonably required by the City within 14 days after written notice, the City may undertake such repairs and charge the applicant the cost of such repairs. The City shall grant an extension of up to 10 days to complete such repairs if the applicant requests such extension within the original 14-day period. In the event of immediate threat to life or safety or to prevent serious injury, the City may immediately undertake to restore the site and then notify of and charge the applicant for all restoration costs.

3. The applicant assumes the risk of any loss, damage to, or loss of use of facilities which are damaged, destroyed, or taken out of service for any reason, except to the extent such loss or damage is due to or caused by the negligent or willful misconduct of the City.

4. The applicant shall undertake only the activities enumerated in its permit to occupy the right-of-way and such permit shall not create a property right or grant authority to the applicant to infringe upon the rights of others who may own or have other interests in a right-of-way, utility easement, or other privately owned property. Except as otherwise provided in this Code or applicable state or federal law, any additions or changes to the facilities or activities enumerated in applicant's existing permit shall require a new permit.

5. Neither the applicant nor its facilities shall interfere with any traffic-control devices and other public works equipment; water, wastewater, stormwater, gas, electrical, or other public utility infrastructure; or the facilities of any other occupant of the right-of-way permitted hereunder.

6. The City shall have the right at any time when in its judgement it becomes necessary or advisable to require a change of location of the facilities as a matter of safety, or on

account of a change of grade, resurfacing, repair, or reconstruction of any right-of-way. If the owner of such facilities has not moved or relocated the facilities within 30 days after the City requests the same in writing, the City may undertake such movement or relocation and charge the owner the costs of the same.

7. The City retains the right and privilege to cut or move any facilities, as the City may determine, in its sole discretion, to be necessary, appropriate, or useful in response to any public emergency. If circumstances permit, the City shall notify the applicant and provide an opportunity for applicant to move its own facilities prior to cutting or removing the facilities. In all cases, the City shall notify the applicant after cutting or removing the facilities as promptly as reasonably possible.

8. The applicant shall immediately notify the City in the event of an emergency regarding the applicant's facilities that may affect public health or safety, and such notice shall include, at a minimum, the nature of the emergency and the applicant's planned response to the emergency.

9. The applicant shall comply with the Nebraska One Call Notification Act before commencing any excavation or similar work in the right-of-way.

10. The applicant acknowledges that applications and all supporting written material applicant submits to the City are public records subject to the Nebraska Public Records Law. While an applicant may designate any such public records as "proprietary" or "confidential", the City shall treat them as such only to the extent expressly permitted by the Nebraska Public Records Law and, other than the cost of the City's routine response to public records requests, the City shall be under no obligation to incur any costs to protect the same from disclosure.

11. Prior to commencement, and at all times during, any work performed by or on behalf of applicant in the right-of-way, the applicant shall maintain a performance or construction bond, in form acceptable to the City, equal to at least 100% of the estimated cost of the facilities and related work covered by the application.

12. During the term of any permit to occupy the right-of-way issued hereunder, the applicant shall maintain comprehensive general liability, automobile, workers compensation, employer's liability, and umbrella insurance in form and amount consistent with the City's published requirements for the same. All such insurance policies shall include the City and its agents as additional insureds and shall not be modified or cancelled without 30 days prior written notice being given to the City.

13. The applicant shall defend, indemnify, and hold harmless the City, its agents, officers, officials and employees from any and all damages, liabilities, injuries, losses, attorneys' fees, costs, and expenses, whether for personal injury, death, or property damage, arising out of or in in any way related to the activities or performance of the applicant or its agents, except to the extent caused by the negligence or willful misconduct of the City. In the event the City becomes aware of any actions or claims,

the City shall promptly notify the applicant and reasonably cooperate in the defense. It is expressly agreed that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the applicant shall reimburse the City for any costs, expenses, and attorneys' fees directly and necessarily incurred by the City in the course of the defense.

14. Any facilities that are not operated for a continuous period of 90 days after completion of initial installation, excluding nonoperation due to a natural disaster or other unforeseeable circumstance or temporary equipment failure, shall be considered abandoned. If facilities are abandoned, the owner shall remove such facility, at such owner's cost, no later than 30 days after notice from the City. If the owner fails to remove such facilities within 30 days, the City may undertake the removal of the facilities and charge the owner the costs of such removal. If the facilities are located on a utility pole, the pole shall also be removed unless such pole is otherwise being used by another utility or is owned by a party other than the owner of the removed facilities.

15. In addition to all other remedies available to the City under this Code or other applicable law, the City may revoke an applicant's permit to occupy the right-of-way if the applicant fails to comply with any of the conditions set forth in this Article, and upon such revocation, may direct applicant, at applicant's cost, to remove applicant's facilities from the right-of-way and restore the right-of-way to its original condition. If the applicant fails to remove its facilities and restore the right-of-way within 30 days after the City's written request, the City may cause such work to be done and applicant shall reimburse the City for the costs of such work upon City's written demand for the same.

Enacted – Ordinance No. 1966 2/3/2020; Re-enacted – Ordinance No. 1966A 4/20/2020

SECTION 6-504 FEES AND TAXES

Applicant shall pay any applicable building permit fee and the application fee set forth in the City's Fee Ordinance. Unless provided otherwise in this Code, applicant shall pay the City an annual occupation tax for use of the right-of-way in the amount and manner provided under Section 5-301.

Enacted – Ordinance No. 1966 2/3/2020; Re-enacted – Ordinance No. 1966A 4/20/2020

SECTION 6-505 AESTHETIC AND DESIGN STANDARDS

The purpose of the standards set forth in this Section is to establish guidelines for the design, placement, and installation of facilities in the right-of-way. All facilities placed in the City's rights-of-way pursuant to this Article shall comply with these standards; provided, the City Administrator may authorize the waiver of, partial relief from, or exemption from, any one or more of these standards pursuant to Section 6-507.

A. *Undergrounded Facilities.* When facilities are proposed in area where other similar facilities are primarily located underground, all components thereof shall be placed underground to the extent technically feasible.

B. *Existing Aesthetics.* To the extent technically feasible, all ground-mounted components of facilities shall reasonably match the existing, adjacent streetscape character. Applicants shall use the same aesthetics as existing infrastructure to promote a uniform appearance.

C. *Consolidation*. To the extent technically feasible: (1) facilities shall be designed to consolidate all ground-mounted components within approved singular enclosures and (2) all cables, wires, and conduits shall be concealed from view.

D. *Location*. The placement of proposed facilities with existing facilities shall be preferred over placement of facilities at new sites. If an applicant chooses not to place its facilities with available existing facilities, the applicant must document that location of its proposed facilities with available existing facilities is not technically feasible.

E. *Camouflage*. Facilities shall be designed to camouflage and conceal all above-ground components of such facilities to the extent technically feasible.

F. *Signs*. Ground-mounted facilities shall have a four inch by six inch metallic sign permanently mounted between four feet and six feet from ground level and clearly visible to the public which provides the identifying information and emergency contact number for the owner of such facilities. No other signs, advertising, or banners are permitted on facilities except to the extent the same are mandated by state or federal law.

G. *Generators*. Generators are not permitted in the right-of-way.

H. *Lighting.* Lighting is not permitted on facilities except to the extent mandated by state or federal law.

I. *Historic Districts.* All ground-mounted facilities located in a historic district shall be subject to such other design and concealment standards required by the City for such districts to avoid or to remedy the intangible public harm of unsightly or out-of-character facilities deployed. Without limiting the foregoing, all facilities located in the City's historic overlay district shall be subject to the design and aesthetic standards for such historic overlay district set forth in the City's Zoning Ordinance.

J. *Traffic Signals*. Facilities shall not be allowed on traffic signal systems.

K. *Placement Guidelines.* All facilities proposed to be located at new sites:

1. Shall be located in a manner or location that (a) does not obstruct, impede, or hinder the usual pedestrian or vehicular travel; (b) does not adversely affect public safety or impair legal access and use of the public right-of-way; (c) conforms to applicable law (including the Americans with Disabilities Act of 1990) and public right-of-way design

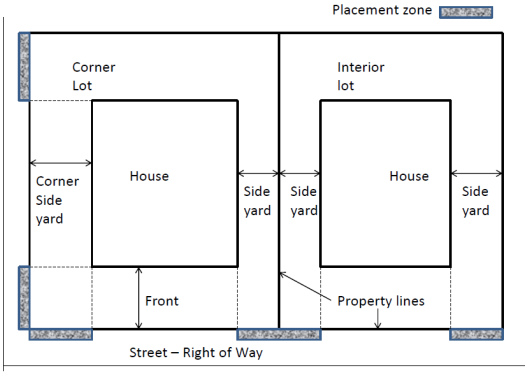
standards, specifications, and design requirements, and (d) does not in any way create a risk to public health, safety, or welfare;

2. Shall be located in a manner that does not significantly create a new obstruction to primary and inherently valuable sightline(s) of an adjacent property;

3. Shall be located in alignment with existing trees, utility poles, and streetlights and placed to avoid disturbance within the critical root zone of any tree;

4. Shall be located in the right-of-way, but placed within the extended side yard setback zones of the adjacent property, (see Figure);

Extended side yard Figure



5. Shall not be located along the frontage of properties in a historic district, unless otherwise approved by the City;

6. Shall be located with separation from any low-pressure natural gas line or intermediate or high-pressure natural gas line and with appropriate clearance as approved from all existing utilities;

7. Shall not materially impact any existing bridges, culverts, or retaining walls; and

8. Shall be located outside of all AASHTO clear zones and outside of clear sight triangles (at a minimum) as follows: (a) 5-foot leg pedestrian sight triangle at each residential driveway; (b) 10-foot leg pedestrian sight triangle at each driveway and alley; (c) 30-foot leg corner sight triangle; and (d) roadway sight triangles shall be based on AASHTO standards for each driveway, alley, and intersection.

Enacted – Ordinance No. 1966 2/3/2020; Re-enacted – Ordinance No. 1966A 4/20/2020

SECTION 6-506 INDEPENDENT TECHNICAL AND LEGAL REVIEW

Although the City intends for City staff to review permit applications to the extent feasible, the City may retain the services of an independent technical consultant and an attorney of its choice to provide technical and legal evaluations of applications submitted pursuant to this Article. The review may include, but is not limited to (a) the accuracy and completeness of the items submitted with the application; (b) the applicability of analysis and techniques and methodologies proposed by the applicant; (c) the validity of conclusions reached by the applicant; and (d) whether the proposed use of the right-of- way complies with this Article and other applicable provisions of this Code. The applicant shall pay the cost for any independent technical consultant and attorneys' fees through a deposit with the City, estimated by the City, within 10 business days of the City's request. When the City requests such payment, the application shall be deemed incomplete until the deposit is received. In the event that such costs and fees do not exceed the deposit amount, the City shall refund any unused portion within 30 days after a permit to occupy the right-of-way is

issued or, if no final permit is issued, within 30 days after the City receives a written request from the applicant. If the costs and fees exceed the deposit amount, then the applicant shall pay the difference to the City before a permit to occupy the right-of-way is issued. The technical consultant and attorney shall provide an itemized description of the services provided and related fees and costs. The fees shall be limited to a reasonable approximation of costs and the costs shall be reasonable.

Enacted – Ordinance No. 1966 2/3/2020; Re-enacted – Ordinance No. 1966A 4/20/2020

SECTION 6-507 RELIEF

Any applicant desiring relief from, the waiver of, or exemption from, any aspect or requirement of this Article, may submit a written request for such relief, waiver, or exemption to the Public Works Director. Such relief may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested relief, waiver, or exemption shall be solely on the applicant. No such relief, waiver, or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that, if granted, the relief, waiver, or exemption will have no significant effect on the health, safety, or welfare of the City, its residents, or other right-of-way users. The City shall be entitled to an extension of any applicable processing timelines as needed to address such request. The Public Works Director shall present the request for any such relief, waiver, or exemption, along with the application and other relevant material, to the City Administrator, and the City Administrator's recommendation regarding such request relief, waiver, or exemption shall be final.

Enacted – Ordinance No. 1966 2/3/2020; Re-enacted – Ordinance No. 1966A 4/20/2020

ARTICLE VI – SMALL WIRELESS FACILITIES IN THE RIGHT-OF-WAY

SECTION 6-601 DEFINITIONS

For purposes of this Article, the definitions of this Section shall apply.

A. "Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals used in providing wireless services.

B. "Applicant" means any person who submits an application and is a wireless provider.

C. "Application" means a written request submitted by an applicant to the City for (1) a permit to collocate small wireless facilities on an existing utility pole or wireless support structure or (2) a permit for the installation, modification, or replacement of a utility pole to support the installation of a small wireless facility.

D. "City pole" means a utility pole owned, managed, or operated by or on behalf of the City.

E. "Collocate" or "collocation" means to install, mount, maintain, modify, operate, or replace small wireless facilities on or adjacent to a wireless support structure or utility pole. Neither "collocate" nor "collocation" includes the installation of a new utility pole or new wireless support structure in the right-of-way.

F. "Communications facility" means the set of equipment and network components including wires, cables, and associated facilities used by a cable operator as defined in 47 U.S.C. 522(5), as such section existed on January 1, 2019, a telecommunications carrier as defined in 47 U.S.C. 153(51), as such section existed on January 1, 2019, a provider of information service as defined in 47 U.S.C. 153(24), as such section existed on January 1, 2019, or a wireless services provider, to provide communications services, including cable service as defined in 47 U.S.C. 153(8), as such section existed on January 1, 2019, an information service as defined in 47 U.S.C. 153(24), as such section existed on January 1, 2019, wireless services, or other one-way or two-way communications service.

G. "Communications network" means a network used to provide communications service.

H. "Communications service" means a cable service as defined in 47 U.S.C. 522, as such section existed on January 1, 2019, an information service as defined in 47 U.S.C. 153, as such section existed on January 1, 2019, a telecommunications service as defined in 47 U.S.C. 153, as such section existed on January 1, 2019, or a wireless service.

I. "Communications service provider" means a cable operator as defined in 47 U.S.C. 522, a provider of information service as defined in 47 U.S.C. 153, or a telecommunications carrier as defined in 47 U.S.C. 153, as such sections existed on January 1, 2019. Communications service provider includes a wireless provider.

J. "Decorative pole" means a City pole that is specially designed and placed for aesthetic purposes.

K. "FCC" means the Federal Communications Commission.

L. "Historic district" means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places, in accordance with Stipulation VI.D.1.a (i)-(v) of the Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the FCC codified at 47 C.F.R. part 1, Appendix C, as such regulation existed on January 1, 2019, or designated pursuant to state historic preservation law if such designation exists at the time of application.

M. "Make-ready work" means the modification or replacement of a City pole or associated lines, including the installation of guys and anchors on the same, required to accommodate a small wireless facility.

N. "Micro wireless facility" means a small wireless facility that is not larger in dimension than twenty-four inches in length, fifteen inches in width, and twelve inches in height and with any exterior antenna no longer than eleven inches.

O. "Permit to occupy the right of way" means a written authorization from the City issued pursuant to this Article which allows an applicant to site, place, construct, operate, maintain, repair, remove, modify, or prepare one or more small wireless facilities in the City's rights-of-way.

P. "Pole" means as a utility, lighting, or similar pole made of wood, concrete, metal, or other material, located or to be located within the right-of-way.

Q. "Public power supplier" means a public power district or any other governmental entity providing electric service. Public power supplier includes a municipal electric supplier.

R. "Right-of-way" means the area on, below, or above a public roadway, highway, street, sidewalk, alley, dedicated utility easement, or similar property, but not including a freeway as defined in section 39-1302, the National System of Interstate and Defense Highways, or a private easement.

S. "Routine maintenance" means any inspections, tests, or repairs that (1) maintain a functional capacity, aesthetic standards, or structural integrity of a small wireless facility and the associated utility pole or wireless support structure and (2) do not impede, damage, or disturb any portion of the right-of-way.

T. "Small wireless facility" means a wireless facility that meets each of the following conditions: (1) the facilities (a) are mounted on structures 50 feet or less in height including the antennas or (b) are mounted on structures no more than 10 percent taller than other adjacent structures; (2) each antenna associated with the deployment is no more than three cubic feet in volume; (3) all other equipment associated with the structure, whether ground-mounted or pole-

mounted, is no more than 28 cubic feet in volume; (4) the facilities do not require antenna structure registration under 47 C.F.R. part 17, as such regulation existed on January 1, 2019; (5) the facilities are not located on tribal lands, as defined in 36 C.F.R. 800.16(x), as such regulation existed on January 1, 2019; and (6) the facilities do not result in human exposure to radio frequency radiation in excess of the applicable safety standards specified in 47 C.F.R. 1.1307(b), as such regulation existed on January 1, 2019.

U. "Technically feasible" means that by virtue of engineering or spectrum usage, the proposed placement for a small wireless facility, or its design or site location, can be implemented without a reduction in the functionality of the small wireless facility.

V. "Utility pole" means a pole located in the right-of-way that is used for wireline communications, lighting, the vertical portion of support structures for traffic control signals or devices or a similar function, or for the collocation of small wireless facilities and located in the right-of-way. "Utility Pole" does not include (1) wireless support structures or (2) any transmission infrastructure owned or operated by a public power supplier.

W. "Wireless facility" means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (1) equipment associated with wireless communications and (2) radio transceivers, antennas, coaxial or fiber-optic cable, regular power supply, and small back-up battery, regardless of technological configuration. Wireless facility includes small wireless facilities. "Wireless facility" does not include the structure or improvements on, under, or within the equipment, which is collocated; coaxial or fiberoptic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to, or directly associated with, a particular antenna; or a wireline backhaul facility.

X. "Wireless infrastructure provider" means any person, including a person authorized to provide telecommunications service in the State of Nebraska, when acting to build or install wireless communication transmission equipment, wireless facilities, or wireless support structures, but that is not a wireless services provider.

Y. "Wireless provider" means a wireless services provider or a wireless infrastructure provider when acting as a co-applicant for a wireless services provider.

Z. "Wireless services" means any services using licensed or unlicensed spectrum, including the use of Wi-Fi, whether mobile or at a fixed location, provided to the public using wireless facilities.

AA. "Wireless services provider" means a person who provides wireless services.

BB. "Wireless support structure" means a structure such as a guyed or self-supporting tower, billboard, building, or other existing or proposed structure designed to support or capable of supporting wireless facilities other than a structure designed solely for the collocation of small wireless facilities. Wireless support structure does not include a utility pole.

CC. "Wireline backhaul facility" means an above-ground or underground facility used to transport communications services from a wireless facility to a communications network.

Enacted – Ordinance No. 1967 2/3/2020

SECTION 6-602 PURPOSE AND SCOPE

This Article supplements the generally applicable right-of-way permitting provisions in Article 5 of this Chapter with specific provisions for the placement, permitting, and use of small wireless facilities in the City's rights-of-way. In the event of a conflict between Article 5 and this Article, this Article shall control. This Article is intended to comply with the Small Wireless Facilities Deployment Act as adopted by the 106th Nebraska Legislature First Session, referred to in this Article as the "Act". Nothing in this Chapter shall restrict any authority of the City as provided in the Act.

A. *Applicability of this Article.* No person shall site, place, construct, operate, maintain, repair, remove, modify, or prepare any small wireless facility, any wireless support structure, any utility pole built or modified solely to accommodate a small wireless facility, or any other structure built solely to support a wireless facility, in the City's rights-of-way, without first having received a permit from the City to occupy right-of-way pursuant to Section 6-603. Any small wireless facility, wireless support structure, or any utility pole or other structure built or modified solely to support a wireless facility, which is located outside the City's rights-of-way, is not subject to this Article; however, such facilities and structures are subject to the City's Zoning Ordinance.

B. *Exceptions and Limitations.*

1. Notwithstanding subsection (A) above, the City shall not require an application, permit, or other approval or charge fees or rates for (a) routine maintenance of small wireless facilities; (b) replacement of small wireless facilities with small wireless facilities that are substantially similar in weight or windage or the same size or smaller; or (c) the installation, placement, maintenance, operation, or replacement of micro wireless facilities that are strung on cables between existing utility poles in compliance with the National Electrical Safety Code; provided, in all such cases, the City may require a permit to occupy the right-of-way for work that exceeds the original weight or windage or that requires excavation or closing of sidewalks or vehicular lanes within the right-of-way for such activities.

2. Nothing in this Article shall be construed (a) to allow any entity to provide communications services without complying with all laws applicable to such providers or (b) to authorize collocation, installation, placement, maintenance, or operation of any communications facility, including a wireline backhaul facility, other than a small wireless facility or a utility pole, in a right-of-way.

3. To the extent the Act precludes municipalities from exercising zoning authority over small wireless facilities located in the right-of-way, the City's Zoning Ordinance shall not apply to small wireless facilities located with its rights-of-way.

Enacted – Ordinance No. 1967 2/3/2020

6-603 PERMITS TO OCCUPY THE RIGHT-OF-WAY

A. *Application for Permits*.

1. Applications for permits to occupy the right-of-way are available from the City Clerk. Completed applications shall be submitted to the City's Public Works Director. In addition to the information required by Section 6-503(B), applicants shall submit the following information with each completed application:

   (a) an attestation that the small wireless facilities covered by the application will be operational for use by a wireless services provider within nine months after the later of the completion of all make-ready work or the permit issuance date unless a delay is caused by lack of commercial power or communications transport facilities to the site;

   (b) an attestation that each proposed small wireless facility satisfies each of the aesthetic and design standards set forth in Section 6-605, except for such standards, if any, for which applicant is concurrently submitting a request for relief under Section 6-607; and

   (c) for any small wireless facility located on (i) utility poles owned, operated, or managed by a public power supplier, a copy of the negotiated pole attachment agreement between the applicant and such public power supplier or (ii) utility poles or wireless support structures owned, operated, or managed by a person other than the City or a public power supplier, a copy of the authorization of such person consenting the application; and

   (d) a full description of any make-ready work to be performed by the City in preparation of the proposed installation and use of a small wireless facility.

   (e) all permit fees required under Section 6-604.

2. An applicant may file a consolidated application for up to five individual small wireless facilities instead of filing a separate application for each such facility. An applicant shall submit the information required under Section 6-503(B)(1) for each small wireless facility covered by a consolidated application; otherwise, the applicant may submit a single set of documents that apply to all of the small wireless facilities covered by such a consolidated application. Each small wireless facility within a consolidated application shall be subject to individual review; provided, that a decision regarding all small wireless facilities shall be rendered in a single determination by the Public Works Director and provided further that the denial of one or more small wireless facilities in

a consolidated application shall not delay processing of any other small wireless facilities in the same application or be a basis upon which to deny the consolidated application as a whole.

B. *Review of Permits.*

1. Within 20 days after receiving an application, the Public Works Director shall determine and notify the applicant in writing whether the application is complete. If an application is incomplete, the City will specifically identify the missing information in writing. The 90-day processing deadline set forth in subsection (B)(2) below shall restart upon the first finding of incompleteness. The applicant may resubmit the completed application within 30 days without additional charge. Subsequent findings of incompleteness shall toll the 90-day processing deadline, and any subsequent review shall be limited to the specifically identified information subsequently completed. If the applicant makes any material changes in a resubmission, other than the material changes required by the City, the applicant shall be required to make a new application and submit a new application fee. Subsequent findings of incompleteness will toll the deadline from the time the City sends notice of the incompleteness to the time the applicant provides the missing information. The application processing deadline also may be tolled as needed to accommodate processing and review of any request for relief submitted by applicant pursuant to Section 6-607 or otherwise by agreement between the City and the applicant.

2. The City will process an application no later than 90 days after receiving it. Subject to the tolling under subsection (B)(1) above, the application shall be deemed approved if the City fails to approve or deny the application within 90 days after receipt of the same. The City may extend the 90-day application processing deadline for a period of 10 business days if the City notifies the applicant in advance before the day on which approval or denial is originally due.

3. The City may propose technically feasible alternative utility pole locations; provided, the City shall not require the placement of small wireless facilities on any specific utility pole or category of poles or require multiple antenna systems on a single utility pole. The wireless provider shall cooperate with the City to address the City's reasonable proposal.

4. The term of each permit to occupy the right-of-way issued under this Article shall be set forth in the permit and shall be for a period not less than five years.

C. *Make-Ready Work Required to Use City Poles.*

1. The City shall provide a good faith estimate for any make-ready work necessary to enable a City pole to support the requested collocation by an applicant, including pole replacement if necessary, within 120 days after receipt of a completed application. Make-ready work, including any pole replacement, shall be completed within 90 days after written acceptance of the good faith estimate by the applicant. The City may

require replacement of a City pole only if it determines and provides details indicating that the collocation would make the City pole structurally unsound.

2. The person owning, managing, or controlling the City pole shall not require more make-ready work than required to meet applicable codes or industry standards. The City may charge rates and fees for, and impose terms and conditions on, make-ready work to collocate on a City pole and may require applicant to reimburse the City's reasonable consultant fees or expenses; provided, such rates, fees, terms, and condition (a) shall not include costs related to known preexisting or prior damage or noncompliance; (b) shall not exceed the actual costs or amount charged to other communications service providers for reasonably similar work; and (c) are otherwise nondiscriminatory, competitively neutral, and commercially reasonable.

D. *Denial of Permit Applications.*

1. The City may deny an application for a proposed wireless facility if the proposed facility: (a) materially and demonstrably interferes with the safe operation of traffic control equipment or the right-of-way; (b) materially interferes with sight lines or clear zones for air or land transportation or pedestrians; (c) materially interferes with compliance with the federal Americans with Disabilities Act of 1990 or similar federal or state standards regarding pedestrian access or movement; (d) fails to comply with the spacing requirements set forth this Article; (e) fails to comply with applicable codes of general applicability which do not apply exclusively to wireless facilities; (f) fails to comply with the aesthetic and other design requirements set forth in Section 6-505 and Section 6-605; or (g) designates the location of a new utility pole within seven feet in any direction of an electrical conductor unless the wireless provider obtains the written consent of the public power supplier that owns or manages the electrical conductor.

2. The City shall document the basis for denial, including any specific provisions of this Article or other applicable law on which the denial was based, and send such documentation to the applicant on or before the date the City denies the application. The applicant may cure the deficiencies identified by the City and resubmit the application within 30 days without paying an additional application fee, and the City shall have 30 days after receiving such resubmitted application to approve or deny the same; provided, such review shall be limited to deficiencies cited in the City's denial.

E. *Issuance of Permits*. All permits to occupy the right-of-way issued under this Article are issued subject to the conditions set forth in Section 6-503 and, in addition thereto, the following conditions:

1. The small wireless facilities covered by the application shall be operational for use by a wireless services provider no later than one year after the later of the completion of all make-ready work or the permit issuance date; provided, upon applicant's request, the City (a) shall grant a one-time extension for up to nine months if the applicant demonstrates that the delay is caused by the lack of commercial power to

communications transport facilities to the site and (b) may grant one or more additional extensions on such terms as mutually agreed upon by the City and applicant.

2. The City may reserve space on the City's poles and the applicant shall cooperate with the City in any such reservation, except that the City shall first notify the applicant in writing that it is interested in reserving such pole space or sharing the trenches or bores in the area where the collocation is to occur. The applicant shall allow the City to place its infrastructure in the applicant's trenches or bores or on the utility pole as requested by the City, except that the City shall incur the incremental costs of placing the conduit or infrastructure as requested. The City shall be responsible for maintaining its facilities in the trenches and bores and on the City's pole.

F. *Renewal of Permits*. The City shall renew a permit issued hereunder for an equivalent duration as long as the applicant is in compliance with Article 5 of this Chapter and this Article 6.

Enacted – Ordinance No. 1967 2/3/2020

SECTION 6-604 FEES AND TAXES

A. *Applicability of Section*. The fees and taxes set forth in this Section shall apply to permits issued hereunder in lieu of the fees and taxes set forth in Section 6-504.

B. *Application Fees*. For each collocation of a small wireless facility on an existing or replacement City pole, the applicant shall pay the City the small wireless facility collocation application fee in the amount set forth in the City's Fee Ordinance. For each installation, modification, or replacement of a utility pole and the collocation of an associate small wireless facility on such pole, the applicant shall pay the City the small wireless facility site application fee in the amount set forth in the City's Fee Ordinance.

C. *Occupation Tax*. If applicable to applicant, the applicant shall pay the City an annual occupation tax for use of the right-of-way in the amount and manner provided in Section 5-301. If applicant is not required to pay an occupation tax under Section 5-301, applicant shall pay the City either $250 per small wireless facility per year or a fee equal to the occupation tax charged by the City under Section 16-205.

D. *City Pole Fee*. For each City pole on which the applicant collocates a small wireless facility, the applicant shall pay, annually, the City pole fee in the amount set forth in the City's Fee Ordinance.

Enacted – Ordinance No. 1967 2/3/2020

SECTION 6-605 AESTHETIC AND DESIGN STANDARDS

The purpose of the standards set forth in this Section is supplement the aesthetic and design standards set forth in Section 6-505. All small wireless facilities in the right-of-way shall comply with each standard set forth in Section 6-505 and those set forth in this Section; provided, the City

Administrator may authorize the waiver of, partial relief from, or exemption from, any one or more of these standards pursuant to Section 6-607.

A. *Spacing of New Facilities*. All proposed new freestanding small wireless facilities shall be located with a recommended separation of a minimum of 250 feet from any other small wireless facility to the extent allowed by applicable law.

B. *Additional Design Rules for Pole-Mounted Facilities.* All small wireless facilities proposed to be mounted on utility poles shall conform to the following guidelines:

1. To the maximum extent technically feasible, all antennae and all of each antenna's exposed elements and shroud transitions shall be mounted at the top of the proposed pole and shall be enclosed within a single cylindrical antenna shroud which (a) color-matches the pole; (b) has a diameter no greater than 14 inches; (c) has a uniform diameter once transitioned from the pole shaft; (d) includes only visually concealed cables, wires, and other components; and (e) is no greater than 5 feet in height;

2. All components of the facility, other than those described in subsection (B)(1) above, shall be placed below grade to the maximum extent technically feasible and, when undergrounding is not technically feasible, shall be fully enclosed with a base shroud that: (a) is structurally sound to fully support the pole while maximizing equipment volume; (b) is cylindrical and is as small as technically feasible with a maximum consistent diameter of 30 inches; (c) does not exceed a height of six feet from mounting surface; (d) reasonably matches pole color and finish; and (e) is as solid as feasible to visually conceal and lock all contents and wiring; and

3. Subject to the placement and other requirements in subsections (B)(1) and (B)(2) above, any components of a freestanding facility that are attached to support poles must be mounted so that all parts are at least seven feet or higher above adjacent surface grade and the least visually intrusive as technically feasible.

C. *Height Restrictions*.

1. Any new or modified utility pole installed in a right-of-way shall not exceed the greater of (a) 5 feet in height above the tallest existing utility pole located within 500 feet of the new utility pole in the same right-of-way or (b) 50 feet above ground level.

2. New small wireless facilities in a right-of-way shall not extend more than the greater of (a) 50 feet in height, including antennae, or (b) more than 5 feet above an existing utility pole in place as of the Act and located within 500 feet in the same right-of-way.

3. The City shall have the right, at its sole discretion, to consider and approve an application to install a utility pole or wireless support structure that exceeds the height

limits in this subsection (C); provided, any facility which exceeds the height restrictions set forth in the definition of "small wireless facility" provided in Section 6-601 shall also be subject to the City's Zoning Ordinance.

E. *Streetlights*. If decorative poles serving as streetlights have been installed in a neighborhood, small wireless facilities shall be collocated on such poles at intersections as combination poles with streetlights, so that removal of decorative streetlights mid-block is minimized and preservation of the intended decorative aesthetics is maximized. The City may, in its discretion authorize the replacement of a decorative pole but any replacement pole shall strictly conform to the design aesthetics of the decorative pole being replaced.

Enacted – Ordinance No. 1967 2/3/2020

SECTION 6-606 INDEPENDENT TECHNICAL AND LEGAL REVIEW

The City may request a deposit from applicant to offset its costs for the independent technical and legal review of the application. Such deposit, if required, shall be collected, applied, and otherwise subject to the terms of Section 6-506.

Enacted – Ordinance No. 1967 2/3/2020

SECTION 6-607 RELIEF

Any applicant desiring relief from, the waiver of, or exemption from, any aspect or requirement of this Article or of Article 5 of this Chapter as it applies to applicant, may submit a written request for such relief, waiver, or exemption to the Public Works Director. Such request shall be processed as set forth in Section 6-507.

Enacted – Ordinance No. 1967 2/3/2020

ARTICLE VII - CEMETERY

SECTION 6-701 CONTROL AND CUSTODY OF FUNDS AND PROPERTY

1. The city may survey, plat, map, grade, fence, ornament, and otherwise improve all burial and cemetery grounds and avenues leading thereto owned by such city. It may construct walks, rear and protect ornamental trees therein, and provide for paying the expenses thereof.

2. After the burial and cemetery grounds are fully paid for, the city may set aside the proceeds of the sale of lots as a perpetual fund to be invested as provided by ordinance. The income from the fund may be used for the general care, management, maintenance, improvement, beautifying, and welfare of the cemetery. The principal of the perpetual fund may be used for the general care, management, maintenance, improvement, beautifying, and welfare of the cemetery as long as no more than twenty percent of the principal is so used in any fiscal year and no more than forty percent of the principal is so used in any period of ten consecutive fiscal years. The principal of the perpetual fund may also be used for the purchase and development of additional land to be used for cemetery purposes as long as no more than twenty-five percent of the principal is so used in any fiscal year and no more than thirty-five percent of the principal is so used in any period of ten consecutive fiscal years.

3. The city may receive money by donation, bequest, or otherwise for credit to the perpetual fund to be invested as provided by ordinance or as conditioned by the donor. The income therefrom may be used for the general care, management, maintenance, improvement, beautifying, and welfare of the cemetery as the donor may designate. The principal therefrom may be used for the general care, management, maintenance, improvement, beautifying, and welfare of the cemetery as the donor may designate as long as no more than twenty percent of the principal is so used in any fiscal year and no more than forty percent of the principal is so used in any period of ten consecutive fiscal years. The principal therefrom may also be used for the purchase and development of additional land to be used for cemetery purposes as the donor may designate as long as no more than twenty-five percent of the principal is so used in any fiscal year and no more than thirty-five percent of the principal is so used in any period of ten consecutive fiscal years.

4. The city treasurer shall be the custodian of such funds, and the same shall be invested by a board composed of the mayor, city treasurer, and city clerk.

5. This section does not limit the use of any money that comes to the city by donation, bequest, or otherwise that is not designated to be credited to the perpetual fund or that allows greater use for purchase or development of additional land to be used for cemetery purposes. (Ref. Neb. Rev. Stat. § 16-242)

Enacted – Ordinance No. 1965 2/17/2020 as Article 5; Enacted – Ordinance No. 1965A 4/20/2020

SECTION 6-702 POTTER'S FIELD

Lots number 448 to 456, inclusive, 523 to 531, inclusive, and 560 to 568, inclusive, in Oak Hill Cemetery shall be and hereby are set apart for a Potter's Field. It shall be the responsibility of the sexton to determine whether or not a deceased person may be buried in Potter's Field and, if so, the city clerk shall issue a permit for burial, upon application, designating the lot and number thereof. If the City does not have a duly qualified and appointed sexton, such determination shall be made by the Public Works Director.

Enacted – Ordinance No. 1965 2/17/2020 as Article 5; Enacted – Ordinance No. 1965A 4/20/2020

SECTION 6-703 LOT BOOK

A lot book shall be kept at the office of the city clerk which shall show actual dimensions of each lot and the location of each grave thereon.

Enacted – Ordinance No. 1965 2/17/2020 as Article 5; Enacted – Ordinance No. 1965A 4/20/2020

SECTION 6-704 CURFEW IN THE PLATTSMOUTH CEMETERY

The Plattsmouth Cemetery shall be closed to the public from 11:00 P.M. until 5:00 A.M., and no person shall enter upon said property during that time. A violation of this provision shall be punishable by a fine of up to $25.00.

Enacted – Ordinance No. 1965 2/17/2020 as Article 5; Enacted – Ordinance No. 1965A 4/20/2020

SECTION 6-705 SPEED LIMIT IN THE PLATTSMOUTH CEMETERY

No person shall drive any motor vehicle within the limits of the city cemetery at a higher rate of speed than ten miles per hour. A violation of this provision shall be punishable by a fine as follows:

1-5	$10
6-10	$25
11-15	$75
16-20	$125
21 and above	$200

Enacted – Ordinance No. 1965 2/17/2020 as Article 5; Enacted – Ordinance No. 1965A 4/20/2020

MUNICIPAL CODE

CHAPTER 7

PUBLIC UTILITIES

ARTICLE I – WATER DEPARTMENT

SECTION 7-101 OPERATION AND FUNDING

The City owns and operates the City Water Department through the utilities superintendent, who shall be under the control and general supervision of the city administrator. The City Council, for the purpose of defraying the cost of the care, management and maintenance of the Water Department may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Water Fund and shall remain in the custody of the city treasurer. The Council shall set the rates to be charged for services rendered by ordinance and shall file a copy of the rates in the offices of the Public Works Director and city clerk for public inspection at any reasonable time. (Ref. Neb. Rev. Stat. §16-675, 16-681, 16-684.01, 19-1305)

SECTION 7-102 DEFINITIONS

The following definitions shall be applied throughout this chapter. Where no definition is specified, the normal dictionary usage of the word shall apply.

The term "main" is hereby defined to be any pipe other than a supply or service pipe that is used for the purpose of carrying water to, and dispersing the same, in the City.

The term "supply pipe" is hereby defined to be any pipe tapped into a main and extending from there to a point at or near the lot line of the consumer's premises where the shut-off, stop box, or curb cock is located.

The term "service pipe" is hereby defined to be any pipe extending from the shut-off, stop box, or curb cock at or near the lot line to and beyond the property line of the consumer to the location on the premises where the water is to be dispersed.

The term "separate premises" shall mean more than one consumer procuring water from the same service or supply pipe. The second premises may be a separate dwelling, apartment, building or structure used in a separate business.

SECTION 7-103 CONSUMER'S APPLICATION

Every person or persons desiring connection with the city water system must make application therefor to the utilities superintendent on forms provided by him/her. Such application shall state for what purpose the water shall be used; shall be signed by the owner or authorized agent of the owner of the property to be served; and be filed in the office of the utilities superintendent.

Applicants for water service shall pay tap fees in an amount set by resolution of the City Council; provided, however, that nothing herein shall be construed to obligate the City to furnish water service to nonresidents unless it is able to do so without curtailing the demands of resident consumers or without overloading its pumps, machinery or other equipment. Water may not be

supplied to any house or private service pipe except upon the order of the utilities superintendent.

SECTION 7-104 ACCOUNT SET UP FEE

The Public Works Department shall collect an account set up fee each time a customer puts an account in their name. The fee shall be set by the City Council in the City fee ordinance.

SECTION 7-105 SERVICE TO NONRESIDENTS

The Water Department shall not supply water service to any person outside the corporate limits without special permission from the City Council; provided, the entire cost of laying mains, service pipe, and supply pipe shall be paid by the owner. Nothing herein shall be construed to obligate the City to provide water service to nonresidents. (Ref. Neb. Rev. Stat. §19-2701)

SECTION 7-106 WATER CONTRACT

The City, through its Water Department, shall furnish water to persons within its corporate limits whose premises abut a street or alley in which a commercial main now is or may hereafter be laid. The City may furnish water to persons within its corporate limits whose premises do not abut a street or alley in which a city commercial main is now or may hereafter be laid and may also furnish water to persons whose premises are situated outside the corporate limits of the City, as and when, according to law, the City Council may see fit to do so. The rules, regulations and water rates hereinafter named in this article shall be considered a part of every application hereafter made for water service and shall be considered a part of the contract between every consumer now or hereafter served. Without further formality, the making of application on the part of any applicant or the use or consumption of water by any present consumer thereof and the furnishing of water service to said consumer shall constitute a contract between the consumer and owner and the City, to which said contract both parties are bound. If the consumer or owner shall violate any of the provisions of said contract or any reasonable rules and regulations that the City Council may hereafter adopt, the Public Works Director or his/her agent may cut off or disconnect the water service from the building or premises or place of such violation until such time as the city administrator is of the opinion that water service may be resumed without violation of said rules and regulations. No further connection for water service to said building, premises or place shall again be made, save or except by order of said commissioner or his/her agent.

Contracts for water service are not transferable. Any person wishing to change from one location to another shall set up a new account, make a new application and sign a new contract. If any consumer shall move from the premises where service is furnished, or if the said premises is destroyed by fire or other casualty, he/she shall at once inform the utilities superintendent or his/her agent who shall cause the water service to be shut off at the said premises. If the consumer should fail to give such notice, he/she and owner shall be charged for all water used on the said premises until the utilities superintendent is otherwise advised of such circumstances. (Ref. Neb. Rev. Stat. §16-681)

SECTION 7-107 INSTALLATION PROCEDURE

Upon the filing of the application and payment of all fees, a permit will be issued to the duly licensed plumber, agent or applicant to do the necessary work in bringing water service from the tap to the applicant's premises. All water service pipe shall be placed in the manner and at the depth as required by the International Plumbing Code. All installation shall be done under the supervision and strictly in accordance with the rules, regulations and specifications; provided that the said rules, regulations and specifications have been reviewed and approved by the City Council.

In making excavations in streets, alleys or sidewalks for the purpose of installing pipe, or making repairs, the paving, stones and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley or sidewalk open at any time without a barricade, and during the night, warning lights. After service pipes are laid, the streets, alleys and sidewalks shall be restored to good condition. If the excavation in any street, alley, or sidewalk is left open or unfinished for a period of 24 hours or more, the city administrator shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the owner. (Ref. Neb. Rev. Stat. §16-232, 16-667, 16-675, 16-681)

SECTION 7-108 INSTALLATION EXPENSE

The expense of providing water service to the premises from the nearest feasible main to the place of disbursement shall be paid by the owner in the form of a tap fee paid and impact fees if applicable at the time of application for water service. In addition to the tap fee, the applicant shall be required to advance the cost of installation, pipe, stop box, and the expense of procuring the services of a plumber and other labor necessary to bring the water service to the place of disbursement. Customers shall be responsible for the costs of all materials except the meter, which is furnished by the City if it is 2" in size or smaller. Meters over 2" are the customer's responsibility to furnish. The labor to be furnished by the City shall consist only of the actual tapping of the water main. It shall be unlawful for any person, except such persons as may specifically be authorized by the utilities superintendent, to tap the commercial mains of the City or insert ferrules therein under any circumstances. (Ref. Neb. Rev. Stat. §16-681)

SECTION 7-109 METERS

All water meters shall be of a type and model specified by the Public Works Director and shall be installed in the manner specified by the Public Works Director. All meters and extensions shall be set in place by the City at the expense of the owner and shall be the property of the City; provided, consumers may surrender to the City meters heretofore purchased by them, and in consideration of such surrender the City will repair and replace said meters so surrendered at city expense.

All water meters shall be installed inside the residence, building or structure which said connection serves, or in a building or structure which is heated and approved by the City to properly prevent said meter and connection from weather and provide proper maintenance. Meters placed in

basements or inside residences and business buildings shall be equipped with the necessary device to permit the reading of such meters from the outside. On any new installation or replacement, there shall be a shutoff valve placed in the water line on each side of the meter, going into and out of said meter. The property owner shall be responsible for loss of meters and for repair and damage of meters as provided in this article. (Ref. Neb. Rev. Stat. §16-681)

SECTION 7-110 MULTIPLE METER HEADERS

Where in commercial or multifamily residential installations the rules provide that more than one meter is permitted to individually-metered tenants, a multiple meter header will be permitted, provided:

1. All meters shall meet the requirements of these Rules.

2. The header shall be constructed and installed in such a manner that the service entrance, the header piping, the meters and all valves shall be located in the same area and totally visible for inspection in a public access area.

3. Each meter shall be installed with valves on both sides to permit removal of the individual meter for repair and test purposes. In the case of a two-meter header, where one meter serves a lawn sprinkler and the other meter serves the other houses purposes, the master header valve may serve as the upstream valve on the house meter. The valves going into the meter must be lockable.

4. The meters are not submeters.

5. Each meter will be independently read and billed by the City for water consumed.

6. The header and meters shall be located in a common use area readily accessible to meter readers and maintenance personnel. Such area shall be accessible from the exterior of the building without going through residential or commercial space within the building.

7. The headers are properly constructed with materials compatible with the water service pipe approved by the City.

8. Adequate provisions are made to handle drainage from the system or where any meter larger than 1 1/2 inches is required to handle water flow from the test tee during meter tests.

9. In addition to the shut-off valves at the meters, a single separate valve shall be located immediately ahead of the header.

SECTION 7-111 REPAIRS AND MAINTENANCE

If any leak or break in any water pipe shall occur, the utilities superintendent shall forthwith shut off water to said premises until said leak or break is repaired by the consumer; provided, such repairs or replacements shall be done by licensed plumbers or agents of the consumers under the

supervision of the utilities superintendent. All supply or service pipe when leaking or out of condition shall be replaced or repaired by the plumber. He/she shall warranty the work for a period of 12 months from and after construction is completed and the work accepted and approved by the utilities superintendent. After the maintenance period shall have expired, all replacements and repairs to supply or service pipes or any attachment thereto shall be made as in the case of leaks or breaks as provided hereinbefore. Should any consumer fail, neglect or refuse to take steps to replace his/her water pipe, after notification in writing by the utilities superintendent to do so forthwith, such pipe may be cut off at the curb cock or shut-off until said pipe is satisfactorily repaired or until new pipe is installed.

If the owner permits or allows a water meter to be damaged, injured or destroyed through his/her own recklessness, carelessness or neglect so that the meter must be repaired or replaced, the utilities superintendent shall bill and collect from the owner the cost of such meter repair or replacement in the same manner as water rent is collected, including disconnection if necessary. Permitting a water meter not surrendered to the City to be damaged or destroyed by freezing shall always be considered negligence on the part of the customer; provided, the City shall keep in repair all water meters belonging to it at city expense. The City shall have the exclusive power to repair and test all meters. All repairs and tests of water meters belonging to or surrendered to the City shall be made at the expense of the City. If any water meter in service belonging to or surrendered to the City is beyond repair, worn out and unfit for further use by reason of natural wear and tear, the same shall be replaced at the expense of the City. The meter so replaced shall at all times thereafter be and remain property of the City. All meters shall be tested at the customer's request at the expense of the customer any reasonable number of times; provided that if the test shows the water meter to be running 2% or more fast, the expense of such test shall be borne by the City. The City reserves the right to test any water service meter at any time. Any water meter belonging to the consumer and not surrendered to the City shall, when necessary, be repaired, replaced or tested by the City at the expense of the consumer or owner, who shall be billed for and shall pay for the same in the same manner as water rent, regardless of whether or not the consumer orders or requests the City to repair, replace or test said meter. (Ref. Neb. Rev. Stat. §16-681)

SECTION 7-112 METERS; INABILITY TO REPAIR

In the event it is impossible to read the meter or the meter is not working accurately, as the case may be, it shall be considered that the amount of water used shall be the amount used during the corresponding period during the preceding year, if a meter was in operation on said premises during that period and water was used for substantially the same purposes during that period of the preceding year. If the purposes for which water was used during said period and the period in question were not substantially the same, the utilities superintendent shall make such charge as he/she deems reasonable, subject to the right of the consumer to file a claim for a refund with the City Council after paying said charge.

SECTION 7-113 FEES AND COLLECTIONS

Water charges shall commence when both a plumbing permit and a tapping permit have been issued for a new residence, commercial building or other structure. Water service meter readings shall be computed by the utilities superintendent under the direction of the city administrator.

Residential consumers shall be billed every other month and commercial consumers shall be billed every month. The utilities superintendent shall bill the consumers and collect all money received by the City on the account of the water department. He/she shall faithfully account for and pay to the city treasurer all revenue collected by him/her, taking his/her receipt therefor in duplicate, filing one with the city clerk and keeping the other on file in the water department's official records. All bills shall be immediately due upon receipt. If the consumer shall neglect or refuse to pay his/her bill on or before the 15th day of the month when due, it shall be considered delinquent and shall result in a late fee set forth in the City's fee ordinance if the consumer's water service has been discontinued pursuant to the City's procedure.

SECTION 7-114 MINIMUM RATES

It shall be the duty of the City Council to set a tariff of rates based on monthly consumption for each consumer of water service. A schedule of said rates shall be on file at the offices of the utilities superintendent and city clerk; provided that, in the judgment of the city administrator, where special conditions exist to the extent that the application of the service charges as specified herein would be inequitable and unfair to the City, the city administrator shall recommend to the City Council a special rate applying to such consumers. Such special rates, when adopted by the City, shall apply to all consumers using the sanitary facilities of the City under like circumstances. All water customers shall be liable for the rate provided by ordinance unless and until the consumer shall, by written order, direct the Public Works Director to shut off the water at the stop box, in which case he/she shall not be liable thereafter for water rates until the water is turned on again. Deductions from the monthly minimum rate as aforesaid shall be allowed for the time that service has been discontinued only when such service has been discontinued after notice to the city administrator. No deduction shall be made for the time that any service remains out of use. A flat rate shall not be quoted nor allowed. All water sold shall be measured and disposed of to consumers at the metered rates set forth. No water shall be furnished to any consumer under any other rate than is provided by this section, except to consumers using water service on premises outside the corporate limits, in which case the water service shall be furnished to the consumer at such rates as the City Council may uniformly fix. (Ref. Neb. Rev. Stat. §16-681, 16-682)

SECTION 7-115 LIEN

In addition to all other remedies, including contracting with a collection agency, if a customer shall for any reason remain indebted to the City for water service furnished, such amount due, together with any rents and charges in arrears, may be considered a delinquent water rent which City Council may declare to be a lien upon the real estate for which the same was used. If a lien is to be filed against the real estate, the utilities superintendent shall notify in writing or cause to be notified in writing, all owners of premises or their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of water rent. It shall be the duty of the city administrator to report to the City Council a list of all such unpaid accounts due for water together with a description of the premises upon which the same was used. Prior to the filing of any lien, a report shall be examined, and if approved by the City Council, shall be certified by the city clerk to the county treasurer to be collected as a special tax in the manner provided by law. (Ref. Neb. Rev. Stat. §16-682)

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SECTION 7-116 SINGLE PREMISES

No consumer shall supply water to other families, or allow them to take water from his/her premises. After water is supplied into a building, no person shall make or employ a plumber or other person to make a tap or connection with the pipe upon the premises for alteration, extension or attachment without the written permission of the city administrator or utilities superintendent. It shall further be unlawful for any person to tamper with any water meter or by means of any contrivance or device to divert the water from the service pipe so that the water will not pass through the meter or, while passing through said meter, to cause it to register inaccurately. (Ref. Neb. Rev. Stat. §16-681)

SECTION 7-117 RESTRICTED USE; LIABILITY OF CITY

The City Council or the utilities superintendent may order a reduction in the use of water or shut off the water on any premises in the event of a water shortage due to fire or other good and sufficient cause. The City shall not be liable for any damages caused by shutting off the supply of water of any consumer while the system or any part thereof is undergoing repairs or when there is a shortage of water due to circumstances over which the City has no control. (Ref. Neb. Rev. Stat. §16-681)

SECTION 7-118 FIRE HYDRANTS

All hydrants for the purpose of extinguishing fires are hereby declared to be public hydrants, and it shall be unlawful for any person other than members of the City Fire Department under the orders of the fire chief or the assistant fire chief, or members of the Water Department, to open or attempt to open any of the hydrants and draw water from the same, or in any manner to interfere with the hydrants without permission of the city administrator. (Ref. Neb. Rev. Stat. §16-681)

SECTION 7-119 MANDATORY HOOKUP

All persons with 300 feet of a water main shall be required, upon notice by the city administrator, to hook up with the city water system. (Ref. Neb. Rev. Stat. §16-667.03, 16-681)

SECTION 7-120 PROHIBITION OF LEAD PIPES, SOLDER AND FLUX

Any pipe, solders or flux used in the installation or repair of any residential or non-residential facility which is connected to the public water supply system shall be lead free.

For purposes of this section, lead free shall mean:

1. Solders and flux - not more than two-tenths (.2%) percent lead, and
2. Pipe and pipe fittings - not more than eight (8%) percent lead.

SECTION 7-121 INSPECTION

The utilities superintendent or his/her duly authorized agent(s) shall have free access and entry at any reasonable time to all parts of each premises and building to, or in which, water is delivered for the purposes of examining the pipes, fixtures and other portions of the system to ascertain whether there is any disrepair or unnecessary waste of water or to make any repairs or adjustments as necessary. (Ref. Neb. Rev. Stat. §16-681)

SECTION 7-122 POLICE REPORTS

It shall be the duty of the city police to report to the city administrator or utilities superintendent all cases of leakage and waste in the use of water and all violations of the Municipal Code relating to the Water Department. They shall have the additional duty of enforcing the observance of all such regulations.

SECTION 7-123 DESTRUCTION OF PROPERTY

It shall be unlawful for any person to willfully or carelessly break, injure or deface any building, machinery, apparatus, fixture, attachment, or appurtenance of the Water Department. No person may deposit anything in a stop box or commit any act tending to obstruct or impair the intended use of any of the above-mentioned property without the written permission of the city administrator or utilities superintendent.

SECTION 7-124 DISCONTINUANCE OF SERVICE, NOTICE PROCEDURE

1. The City shall have the right to discontinue utility services and remove its properties if the charges for such services are not paid within ten days after the date that the charges become delinquent. Before any termination, the City shall first give notice by first class mail, which shall be conspicuously marked as to its importance. Service shall not be discontinued for at least seven days, weekends and holidays excluded, after notice is sent or given. As to any subscriber who previously has been identified to the City by the Department of Health and Human Services as a welfare recipient, notice of such proposed termination shall be given to the Department of Health and Human Services by certified mail.

2. The notice shall contain the following information:

(a) The reason for the proposed disconnection;

(b) A statement of the intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the City regarding payment of the bill;

(c) The date upon which service will be disconnected if the domestic subscriber does not take appropriate action;

(d) The name, address and telephone number of the employee or department to

whom the domestic subscriber may address an inquiry or complaint;

(e) The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection;

(f) A statement that the City may not discontinue service pending the conclusion of the conference;

(g) A statement to the effect that the disconnection may be postponed or prevented upon presentation of a duly licensed physician's certificate certifying that the domestic subscriber or a resident within such subscriber's household has an existing illness or handicap which would cause such subscriber or resident to suffer an immediate and serious health hazard upon the disconnection of the City's service to that household. Such certificate shall be filed with the City within five days of receiving notice under this section and will prevent the disconnection of service for a period of 30 days from each such filing. Only one postponement of disconnection shall be allowed under this subsection for each incidence of nonpayment of any past-due account;

(h) The cost that will be borne by the domestic subscriber for restoration of service;
(i) A statement that the domestic subscriber may arrange with the City for an installment payment plan;

(j) A statement to the effect that those domestic subscribers who are welfare recipients may qualify for assistance in paying their utility bill and that they should contact their caseworker in that regard; and

(k) Any additional information not inconsistent with this section which has received prior approval from the City Council.

3. A domestic subscriber may dispute the proposed discontinuance of service by notifying the City with a written statement that sets forth the reasons for the dispute and the relief requested. If a statement has been made by the subscriber, a conference shall be held before the City may discontinue service.

4. The procedures adopted by the City Council for resolving utility bills, three copies of which are on file in the office of the city clerk, are hereby incorporated by reference in addition to any amendments thereto and are made a part of this section as though set out in full.

5. This section shall not apply to any disconnections or interruptions made necessary by the City for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public. (Ref. Neb. Rev. Stat. §16-681, 16-682)

SECTION 7-125 DIVERSION OF SERVICES, METER TAMPERING, UNAUTHORIZED RE-CONNECTION, PROHIBITED; EVIDENCE

1. Any person who connects any pipe or conduit supplying water, without the knowledge and consent of the City, in such manner that any portion thereof may be supplied to any instrument by or at which water may be consumed without passing through the meter provided for measuring or registering the amount or quantity passing through it, and any person who knowingly uses or knowingly permits the use of water obtained in the above-mentioned unauthorized ways, shall be deemed guilty of an offense.

2. Any person who willfully injures, alters, or by any instrument, device or contrivance in any manner interferes with or obstructs the action or operation of any meter made or provided for measuring or registering the amount or quantity of water passing through it without the knowledge and consent of the City, shall be deemed guilty of an offense.

3. When water service has been disconnected pursuant to Section 7-123 of this Code, any person who reconnects such service without the knowledge and consent of the City shall be deemed guilty of a misdemeanor.

4. Proof of the existence of any pipe or conduit connection or reconnection or of any injury, alteration or obstruction of a meter, as provided in this section, shall be taken as prima facie evidence of the guilt of the person in possession of the premises where such connection, reconnection, injury, alteration, or obstruction is proved to exist. (Ref. Neb. Rev. Stat. §86-329 through 86-331)

SECTION 7-126 BACKFLOW/BACKSIPHONAGE PREVENTION; POLICY AND PURPOSE

1. The purpose of these backflow regulations is:

    a. To protect the public potable water supply system of the City from the possibility of contamination or pollution within the consumer's internal distribution system or from private water system contaminants or pollutants which could backflow through the service connection into the public potable water supply system.

    b. To promote the elimination, containment, isolation or control of existing cross-connections, actual or potential, between the public or consumer's potable water systems and nonpotable water systems, plumbing fixtures and industrial process systems.

    c. To provide for the maintenance of a continuing program of cross-connection control which will systematically and effectively prevent the contamination or pollution of all potable water systems.

2. Application: These backflow/backsiphonage prevention regulations shall apply to all premises

served by the public potable water system of the City.

3. Policy: These backflow/backsiphonage prevention regulations will be reasonably interpreted. It is the City's intent to recognize the varying degrees of hazard and to apply the principle that the degree of protection shall be commensurate with the degree of hazard.

The City Water Department shall be primarily responsible for protection of the public potable water distribution system from contamination or pollution due to backflow or contaminants or pollutants through the water service connection. The cooperation of all consumers is required to implement and maintain the program to control cross-connections. The consumer is responsible for preventing contamination of the water system within his/her own premises.

If, in the judgment of either the Water Department or Health Department, cross-connection is required through either piping modification or installation of an approved backflow prevention device, 30 days' notice shall be given to the consumer. The failure, refusal or inability on the part of the consumer to provide the requested protection within 30 days shall make the consumer subject to discontinuance of water service at the discretion of the Water Department, according to the degree of hazard, without further notice.

SECTION 7-127 BACKFLOW/BACKSIPHONAGE PREVENTION; DEFINITIONS

For the purposes of this article, the following definitions shall apply:

"Air gap separation" shall mean the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the overflow level rim of the receptacle.

"Auxiliary water system" means any water source system that may be available to the building or premises, other than the public water supply.

"Backflow" means the flow other than the intended direction of flow of any foreign liquids, gases or substances into the water distribution system.

"Backflow prevention device" means any device, method or type of construction intended to prevent backflow into a potable water system; provided, backflow preventers have been tested and approved by a reputable testing laboratory.

"Consumer" means the owner or person in control of any premises supplied by or in any manner connected to a public water supply system.

"Containment" means protection of the public water supply by installing a cross-connection control device or air gap separation on the main service line to a facility, or as an installation within equipment handling potentially hazardous materials.

"Contamination" means an impairment of the quality of the water by sewage, process fluids or other wastes to a degree which could cause an actual hazard to the public health through poisoning

or through spread of disease by exposure.

"Cross-connection" means any physical link between a potable water supply and any other substance, fluid or source which makes possible contamination of the potable water supply due to the reversal of flow of the water in the piping or distribution system.

"Degree of hazard" means an evaluation of the potential risk to the public health and the adverse effect of the hazard upon the potable water system.

a. Hazard, health: any condition, device or practice in the water supply system and its operation which could create or may create a danger to the health and well-being of the water consumer.

b. Hazard, plumbing: a plumbing-type cross-connection in a consumer's potable water system that has not been properly protected by a vacuum breaker, air gap separator or backflow prevention device.

c. Hazard, pollutional: an actual or potential threat to the physical properties of the water system or to the potability of the public or consumer's potable water system which would constitute a nuisance or be aesthetically objectionable or could cause damage to the system or its appurtenances, but would not be dangerous to health.

d. Hazard, system: an actual or potential threat of severe damage to the physical properties of the public potable water system or the consumer's potable water system, or of a pollution or contamination which would have a protracted effect on the qualify of the potable water in the system.

"Industrial process system" means any system containing a fluid or solution which may be chemically, biologically or otherwise contaminated or polluted in a form or concentration such as would constitute a health, system, pollutional or plumbing hazard if introduced into a potable water supply.

"Isolation" means protection of a facility service line by installing a cross-connection control device or air gap separation on an individual fixture, appurtenance or system.

"Pollution" means the presence in water of any foreign substances (organic, inorganic or biological) that degrades its quality so as to constitute a hazard or impair the usefulness of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect such waters for domestic use.

"Public potable water system" means any publicly or privately owned water system supplying water to the general public which is satisfactory for drinking, culinary and domestic purposes and meets the requirements of the Nebraska Department of Health.

"Service connection" means the terminal end of a service line from the public water system. If a meter is installed at the end of the service line, then the service connection means the downstream end of the meter.

"Water department" means the Water Department of the City of Plattsmouth, Nebraska.

SECTION 7-128 BACKFLOW/BACKSIPHONAGE PREVENTION; CROSS-CONNECTIONS PROHIBITED

1. No water service connection shall be installed or maintained to any premises where actual or potential cross-connections to the public water supply system may exist unless such actual or potential cross-connections are abated or controlled to the satisfaction of the City and as required by the laws and regulations of the Nebraska Department of Health or its authorized representative.
2. No connection shall be installed or maintained whereby an auxiliary water supply may enter a public water supply system, unless such auxiliary water supply and the method of connection and use of such supply shall have been approved by the City Water Department and the Nebraska Department of Health.

3. No water service connection shall be installed or maintained to any premises in which the plumbing system, facilities and fixtures have not been constructed and installed using acceptable plumbing practices considered by the City Water Department as necessary for the protection of health and safety.

SECTION 7-129 BACKFLOW/BACKSIPHONAGE PREVENTION; SURVEY AND INVESTIGATION

1. The consumer's premises shall be open at all reasonable times to the City or its authorized representative for the conduct of surveys and investigations of water use practices within the consumer's premises to determine whether there are actual or potential cross-connections.

2. On request by the City or its authorized representative, the consumer shall conduct periodic surveys and furnish requested information on water use practices within the premises and in the consumer's water system to determine whether there are actual or potential cross-connections. The consumer shall provide the survey results to the City or its authorized representative.

SECTION 7-130 BACKFLOW/BACKSIPHONAGE PREVENTION; WHERE PROTECTION IS REQUIRED

1. An approved backflow prevention device shall be installed between the service connection and the point of potential backflow into a consumer's water supply system when, in the judgment of the superintendent, a health, plumbing, pollution or system hazard exists. The type and degree of protection required shall be commensurate with the degree of hazard.

2. An approved air gap separation or backflow prevention device shall be installed at the service connection or within any premises where, in the judgment of the Water Department, the nature and extent of activities on the premises, or the materials used in connection with the activities, or materials stored on the premises, would present an immediate and dangerous hazard to health should a cross-connection occur, even though such cross-connection may not exist at the time the backflow prevention device is required to be installed. This includes, but is not limited to, the following:

3. Premises having an auxiliary water supply, unless the quality of the auxiliary supply is acceptable to the Water Department and the Nebraska Department of Health.

4. Premises having internal cross-connections which are not correctable, or intricate plumbing arrangements which make it impractical to determine whether or not cross-connections exist.

5. Premises where entry is restricted so that inspections for cross-connections cannot be made with sufficient frequency or at sufficiently short notice to assure the cross-connections do not exist.

6. Premises that, although not covered by code, are subject to frequent modification which would change their status.

7. Premises that have had backflow code violations.

8. Premises on which any substance is handled under pressure so as to permit entry into the public water supply system or where a cross-connection could reasonably be expected to occur. This shall include the handling of process waters and cooling waters.

9. Premises where toxic or hazardous materials are handled such that if a backsiphonage or backpressure should occur, a serious health hazard may result.

10. The following types of facilities fall into one or more of the categories or premises where an approved air gap separation or approved backflow prevention device may be required by the City or its authorized representative or the Nebraska Department of Health to protect the public water supply, and such must be installed at these facilities unless all hazardous or potentially hazardous conditions have been eliminated or corrected by other methods to the satisfaction of the City or its authorized representative and the Nebraska Department of Health:

    a. Auxiliary water systems

    b. Beverage bottling plants

    c. Canneries, packing houses, reduction plants

    d. Car washing facilities

e. Cemetery sprinkler systems

f. Chemical manufacturing, processing, compounding or treatment plants

g. Chemically contaminated water systems

h. Cooling coil service lines (refrigeration, air conditioning, etc.)

i. Dairies and cold storage plants

j. Film laboratories

k. Fire protection systems

l. Hazardous waste storage and disposal facilities

m. Hospitals, mortuaries, dental clinics, nursing and convalescent homes, medical buildings

n. Hot water and steam boiler heating systems

o. Sprinkler systems and hose connections directly injecting materials of a toxic or hazardous nature

p. Laundries and dye works

q. Metal manufacturing, cleaning, processing and fabricating plants

r. Oil and gas production, storage or transmission properties

s. Pet grooming facilities and veterinary hospitals

t. Plating plants

u. Printing and publishing facilities

v. Research and analytical laboratories

w. Sewage treatment plants, sewage pumping stations, or storm water pumping stations

x. Swimming pools, Class A, B and C

y. Zoological and horticultural gardens

SECTION 7-131 BACKFLOW/BACKSIPHONAGE PREVENTION; TYPE OF PROTECTION REQUIRED

1. The type of protection required under Sections 7-126 through 7-136 of this article shall depend on the degree of hazard that exists as follows:

    a. An approved air gap shall be installed where the potable water supply system may be contaminated with any substance that could cause a severe health hazard.

    b. An approved air gap separation or an approved backflow prevention device shall be installed where the public potable water system may be contaminated with a substance that could cause a health hazard.

    c. An approved air gap separation or an approved backflow prevention device or an approved double check valve assembly shall be installed where the public potable water system may be polluted with substances that could cause a pollutional hazard not dangerous to health.

SECTION 7-132 BACKFLOW/BACKSIPHONAGE PREVENTION; BACKFLOW PREVENTION DEVICES

1. Any approved backflow prevention device required by Sections 7-126 through 7-136 shall be of a model or construction approved by the City or its authorized representative and the Nebraska Department of Health.

2. Air gap separation to be approved shall be at least twice the diameter of the supply pipe, measured vertically above the top rim of the vessel, but in no case less than one inch.

3. Double check valve assemblies or reduced pressure principal backflow prevention devices shall appear on the current list of approved backflow prevention devices established by the Nebraska Department of Health, unless the device was installed at the time this ordinance was passed and complies with required inspection, maintenance and performance standards.

4. Any backflow preventer which does not meet current protection standards shall be replaced with an approved backflow preventer at the customer’s expense.

SECTION 7-133 BACKFLOW/BACKSIPHONAGE PREVENTION; INSTALLATION

1. Backflow prevention devices required by this policy shall be installed at a location and in a manner approved by the City or its authorized representative. All devices shall be installed at the expense of the consumer.

2. Backflow prevention devices installed on the service line to the consumer's water system shall be located on the consumer’s side of the water meter, as close to the meter as is reasonably practical and prior to any other connection.

3. Backflow prevention devices shall be conveniently accessible for maintenance and testing, protected from freezing, and not submerged or subject to flooding by any fluid. All devices shall be installed according to manufacturer's recommendations.

4. Backflow prevention devices for underground sprinklers that have an opening to the atmosphere shall be located at least six inches above the highest ground served by the sprinkler system.

SECTION 7-134 BACKFLOW/BACKSIPHONAGE PREVENTION; INSPECTION AND MAINTENANCE

1. It shall be the duty of the consumer at any premises on which backflow prevention devices required by this article are installed to have inspections, tests and overhauls made in accordance with the following schedule or more often where inspections indicate a need:

    a. Air gap separations shall be inspected at the time of installation and at least every 12 months thereafter.

    b. Double-check valve assemblies shall be inspected and tested for tightness at the time of installation and at least every 12 months thereafter. They shall be dismantled, inspected internally, cleaned and repaired whenever needed and at least every three years.

    c. Reduced pressure principal backflow prevention devices shall be inspected and tested for tightness at the time of installation and at least every 12 months thereafter. They shall be dismantled, inspected internally, cleaned and repaired whenever needed and at least every five years.

2. Overhauls of backflow prevention devices shall be made at the expense of the water consumer and shall be performed by the Water Department or a State of Nebraska certified backflow prevention device tester.

3. Backflow prevention devices designed with testing cocks shall be inspected and tested each year. Tests performed by the Water Department will be at the expense of said department and tests performed by others shall be at the expense of the consumer.

Whenever backflow prevention devices required by this article are found to be defective, they shall be repaired or replaced at the expense of the consumer without delay.

The water consumer must maintain a complete record of each backflow prevention device that has test cocks from purchase to retirement. Records of inspections, tests, repairs and overhauls performed by others shall be submitted to the Water Department annually.

Backflow prevention devices shall not be bypassed, made inoperative, removed or otherwise made ineffective without specific authorization by the Water Department.

SECTION 7-135 BACKFLOW/BACKSIPHONAGE PREVENTION;VIOLATIONS

1. The City or its authorized representative, after 30 days' notice to the occupants thereof, shall have the right to deny or discontinue the water service to any premises or any consumer wherein any backflow prevention device required by this policy is not installed, tested and maintained in a manner acceptable to the City or its authorized representative, or if it is found that the backflow prevention device has been removed or bypassed, or if an unprotected cross-connection exists.

2. Water service to such premises shall not be restored until the consumer is in compliance with this article to the satisfaction of the City or its authorized representative.

3. The City Health Department shall be advised of inspection findings and the violation abatement action pursued by the City Water Department, and shall be consulted prior to any violation abatement action on items having to do with public health significance.

SECTION 7-136 BACKFLOW/BACKSIPHONAGE PREVENTION; CONFLICTS WITH OTHER APPLICABLE CODES

The provisions of this ordinance shall be read as concurrent provisions with the most current edition of the Uniform Plumbing Code and the rules and regulations of the Nebraska Department of Health. In the event of conflicting provisions, the most restrictive shall apply.

SECTION 7-137 CITY WELLS; SAFE ZONE

A safe zone shall be established around each of the City's public wells following the guidelines set by the State of Nebraska Department of Health. No changes will be allowed in the area surrounding any public wells of the City that will bring any public wells into violation of the guidelines set by the State of Nebraska Department of Health for the drilling of public wells. While this ordinance will be construed to include any guidelines set by the Department of Health and to allow for any changes in the guidelines of the Department of Health, at this time the guidelines include:

No private well within 1,000 feet

No sewage lagoon or sewage treatment plant within 1,000 feet

No absorption or disposal field for water within 500 feet

No dump site or sanitary landfill within 500 feet

No chemical product storage facility within 500 feet

No petroleum product storage facility within 500 feet

No corral or feedlot within 500 feet

No septic tank, cesspool, or other waste disposal facility within 500 feet

No sewer manhole or sewer connection within 100 feet

No sewer line within 50 feet

ARTICLE II - SEWER DEPARTMENT

SECTION 7-201 OPERATION AND FUNDING

The City owns and operates the city sewer system through the utilities superintendent. For the purposes of defraying the cost of the operation, maintenance and replacement (OM&R) of the sewer utilities in the City, the City Council may establish a user charge based on actual use and revise the charges, if necessary, to accomplish the following:

1. Maintain the proportional distribution of operation, maintenance and replacement costs among users and user classes;

2. Generate adequate revenues to pay the costs of OM&R:

3. Apply excess revenues collected from a class of users to the costs of OM&R attributable to that class for the next year and adjust the rates accordingly.

The revenue from the user charge system based on actual use shall be known as the Sewer Maintenance Fund, and such revenue shall be used only for the purpose of paying the reasonable expenses of the operation and maintenance of the sanitary sewage system for the purpose of extending and improving the sanitary sewage system and for the purpose of creating reserves for any of the aforesaid purposes. The utilities superintendent shall have the direct management and control of the Sewer Department and shall faithfully carry out the duties of his/her office. He/she shall have the authority to adopt rules and regulations for the sanitary and efficient management of the department subject to the supervision and review of the City Council. (Ref. Neb. Rev. Stat. §18-501, 18-503, 18-509)

SECTION 7-202 DEFINITIONS

Unless the context specifically indicates otherwise, the meanings of terms used herein shall be as follows:

1. "BOD" (denoting biochemical oxygen demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° degrees C. expressed in milligrams per liter.

2. "Building drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of a building and conveys it to the building sewer, the building sewer beginning five feet outside the inner face of the building wall.

3. "Building sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.

4. "City" shall mean the City of Plattsmouth, Nebraska.

5. "Combined sewer" shall mean a public sewer receiving both surface run-off and sewage.

6. "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

7. "Industrial wastes" shall mean the liquid wastes from industrial manufacturing processes, trades or businesses as distinct from sanitary sewage.

8. "Local ventilating pipe" shall mean and include any pipe through which foul air is removed from a room or fixture.

9. "Natural outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or ground water.

10. "Normal sewage" shall mean sewage not exceeding maximum tolerance of contamination of 300 milligrams per liter BOD or 350 milligrams per liter of suspended solids.

11. "Person" shall mean any individual, firm, company, association, society, corporation or group.

12. "pH' shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

13. "Properly shredded garbage" shall mean the wastes from the preparation, cooking and dispensing of foods that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than one-half inch (1.27 centimeters) in any dimension.

14. "Public sewer" shall mean a sewer controlled by public authority in which all owners of abutting properties have equal rights.

15. "Sanitary sewer" shall mean a public sewer that carries sewage and to which storm, surface and ground waters are not intentionally admitted.

16. "Sewage" shall mean a combination of the water-carried wastes from property, together with such ground, surface and storm waters as may be present.

17. "Sewer" shall mean a pipe or conduit for carrying sewage.

18. "Shall" is mandatory; "may" is permissive.

19. "Slug" shall mean any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds, for any period of duration longer than 15 minutes, more than five times the average 24-hour concentration of flows during normal operation.

20. "Soil pipe" shall mean and include any pipe which conveys the discharge of water closets with or without the discharge from other fixtures to the house or building drain.

21. "Standard methods" shall mean the examination and analytical procedures set forth in the most recent editions of "Standard Methods for the Examination of Water, Sewage and Industrial Waste," published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.

22. "Storm sewer" shall mean a public sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

23. "Suspended solids" (SS) shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

24. "Utilities superintendent" shall mean the Public Works Director of the City of Plattsmouth or his/her authorized representative, deputy or agent.

25. "Trap" shall mean and include a fitting or device so constructed as to prevent the passage of air or gas through a pipe without materially affecting the flow of sewage or waste through it.

26. "Trap seal" shall mean the vertical distance between the crown weir and the dip of the trap.

27. "Unpolluted waters" is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

28. "Vent pipe" shall mean any pipe provided to ventilate a house or building drainage system and to prevent trap siphonage and back pressure.

29. "Waste pipe" shall mean any pipe which receives the discharge of any fixture, except water closets, and conveys the same to the house drain, soil pipe or waste stack.

30. "Watercourse" shall mean a natural or artificial channel for the passage of water, either continuously or intermittently.

SECTION 7-203 SEWER CONTRACT

The City, through the Sewer Department, shall furnish sewer services to persons within its corporate limits whose premises abut a street or alley in which a commercial main is now or may hereafter be laid. The City may also furnish sewer service to persons whose premises are situated outside the corporate limits of the City, as and when, according to law, the City Council may see fit to do so. The rules, regulations and sewer rental rates hereinafter named in this article shall be considered a part of every application hereafter made for sewer service and shall be a part of the contract between every customer now or hereafter served. Without further formality, the making of the application on the part of any applicant or the use of sewer service by present customers thereof shall constitute a contract between the customer and the City, to which said contract both parties are bound. If the customer shall violate any of the provisions of said contract or any reasonable rules and regulations that the City Council may hereafter adopt, the utilities

superintendent or his/her agent may cut off or disconnect the sewer service from the building or premises of such violation. No further connection for sewer service to said building or premises shall again be made save or except by order of the utilities superintendent or his/her agent. (Ref. Neb. Rev. Stat. §18-503)

SECTION 7-204 SERVICE CONTRACTS

Contracts for sewer service are not transferable. Any person wishing to change from one location to another shall set up a new account, make a new application and sign a new contract. If any customer shall move from the premises where service is furnished, or if the said premises is destroyed by fire or other casualty, he/she shall at once inform the utilities superintendent, who shall cause the sewer service to be shut off from the said premises. If the customer should fail to give notice, he/she shall be charged for that period of time until the official in charge of sewers is otherwise advised of such circumstances. (Ref. Neb. Rev. Stat. §18-503, 18-508)

SECTION 7-205 RATE SETTING

Customers of the City Sewer Department shall be charged a flat rate based on water usage for the use of sewer service. Rates shall be set from time to time by resolution of the City Council. Such rates shall be on file at the offices of the utilities superintendent and city clerk and available for public inspection at any reasonable time. (Ref. Neb. Rev. Stat. §16-694, 18-509)

SECTION 7-206 SEWER FEES; BILLING

All sewer use charges provided for in this article shall be billed the first day of each month for service during the preceding month and shall be due and payable as of that time. Residential customers shall be billed once every other month and commercial customers shall be billed monthly. If any user shall neglect or refuse to pay such bill on or before the 15th day of the month succeeding the due date, the bill shall be considered delinquent and the water service to the premises of such consumer shall be discontinued. All sewer use charges prescribed by this article shall be a lien upon the premises and the real estate for which the sewer use service is supplied and used, and if not paid when due, such charge shall be certified to the city treasurer and may be recovered by the City in an action at law from the owner or person, firm or corporation using the service, or it may be certified to the tax assessor and assessed against the premises served, and collected or returned in the same manner as other city taxes are certified, assessed, collected and returned. Users commencing or ending their use of the sewage system after the first day of any month shall pay the sewer use charge for the entire month remaining. (Ref. Neb. Rev. Stat. §16-694, 18-503, 18-509)

SECTION 7-207 DISCONTINUANCE OF SERVICE, NOTICE PROCEDURE

The City shall have the right to discontinue service if the charges for such service become delinquent pursuant to the delinquency provision heretofore set forth in this chapter. Before any termination, the utilities superintendent shall first give notice by first class mail or in person to any domestic subscriber whose service is proposed to be terminated. If notice is given by first class mail, such mail shall be conspicuously marked as to its importance. Service shall not be

discontinued for at least seven days. As to any subscriber who has previously been identified to the City as a welfare recipient by the Department of Health and Human Services, such notice shall be by certified mail and notice of such proposed termination shall be given to the Department of Health and Human Services.

The notice shall contain the following information:

1. The reason for the proposed disconnection;
2. A statement of the intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the City;
3. The date upon which service shall be disconnected if the domestic subscriber does not take appropriate action;
4. The name, address and telephone number of the employee or department to whom the domestic subscriber may address an inquiry or complaint;
5. The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection;
6. A statement that the City may not disconnect service pending the conclusion of the conference;
7. A statement to the effect that disconnection may be postponed or prevented upon presentation of a duly licensed physician's certificate which shall certify that the domestic subscriber or resident within such subscriber's household has an existing illness or handicap which would cause such subscriber or resident to suffer an immediate and serious health hazard by the disconnection of the utility's service to that household. Such certificate shall be filed with the City within five days of receiving notice under this section and will prevent the disconnection of the City's service for a period of 30 days from such filing. Only one postponement of disconnection shall be allowed under this subsection for each incidence of nonpayment of any due account;
8. The cost that will be borne by the domestic subscriber for restoration of service;
9. A statement that the domestic subscriber may arrange with the City for an installment payment plan;
10. A statement to the effect that those domestic subscribers who are welfare recipients may qualify for assistance in payment of their utility bills and that they should contact their caseworker in that regard; and
11. Any additional information not inconsistent with this section which has received prior approval from the City Council.

A domestic subscriber may dispute the proposed discontinuance of service by notifying the utility with a written statement that sets forth the reasons for the dispute and the relief requested. If a statement has been made by the subscriber, a conference shall be held before the utility may discontinue service.

The procedures adopted by the City Council for resolving utility bills, three copies of which are on file in the office of the city clerk, are hereby incorporated by reference in addition to any amendments thereto and are made a part hereof as though set out in full.

This section shall not apply to any disconnections or interruptions of service made necessary by the utility for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public. (Ref. Neb. Rev. Stat. §19-2701 et seq.)

SECTION 7-208 LIEN

In addition to all other remedies, if a customer shall for any reason remain indebted to the City for sewer service furnished, such amount due, together with any rents and charges in arrears, shall be considered a delinquent sewer rent which is hereby declared to be a lien upon the real estate for which the same was used. The utilities superintendent shall notify in writing, or cause to be notified in writing, all owners of premises or their agents whenever their tenants or lessees are 30 days or more delinquent in the payment of sewer rent. It shall be the duty of the utilities superintendent to report to the City Council a list of all unpaid accounts due for sewer together with a description of the premises upon which the same was used. The report shall be examined, and if approved by the City Council, shall be certified by the city clerk to the county clerk to be collected as a special tax in the manner provided by law.

SECTION 7-209 CLASSIFICATION

The City Council may classify the customers of the Sewer Department for the purpose of rental fees; provided that such classifications are reasonable and do not discriminate unlawfully against any consumer or group of consumers. The classification must be approved by the Environmental Protection Agency, relative to the user charge grant condition. (Ref. Neb. Rev. Stat. §18-503)

SECTION 7-210 DISCHARGE OF UNTREATED SEWAGE; UNLAWFUL

It shall be unlawful to discharge to any natural outlet within the City or within two miles of the corporate limits thereof, or in any area under the jurisdiction of the City, any sewage, industrial wastes or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this article.

SECTION 7-211 PUBLIC SEWERS REQUIRED; CESSPOOLS, PRIVIES AND SEPTIC TANKS PROHIBITED

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

SECTION 7-212 PUBLIC SEWERS REQUIRED; MANDATORY HOOKUP

The owner of any houses, buildings or properties used for human employment, recreation or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the City is hereby required at his/her expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article within 90 days after the date of official notice to do so; provided that said public sewer is within 100 feet of the property line.

SECTION 7-213 BUILDING SEWER INSTALLATION; PERMIT REQUIRED, TRANSFERABILITY

No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the utilities superintendent. When two or more persons are copartners, the permit shall issue in the name of the firm or co-partnership, and no permit shall be transferable. (Ref. Neb. Rev. Stat. §16-249, 16-321, 16-694)

SECTION 7-214 BUILDING SEWER CONSTRUCTION; BOND REQUIRED AT REQUEST OF CITY COUNCIL

Any licensed plumber with experience in laying drain, water or sewer pipes, upon application to the City Council, may receive a permit to lay drain, water or sewer pipes, or make connections thereto as specified in the permit; provided, no application for such permit shall be considered unless accompanied by a non-refundable tap fee of $200.00 and a bond in an amount to be fixed by the City Council, if, in its discretion, a bond is necessary. Such bond, if required, shall be subject to the approval of the City Council, to secure the City and the public against damages that may arise by reason of the carelessness or neglect of such person or corporation to properly execute or protect his/its work, and to properly repair all damages caused thereby, or for any penalties that may be imposed. (Ref. Neb. Rev. Stat. §16-249, 16-321, 16-694)

SECTION 7-215 BUILDING SEWER CONSTRUCTION; PROTECTION OF WORK

The contractor shall, at his/her expense, erect suitable barriers around all excavations or obstructions on public thoroughfares to prevent accidents, and during the night shall place and maintain sufficient lights for this purpose on or near the work. The contractor will, at all times until its completion and final acceptance, protect his/her work, apparatus and material from accidental or other damage, and shall make good any damages thus occurring at his/her own expense.

SECTION 7-216 BUILDING SEWER CONSTRUCTION; ACCESS AND DRAINAGE

The contractor shall keep unobstructed a sufficient area around fire hydrants to permit their full and effective use in case of fire. He/she shall keep natural drainage and watercourses unobstructed or provide equal courses effectively placed. The contractor shall be held liable if negligent.

SECTION 7-217 BUILDING SEWER CONSTRUCTION; PROTECTION OF PROPERTY

The contractor shall, at his/her expense, by the use of false work, braces, shoring or other effective means, protect against damage all buildings, walls, fences and other property along his/her line of work affected directly by such work and shall repair or repay the injured owners for such damage.

The contractor shall exercise care to protect from injury all existing water pipes, sewer lines, gas lines, telephone cables, electric cables, and other underground structures which may be

encountered during the progress of the work. Water and other service pipes and fixtures, if damaged, shall be repaired by the contractor without additional compensation.

The contractor shall give notice in writing at least 48 hours before breaking ground to all persons, superintendents, inspectors, or those otherwise in charge of property, streets, water pipes, sanitary sewer pipes or otherwise that may be affected by their operation, in order that they may remove any obstructions for which they are responsible or may have a representative on the ground to see that their property is properly protected.

SECTION 7-218 BUILDING SEWER CONSTRUCTION; GUARANTEE

The contractor shall furnish a maintenance bond, subject to the City's approval, guaranteeing to keep all work constructed under his/her contract in good repair for a period of two years from the date of final acceptance. Good repair shall be construed to mean that any functional or structural deterioration, except that from ordinary and reasonable use, which appreciably reduces the effectiveness of the improvement for the purpose intended or any serious departure from the standards of original construction shall be remedied.

If, in the opinion of the City, such deterioration takes place, it shall so notify the contractor by registered letter to the address given in the contractor's proposal, and a copy of such notice will be sent to the bonding company, which notice is mutually agreed to be sufficient and adequate. If the contractor shall not proceed to remedy such defects as are called to his/her attention in the notice within ten days, the City shall cause the repairs to be made as it deems best, and the entire cost thereof shall be paid by the contractor or his/her sureties.

SECTION 7-219 BUILDING SEWER CONSTRUCTION; EXCAVATION AND BACKFILL

Trenching shall be in open cut except with the written permission of the engineer. Permission for tunnel work may be given for crossing under crosswalks, house driveways or service pipes when such tunnels will not exceed ten feet in length. The length of trench to be opened at one time may be limited when, in the opinion of the engineer, such limitation is necessary. The amount of open or unfilled trench shall not exceed 1,000 feet unless ordered by the engineer, and failure to comply with this requirement shall be cause for shutdown of the entire job until such backfilling is accomplished. Trenches shall be only of sufficient width to provide a free working space on each side of the pipe of not less than four inches nor more than the outside diameter of the pipe bells, plus 24 inches.

Trenches shall be kept free from water until the material in the joints has hardened. Trenches shall be sheeted and braced as necessary. Such sheeting shall not be removed until backfilling has progressed to such stage that no damage to pipelines or structures will result from its removal.

At street crossings, sidewalks and other points where the engineer deems it necessary, the trenches shall be bridged in a secure manner so as to prevent serious interruption of travel and to afford access to public and private premises. Such bridges shall be approved by the engineer.

Backfilling of trenches shall be done in accordance with rules and regulations set by the utilities superintendent.

SECTION 7-220 BUILDING SEWER CONSTRUCTION; PREPARATION OF FOUNDATION FOR PIPE LAYING

When the excavation is in firm earth, care should be taken to avoid the removal of material below the established grade. If the foundation is in rock, the excavation shall be carried to an elevation which will provide for a bedding course not less than 12 inches thick below the body of the pipe. This bedding course shall be suitable earth or sand, free from rocks, roots, sod or vegetable matter and shall be firmly tamped in place before shaping the bed to fit the pipe. Before pipes are placed, the bottom of the trench shall be shaped to give full support to the lower one-fourth of the pipe circumference. Adequate bell holes shall be made at each joint. Where the excavation is in unstable earth or muck, the contractor shall provide the necessary materials for stabilization so the pipe will be laid on a firm foundation. If the foundation is in unstable soil, the excavation shall be carried to a depth which will allow the placement of a six-inch thick layer of crashed limestone as subgrade stabilization.

SECTION 7-221 BUILDING SEWER CONSTRUCTION; CONSTRUCTION CODES

The size, slope, alignment and materials of constructing a building sewer and the methods to be used in excavating, placing the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the utilities superintendent before installation.

SECTION 7-222 SEWER INSTALLATION/REPAIR EXPENSE

All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

SECTION 7-223 SINGLE PREMISE; EXCEPTIONS TO SEPARATE SEWER MAIN CONNECTIONS

A separate and independent building sewer shall be required for every building, except as provided in this section.

The following are the only exceptions to the requirement that each premises has an independent sewer:

(1) where one building stands at the rear of another on an interior lot and no public sewer is available or can be constructed to the rear building through an adjoining alley, courtyard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer;

(2) where two lots are adjacent and no public sewer is available to one or both, and the City does not form a sewer district and extend a sewer, to a street, alley or other property adjacent to the premises within 100 feet of the premises;

(3) where the premises is multi-family housing as defined by this code; and

(4) where the premises is commercial with multiple occupants as defined by this code.

PROVIDED, HOWEVER, that for exceptions (1) and (2), the following limitations also apply: (a) if at any time in the future the City extends a sewer to within 100 feet of the premises, multiple connections will be disconnected and a direct connection made to the sewer main; (b) a separate tap fee is paid for each multiple connection and when the separate tap is made following the extension of a sewer to within 100 feet of the property as provided above; (c) documentation of any necessary easements, containing language regarding each parties' responsibility for repairs and reconstruction, is presented to the City prior to receiving a permit to make the multiple connection, with evidence of the same having been recorded following the issuance of the permit but prior to making the connection; and (d) clean outs are installed at the required intervals on each premises' line prior to the joining of the lines, and thereafter at the required intervals.

PROVIDED, FURTHER, that for exceptions (1) and (2), in no instance may more than two residences be connected to one sewer service.

The City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection or multiple connection to its sewer main.

Amended – Ordinance No. 1704 4/19/2004

SECTION 7-224 USE OF EXISTING SEWERS

Old building sewers may be used in connection with new buildings only when they are found to meet all requirements of this article upon examination and testing by the utilities superintendent.

SECTION 7-225 UNLAWFUL CONNECTION

No person shall make connection of roof downspouts, interior and exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the utilities superintendent for purposes of disposal of polluted surface drainage; provided that if responsibility can be determined, the party responsible for disposal of polluted surface drainage into the public sanitary sewer shall pay a user charge equivalent to the cost of treating the polluted drainage.

SECTION 7-226 PROHIBITED DISCHARGES; STORM, SURFACE, GROUND, COOLING AND PROCESS WATERS

No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial waters to any sanitary sewer.

Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the city engineer or the utilities superintendent. Industrial cooling water or unpolluted process waters shall be discharged, at the request of the city engineer or the utilities superintendent, to a combined sewer, storm sewer or natural outlet. The contributor of any identifiable discharge of polluted water to the sanitary sewer system shall be held responsible for reimbursing the City for such costs. The costs shall be determined by the utilities superintendent with the approval of the City Council.

SECTION 7-227 HAZARDOUS AND PROHIBITED DISCHARGES; FLAMMABLE, TOXIC, CORROSIVE AND OBSTRUCTIVE SUBSTANCES; PRELIMINARY TREATMENT

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

A. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.

B. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant.

C. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.

D. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair, fleshings, entrails and paper dishes, cups, towels, milk containers, etc., either whole or ground by garbage grinders.

E. Any waters or wastes having:

1. A 5-day BOD greater than 300 parts per million by weight, or
2. More than 350 parts per million by weight of suspended solids, or
3. An average daily flow greater than 2% of the average sewage flow of the City.
4. A chlorine requirement greater than demanded by normal sewage as evaluated by the City's consulting engineer shall be subject to the review of the utilities superintendent.

Where necessary, in the opinion of the utilities superintendent, the owner shall provide, at his/her expense, such preliminary treatment as may be necessary to:

1. Reduce the biochemical oxygen demand to 300 parts per million by weight, or
2. Reduce the suspended solids to 350 parts per million by weight, or
3. Control the quantities and rates of discharge of such water or wastes, or
4. Reduce the chlorine requirement to conform with normal sewage.

Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the utilities superintendent, and no construction of such facilities shall be commenced until said approvals are obtained in writing.

SECTION 7-228 HAZARDOUS AND PROHIBITED DISCHARGES; SPECIFIC PROHIBITIONS AS DETERMINED BY SUPERINTENDENT

No person shall discharge or cause to be discharged to any public sewer the following-described substances, materials, waters or wastes if it appears likely, in the opinion of the utilities superintendent, that such wastes can harm the public sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream or otherwise endanger life, limb, public property, or constitute a nuisance. In forming his/her opinion as to the acceptability of these wastes, the utilities superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials or construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, and other pertinent factors. The substances prohibited are:

A. Any liquid or vapor having a temperature higher 150° Fahrenheit or 65° Centigrade.

B. Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32° Fahrenheit and 150° Fahrenheit or 0° and 65° Centigrade.

C. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the utilities superintendent.

D. Any waters or wastes containing strong acid iron pickling wastes or concentrated plating solutions.

E. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement to such degree that any such material received in the composite sewage at the treatment works exceeds the limits established by the utilities superintendent for such materials.

F. Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the utilities superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

G. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the utilities superintendent in compliance with applicable state or federal regulations.

H. Any waters or wastes having a pH in excess of 9.5.

I. Materials which exert or cause:
    1. Unusual concentrations of inert suspended solids (such as, but not limited to, Fuller's earth, lime slurries and lime residues), or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
    2. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
    3. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load of the sewage treatment works.
    4. Unusual volume of flow or concentration of wastes constituting slugs.

J. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to receiving waters.

SECTION 7-229 DISCHARGE OF HAZARDOUS AND PROHIBITED SUBSTANCES; NATURE OF; SUPERINTENDENT'S DISCRETION WITH RESPECT TO

If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in the above section and which in the judgment of the utilities superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life to constitute a public nuisance, the utilities superintendent may:

A. Reject the wastes,

B. Require pretreatment to an acceptable condition for discharge to the public sewers,

C. Require control over the quantities and rates of discharge, and/or

D. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of this article.

If the utilities superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the utilities superintendent, and subject to the requirements of all applicable codes, ordinances and laws.

SECTION 7-230 HAZARDOUS AND PROHIBITED SUBSTANCES; SPECIAL EXCEPTIONS PERMITTED

No statement contained in this article shall be construed as preventing a special agreement or arrangement between the City and the owner of any property whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore by the owner.

SECTION 7-231 GREASE, OIL AND SAND INTERCEPTORS; WHEN REQUIRED

Grease, oil and sand interceptors shall be provided by the owner of all restaurant property and other businesses when, in the opinion of the utilities superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for residences. All interceptors shall be of a type and capacity approved by the utilities superintendent and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner(s) shall be responsible for the proper removal and disposal of the captured material by appropriate means and shall maintain records of the dates and means of disposal which are subject to review by the utilities superintendent. Any removal and hauling of the collected materials not performed by personnel of the owner(s) must be performed by currently licensed waste disposal firms.

SECTION 7-232 PRELIMINARY TREATMENT OR FLOW-EQUALIZING FACILITIES; MAINTENANCE BY OWNER

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his/her expense.

SECTION 7-233 CONTROL MANHOLES

When required by the superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the superintendent. The manhole shall be installed by the owner at his/her expense and shall be maintained by him/her so as to be safe and accessible at all times.

SECTION 7-234 SAMPLING OF WATERS AND WASTES; METHOD OF

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the sampling station provided or upon suitable samples taken at said sampling station. One copy of the latest edition of said volume shall be kept on file in the office of the city clerk for use and examination by the public. In the event no special sampling station has been required, the sampling station shall be considered to be the nearest manhole in the public sewer downstream from the point at which the building sewer is connected. Sampling shall be carried out by approved methods to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls, whereas pHs are determined from periodic grab samples.)

SECTION 7-235 COMPLIANCE; INSPECTIONS, INJURY, LIABILITY

The utilities superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing systems in accordance with the provisions of this article. The city engineer and the utilities superintendent shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries, nor shall they have the right to enter into areas where methods and/or processes are entitled to protection as trade secrets of the property owner beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

While performing the necessary work on the property referred to in this section, the utilities superintendent and other duly authorized employees of the City shall observe all applicable safety rules established by the company. The company shall be held harmless for injury or death to the city employees, and the City shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure to the company to maintain safe conditions as required in Section 7-233 and 7-234.

SECTION 7-236 UNAUTHORIZED ENTRY OR UNAUTHORIZED DAMAGING OF EQUIPMENT; UNLAWFUL

Entrance into a manhole or opening for any purpose except by authorized persons is hereby prohibited. No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the sewage works. Any person violating this provision shall be subject to immediate arrest and may be prosecuted to the full extent of the law.

SECTION 7-237 PRIVATE SEWAGE DISPOSAL SYSTEMS

Where a public sanitary or combined sewer is not available under the provisions of Section 7-211, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.

1. Before commencing construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the utilities superintendent. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications and other information as deemed necessary by the utilities superintendent.

2. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the utilities superintendent, who shall be allowed to inspect the work at any stage of construction, and in any event, the applicant for the permit shall notify the utilities superintendent when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice by the utilities superintendent.

3. The type, capacities, location, and layout of a private sewage disposal system shall comply with the Nebraska Department of Environmental Quality's Title 124 Rules and Regulations for the Design, Operation and Maintenance of Septic Tank Systems. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the **lost** is less than 10,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

4. At such time as a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer within 90 days in compliance with this article, and any septic tank, cesspool and similar private sewage disposal

facilities shall be abandoned in accordance with the Nebraska Department of Environmental Quality's Title 124 Rules and Regulations for the Design, Operation and Maintenance of Septic Tank Systems, at the expense of the owner.

5. Wherever the city sewage system exists or is extended, all private sewage disposal systems are hereby declared to be a nuisance; and every person, firm or corporation that owns, controls or is in possession of said premises on which said private sewage disposal system is located shall be deemed guilty of maintaining a nuisance.

6. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.

7. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by state or federal law.

SECTION 7-238 LICENSED PLUMBERS

Only licensed plumbers who have a current license issued by the City of Plattsmouth may connect any house drain with any sewer or lateral of the public sewer system, and then only after having notified the utilities superintendent and submitting to his/her supervision in accordance with such rules and regulations as are then in effect with respect thereto.

SECTION 7-239 PENALTIES

Any person upon whom a duty is placed by the provisions of this article, who shall fail, neglect or refuse to perform such duty, or who shall violate any of the provisions of this article, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed $500.00 for each violation, together with the costs of prosecution. Each day that a violation of this article continues shall constitute a separate and distinct offense and shall be punishable as such; provided, however, that any such person upon whom a duty is placed by the provisions of this article who shall fail, neglect or refuse to perform such duty, or who shall violate any of the provisions of said sections, may be served by the City with written notice stating the nature of such negligent duty or of such violation and providing a reasonable time limit for the satisfactory correction of such negligent duty or violation. Such person shall, within such period of time, perform such duty or cease such violation; otherwise, for each day after such period of time that such person fails, neglects, or refuses to perform such duty or violates such provision, he/she shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as above provided.

In addition to, or in lieu of, other remedies provided to the City by this article to correct or abate a failure, neglect or refusal to perform a duty imposed by this article or a violation of a provision of this article, the city engineer or the utilities superintendent may revoke any permit issued under the provisions of this article, and may effect the discontinuation of such services to the owner of the property. The City may also institute an injunction or other appropriate action or proceeding.

Any person upon whom a duty is placed by the provisions of this article, who shall fail, neglect or refuse to perform such duty, or who shall violate any of the provisions of this article, or who is responsible for an accidental discharge as aforesaid, may be held liable to the City for any expense, loss or damage occasioned the City by reason thereof.

ARTICLE III – LICENSED PLUMBERS

SECTION 7-301 LICENSED PLUMBER DEFINED

The term "licensed plumber" as used in the ordinances of this city is hereby defined to denote any person to whom a plumber's license has been duly issued or renewed, as hereinafter provided, which has not been revoked or terminated by lapse of time.

SECTION 7-302 PROCEDURE TO OBTAIN LICENSE

Any person wishing to perform plumbing services within the City or the City's zoning jurisdiction shall register with the city clerk and state his/her willingness to be governed in all respects by the City's ordinances now in effect or hereafter adopted by the City concerning its utility systems. Such registration shall be accompanied by documentation that the person is licensed as a plumber in another jurisdiction of the State of Nebraska. The fee for registration shall be $25.00 and must accompany the registration form, together with a bond with corporate surety in the penal sum of $5,000.00. The registration is conditioned upon applicant's indemnifying and keeping harmless the City of Plattsmouth from all liability for any damage arising from any negligence or unskilled act in doing or protecting his/her work, or from any unfaithful or inadequate work done in pursuance of his/her license, and conditioned upon his/her restoring the streets, alleys, sidewalks and pavements over the pipes he/she may lay, and filling all excavations made by him/her so as to leave said streets, alleys, sidewalks and pavements in as good condition as he/she found them, and keeping and maintaining the same in good order to the satisfaction of the City Council for a period of one year next thereafter and that he/she will pay all fines that may be imposed upon him/her for a violation of any of the ordinances, rules and regulations adopted by this city and in force during the term of his/her license. Said license and bond shall cover all employees of the applicant.

Amended – Ordinance No. 1705 4/19/2004

SECTION 7-303 RENEWAL OF LICENSES

Any registration may be renewed from year to year pursuant to 7-302 upon payment of the registration fee for the year and the renewal of applicant's bond.

Amended – Ordinance No. 1705 4/19/2004

SECTION 7-304 TERM OF LICENSE

The registration or renewal may be revoked if the license holder violates any terms of the International Plumbing Code or for cause after notice and hearing by the City Council. Such revocation may be appealed to the District Court of Cass County, Nebraska.

Amended – Ordinance No. 1705 4/19/2004

SECTION 7-305 FEES TO BE PAID TO CITY TREASURER

The city clerk shall pay over to the city treasurer all license fees collected pursuant to this article.

ARTICLE IV – GARBAGE AND REFUSE COLLECTION

SECTION 7-401 DEFINITIONS

"Garbage" shall mean rejected food wastes, including waste accumulation of animal, fruit or vegetable matter used or intended for food or that is intended for the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit or vegetable, and dead animals rejected by rendering plants.

"Hazardous waste" shall mean a solid waste, or combination of solid wastes which, because of its quantity, concentration or physical, chemical or infectious characteristics, may (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness, or (b) pose a substantial present or potential hazard to human or animal health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

"Junk" shall mean old scrap, copper, brass, iron, steel, rope, rags, batteries, paper, trash, rubber, debris, waste, dismantled or wrecked automobiles or parts thereof, and other old and scrap ferrous or nonferrous material.

"Refuse" shall mean putrescible and nonputrescible solid wastes, except body wastes, including garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, and solid market and industrial wastes.

"Rubbish" shall mean nonputrescible solid wastes, excluding ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery or litter of any kind that will be a detriment to the public health and safety.

"Waste" shall mean sewage, industrial waste, and all other liquid, gaseous, solid, radioactive or other substances which may pollute or tend to pollute any air, land or waters.

SECTION 7-402 GARBAGE; TRASH AND WASTE

It shall be unlawful for any person to keep in, on or about any dwelling, building or premises, or any other place in the City, decayed vegetable or animal substance, garbage or refuse of any kind that may be injurious to the public health or offensive to the residents of the City unless the same is kept in receptacles not exceeding a 55 gallon capacity, sacked in durable bags of such a nature that they can be easily placed in trucks or placed in a dumpster or similar container. All persons shall have their garbage removed at least once a week by the regular city solid waste system. (Ref. Neb. Rev. Stat. §19-2106)

SECTION 7-403 DEAD ANIMALS

All dead animals shall be immediately removed by the owner of such animals. If the owner of any such animal cannot be found within two hours after discovering the same, then such animal shall be removed by and at the expense of the City. Dead animals shall not be buried within the

corporate limits of the City, nor within two miles thereof, nor in or above the course of groundwater that is used for drinking purposes by the City or its inhabitants

SECTION 7-404 HAZARDOUS WASTE

The City and the contractor for hauling and disposing of solid waste for the City shall not be responsible for removal of hazardous waste. Hazardous waste shall not be placed in the regular disposal system. If any resident or business in the City has hazardous waste, the hazardous waste must be disposed of by a person or organization that is authorized and equipped to dispose of the same and must be disposed of in an area where hazardous waste is authorized by federal and state laws, rules or regulations. The following items are not to be disposed of in the regular disposal system or commingled with any of the items mentioned above: oil, paint, lead acid batteries, tires, fertilizer, chemicals, animal manure, household appliances, and oil waste.

SECTION 7-405 GARBAGE, RUBBISH AND WASTE; DEPOSIT ON OTHER PREMISES

It shall be unlawful for any person to willfully, maliciously or negligently place or throw any garbage, rubbish, waste or other matter upon the premises of another. (Ref. Neb. Rev. Stat. §19-2106, 28-523)

SECTION 7-406 HAULING PERMIT REQUIRED

Before any person engages in the business of hauling garbage in the City, such person shall first make application for a permit to do so and submit the equipment he/she proposes to use to inspection by the City Council. Such applicant shall also file with the city clerk a schedule of rates he/she shall charge for such services. If the City Council shall find that such equipment consists of a vehicle suited to the purpose, and of containers which are watertight and a method of covering the same, such permit shall be issued without costs by the city clerk and be in force for one year. In the event the City Council or Board of Health shall afterward determine that such person is using leaky containers or failing to keep the same clean, or hauling garbage in such a manner as to constitute a menace to health, such permit shall be revoked.

SECTION 7-407 VEHICLE SPECIFICATIONS

Before making application for a permit as hereinbefore provided, the applicant shall have his/her vehicles inspected by the City Council as provided in Section 7-407 to determine compliance with the specifications of this section. If such vehicles comply in all respects with the specifications set forth below, the City Council shall issue a certificate of approval for such vehicles, describing and identifying the vehicles so approved.

Any vehicle used by any licensed garbage collector in collecting and hauling refuse over the streets of the City shall comply with the following specifications:

1. The vehicle shall have a watertight, metal body, fully enclosed. Watertight, as used herein, shall mean so constructed that liquid materials will not spill or be discharged therefrom between

point of loading and the designated disposal ground. This shall not prohibit permit holders from having an open truck for the transporting of refuse other than garbage; provided, said truck is covered by tarpaulin or other cover approved by the Board of Health;

2. The vehicle shall be so constructed as to be readily cleaned; and

3. The vehicle shall be so constructed as to enclose materials carried in it to prevent them from falling therefrom while moving through and upon the streets of the City and to the dumping ground.

All vehicles licensed hereunder shall be kept clean and presentable as possible, both inside and outside, at all times.

SECTION 7-408 PERMIT REVOCATION

The permit of any garbage collector permitted to collect, haul or convey refuse or garbage for hire within the City may be revoked by the City Council upon good cause and upon failure of such permitted garbage collector for hire to comply with the garbage and health and sanitation ordinances of the City. No revocation of permit shall be made except after public hearing before the City Council with proper notice of such hearing given, stating the reasons therefor, to the permitted garbage collector of the time and date of said hearing by certified or registered mail.

SECTION 7-409 LOCATION OF GARBAGE CONTAINERS

The garbage containers required by this article shall be kept in the rear of the premises or in passageways most accessible to the collector. If a container is not easily accessible to the collector, it shall be promptly delivered to him/her upon request. In residential districts, no garbage container shall be located forward of the main dwelling structure except for a 24-hour period before and after the time scheduled for regular pickup or actual pickup by the collector. Such containers shall not be used for the reception of garbage by more than one family, householder, hotel, restaurant, store, wholesale business or retail business of any kind. All garbage created upon the premises shall be deposited in the garbage containers required by this article.

SECTION 7-410 GARBAGE AND REFUSE COLLECTION; AUTHORITY

The City Council may provide for the collection and removal of garbage or refuse found upon any lot or land within its corporate roads or alleys abutting such lot or land which constitutes a public nuisance. The City may require the owner, duly authorized agent, or tenant of such lot or land to remove the garbage or refuse from such lot or land and streets, road or alleys. (Ref. Neb. Rev. Stat. §16-230, 16-231, 16-246, 16-901)

SECTION 7-411 GARBAGE AND REFUSE COLLECTION; NOTICE, REMOVAL

Notice that removal of garbage or refuse is necessary shall be given to each owner's duly authorized agent and to the tenant, if any. Such notice shall be provided by personal service or by certified mail. After providing such notice, the City through its proper offices shall, in addition to

other proper remedies, remove the garbage or refuse, or cause it to be removed, from such lot or land and streets, roads or alleys. (Ref. Neb. Rev. Stat. §16-230, 16-231, 16-246, 16-901)

SECTION 7-412 GARBAGE AND REFUSE COLLECTION; NUISANCE

If the mayor declares that the accumulation of such garbage or refuse upon any lot or land constitutes an immediate nuisance and hazard to public health and safety, the City shall remove the garbage or refuse, or cause it to be removed, from such lot or land within 48 hours after notice by personal service or following receipt of a certified letter in accordance with Section 7-412 if such garbage or refuse has not been removed. (Ref. Neb. Rev. Stat. §16-230, 16-231, 16-246, 16-901)

SECTION 7-413 GARBAGE AND REFUSE COLLECTION; LIEN

Whenever the City removes any garbage or refuse, or causes it to be removed, from any lot or land pursuant to this article, it shall, after a hearing conducted by the City Council, assess the cost of the removal against such lot or land. (Ref. Neb. Rev. Stat. §16-230, 16-231, 16-246, 16-901)

ARTICLE V – NATURAL GAS RATE REGULATION

SECTION 7-501 ADOPTION OF NATURAL GAS REGULATION ACT

The provisions of Article 46, Chapter 19 of the Municipal Natural Gas Regulation Act as set forth in R.R.S. Neb. 1943, 1987 Supplement thereto and any amendments, except as otherwise provided for in this ordinance, are hereby adopted by this reference thereto and made a part hereof as fully as if set forth at length herein, except as otherwise hereinafter provided.

SECTION 7-502 GAS RATE COLLECTION FEE

A fee of $300.00 shall be imposed for each rate filing by the city gas supplier.

ARTICLE VI - PENAL PROVISION

SECTION 7-601 VIOLATION; PENALTY

Any person who violates or refuses to comply with any of the provisions of this chapter, which is incorporated by reference, shall be guilty of a misdemeanor, and upon conviction shall be subject to fine of not more than $500.00 dollars and/or imprisonment for up to 30 days for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

Amended – Ordinance No. 1681 11/4/2002

MUNICIPAL CODE

CHAPTER 8

FIRE DEPT & EMS DEPT

ARTICLE I – FIRE DEPARTMENT

SECTION 8-101 CREATION, OPERATION AND FUNDING

The City shall provide fire protection by and through the City Fire Department, the direct management and control of which shall be vested in the Fire Chief. The Fire Chief shall be appointed by the Mayor, subject to the approval of the City Council.

The Fire Department shall be composed of such volunteer firefighters approved from time to time by the City Council. Prior to responding to a fire call, all proposed new members shall be added to a list for approval, and approved by, the City Council.

The City Council, for the purpose of defraying the cost of the management, maintenance, and improvement of the Fire Department may levy a tax each year not exceeding the maximum limits prescribed by state law on the actual valuation of all real estate and personal property within the City that is subject to taxation. The revenue from the said tax shall be placed in the General Fund, which shall be in the possession of the city treasurer. Said monies so levied and collected shall be set aside in the city budget as the Fire Department budget for defraying the cost of the department. (Ref. *Neb. Rev. Stat.* §§ 16-222, 16-309 and 19-1302)

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-102 OFFICERS GENERALLY; APPOINTMENT

There is hereby created the Office of Fire Chief who shall be appointed by the mayor for his or her term, subject to the approval of the city council.

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-103 FIRE CHIEF; POWERS AND DUTIES GENERALLY

The fire chief shall have such powers and authority and shall perform such duties as are provided by this Code and by state law, together with any rules and regulations approved by the City Council. The general duties hereunder are, at the direction of the City Administrator, to command the department and control the property, implements and apparatus used by the department. The Fire Chief shall:

1. have the immediate superintendence of the volunteer firefighters.

2. maintain the Fire Department in a state of readiness to promptly respond to any emergency, manmade or natural disaster, traffic or other accident, or other calls for service or assistance.

3. ensure that the volunteer firefighters are well-informed and trained in the modern methods of fire prevention, fire suppression, fire safety education and emergency medical service.

4. ensure that the fire department provides community relations programs from time to time as

are necessary or appropriate to develop or maintain positive relationships between the fire department and the community.

5. enforce the rules and regulations of the Fire Department, which have been approved by the City Council, to ensure a high level of discipline within the Department.

6. execute orders of the City Administrator.

7. act as a member of the Board of Health.

8. ensure that all fire hoses are pressure tested not less than once each year.

9. cause the repair, improvement or maintenance of the equipment and personally supervise and approve of the same.

10. report to the City Council on a quarterly basis beginning with the first regular meeting in July 2010.

11. inspect or cause to be inspected by Fire Department officers, members, or some other official, as often as may be necessary, all buildings, premises and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to create a fire hazard. The inspection shall be of the storage, sale and use of flammable liquids, combustibles and explosives; electric wiring and heating; and the means and adequacy of exits in case of fire in schools, churches, hotels, halls, theatres, factories, hospitals and all other buildings in which numbers of persons congregate from time to time for any purpose, whether publicly or privately owned; the design, construction, location, installation, and operation of equipment for storing, handling, and utilizing of liquefied petroleum gases, specifying the odorization of said gases and the degree thereof; and chemicals, prozylin plastics, nitrocellulose films, or any other hazardous material that may now or hereafter exist. Upon finding that a municipal ordinance has been violated, notify, or cause to be notified, the owner, occupant or manager of the premises where a violation has occurred. Notice may be made personally or by delivering a copy to the premises and affixing it to the door of the main entrance of the said premises. Whenever it may be necessary to serve such an order upon the owner, such order may be served personally or by mailing a copy to the owner's last known post office address if the said owner is absent from the jurisdiction. Any such order shall be immediately complied with by the owner, occupant or manager of the premises or building. The owner, occupant or manager may, within five days after such order by the chief of the Fire Department or his/her agent, appeal the order with the City Council requesting a review, and it shall be the duty of the City Council to hear the same within not less than five days nor more than ten days from the time when the request was filed in writing with the city clerk. The City Council shall then affirm, modify or rescind the said order as safety and justice may require and the decision shall then be final, subject only to any remedy which the aggrieved person may have at law or equity. The said order shall be modified or rescinded only where it is evident that reasonable safety exists and that conditions necessitate a variance due to the probable hardship in complying literally with the order of the fire chief. A copy of any decision so made shall be sent to both the fire chief and the owner, occupant or

manager making the appeal.

12. investigate or charge an assistant chief with the duty to investigate, within two days, the cause, origin and circumstances of fires arising within his/her jurisdiction.

13. on or before the first day in April and October of each year cause to be filed with the Office of the Clerk of the District Court of Cass County a certified copy of the rolls of all members in good standing in their respective companies in order to obtain the exemptions provided by law.

14. have the power during the time of a fire and for a period of 36 hours thereafter to arrest any suspected arsonist, or any person for hindering the department's efforts, conducting himself/herself in a noisy and disorderly manner at the scene of a call, or who shall refuse to obey any lawful order by the fire chief or assistant fire chief.

15. have charge of operations at a fire and command the services of any person present at any fire in extinguishing the same or in the removal and protection of property.

16. have the right to enter into buildings at all reasonable hours and upon all premises within his/her jurisdiction for the purpose of examining the same for fire hazards and related dangers.

17. have the power to cause the removal of any property whenever it shall become necessary for the preservation of such property from fire, or to prevent the spreading of fire, or to protect adjoining property.

18. direct the removal of any building or fence for the purpose of checking the progress or fighting of any fire.

19. require teachers of public, private and parochial schools and educational institutions to have one fire drill each month and to keep all doors and exits unlocked during school hours.

20. review and approve, subject to section 1-510, all expenditures of the Fire Department.

21. keep, or cause to be kept, in books for these purposes, a record of all meetings of the Fire Department; an attendance record of all members at said meetings; a record of all fire training sessions and a list of attendees; a record of all fires together which includes the cause, origin, circumstances, property involved, notation of valuable property thought to be covered by a policy of insurance and in what amount and a list of all volunteers who responded to the call thereof; a full report of all transactions of the department; a detailed report of all complaints against members and the judgment of the chief thereupon; and such other books and records as the fire chief deems necessary and advisable to keep related to the business of the department, all of which shall be placed on file with the City Clerk on a monthly basis.

22. establish and regularly update performance based criteria for use in considering the advancement of an applicant for membership to the City Council, which such proposed member shall have satisfied prior to advancement to the City Council such applicant's name for membership. Such criteria shall be subject to City Council approval.

23. examine and investigate charges against any member of the Fire Department and request the assistance of law enforcement in the investigation.

24. create offices of the assistant chief, captain, and lieutenant as is necessary for the proper management and command of the Department. (Ref. *Neb. Rev. Stat.* §16-222, 16-246, 16-309, 18-1902, 35-101, 35-102, 35-108, 79-4,123, 81-506, 81-512, 81-527)

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-104 ASSISTANT FIRE CHIEFS

The Fire Chief shall have the authority to appoint his or her assistant Fire Chiefs who shall at all times assist the Fire Chief in the performance of his or her duties, and shall in the absence of the Fire Chief succeed to the office of the Fire Chief.

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-105 MEMBERSHIP

The Fire Department shall consist of as many members as may be decided by the City Council. Proposed members shall be identified by the Fire Chief and approved by the City Council prior to gaining member status. To remain in active membership, members must actively and faithfully perform the duties of their position.

Members shall be considered employees of the City for the purpose of worker's compensation once membership is approved by the City Council.

The City shall purchase a life insurance policy (or group policy) to cover each active volunteer firefighter in the amount and with terms required by state law.

The members may hold meetings and engage in social activities with the approval of the City Council. A record of all meetings shall be kept and filed on a monthly basis with the City Clerk.

Members shall be subject to such rules and regulations and shall perform such duties as may be prescribed or required of them by this Code.

Members of the Fire Department when testifying as a witness in connection with his or her officially assigned duties in that capacity alone shall not be deemed an employee of the State of Nebraska or of the City.

Prior to membership, applicants shall have passed satisfactorily the criteria for membership established by the Fire Chief.

All members of the fire department may be required to submit to a physical examination and/or random drug testing at any time as required by the fire chief or by the city council.

All members of the fire department shall, in compliance with the rules and regulations adopted by the City Council, wear appropriate uniform by which they may be known to the public during the performance of their duties. The City shall furnish said uniforms; provided, however, that any member who shall lose or destroy the same shall be required to pay the cost of replacing it; and when any member shall leave the department, he or she shall immediately deliver all property belonging to the City, to an officer of the fire department.

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-106 SUSPENSION AND EXPULSION OF MEMBERS

During the pendency of any charges against any member of the department, the Fire Chief may suspend from duty any such member until such charges can be examined and investigated.

Following the examination and investigation of any such charges, any member may be removed by the City Council from membership in the Fire Department upon recommendation of the Fire Chief. If the Fire Chief does not recommend removal, upon the recommendation of the Mayor and a vote of 3/4 of the City Council as a whole, the City Council may remove a member from membership following such examination and investigation. (Ref. *Neb. Rev. Stat.* §§ 33-139.01, 35-101 through 35-103, 35-108, 48-126.01)

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-107 SERVICE OUTSIDE CITY LIMITS RESTRICTED

1. The Fire Department is authorized to remove equipment from the City limits to provide mutual aid to fire districts with whom the City has a mutual aid agreement.

2. The fire department may move its fire and other emergency equipment and personnel outside the limits of the city in order to render aid in the event of a disaster or civil defense emergency or in connection with any program of practice or training for such disaster or civil defense emergency when such program is conducted or participated in by the civil defense agency of this state. Such movement may be to any point in this state, or may be into any adjoining state when mutual aid arrangements have been entered into on behalf of this state and such other state as authorized by statute.

3. The fire department may move its fire and other emergency equipment and personnel outside the limits of the city for limited periods of time for the purpose of honoring fallen fire fighters from other fire districts and for the purpose of participating in parades and similar events in other cities. (Ref. *Neb. Rev. Stat.* §§ 81-829.39; 81-829.48)

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-108 CONTRACTS FOR SERVICE

1. The fire department may move its fire and other emergency equipment and personnel outside the limits of the city in accordance with contracts entered into between the city and business establishments, industries, other political subdivisions or government agencies.

2. The mayor and council are authorized to enter into contracts with business establishments, industries, other political subdivisions or government agencies for the purpose of providing fire protection and other emergency services outside the limits of the city.

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-109 RULES AND REGULATIONS

The fire chief may propose from time to time to the Mayor and City Council such rules and regulations as he or she may deem advisable and necessary for the proper control and command of all persons connected with the fire department. Upon approval of said rules and regulations by the city council, the fire chief shall have the authority and the duty to implement such rules and regulations. Each member of the fire department shall be furnished with a copy of the rules and regulations and sign an acknowledgment of the receipt thereof, and shall thereafter comply with said rules and regulations in the fire chief's governance of the fire department.

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-110 APPROVED MUTUAL AID AGREEMENTS

The City previously has, and hereby affirms, an agreement with the Plattsmouth Rural Fire District to provide fire protection thereunder with equipment provided by the Rural Fire District. The City previously has, and hereby affirms, its current mutual aid agreements. All such agreements shall be placed on file at the office of the City Clerk for inspection at any reasonable time during normal business hours. (Ref. *Neb. Rev. Stat.* §§ 16-222, 18-1706 *et seq.*)

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-111 WATCHING PREMISES AFTER FIRES

Upon the determination of the Fire Chief that public safety requires it, one or more members of the Fire Department shall have the duty, after the engines are withdrawn and the firefighters dismissed from any fire, to have and keep charge of the premises for twenty-four (24) hours thereafter or until the probable danger of smolder fire is past and a reasonable time had for the investigation of the cause of the fire; and, during this time, the Fire Chief or his/her subordinate officer(s) shall cause strict watch to be kept and guard the premises of the fire.

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-112 INTERFERENCE WITH FIREFIGHTERS AND FIRE EQUIPMENT

Any person who shall willfully offer any hindrance to, or interfere with, any firefighter in the performance of his/her duty at a fire, or while going to a fire, or shall in any manner willfully injure any fire engine, apparatus or other equipment for putting out fires, or shall give any false fire alarm shall be deemed guilty of a misdemeanor.

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-113 DEPARTMENTAL EXPENDITURES

No obligations, except in emergencies and with regard to minor expenditures, shall be incurred on behalf of the Fire Department unless authorized pursuant to ordinance 1-510.

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-114 FAILURE TO RESPOND TO A CALL FOR ASSISTANCE AT FIRES

It shall be unlawful for any person to fail to respond to a request from a member of the Fire Department for assistance in performing his or her duties and upon conviction shall be a guilty of a misdemeanor.

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-115 DRIVING OVER HOSE

It shall be unlawful for any person, without the consent of a member of the Fire Department, to drive any vehicle over unprotected hose of the Fire Department and upon conviction shall be a guilty of a misdemeanor. (Ref. Neb. Rev. Stat. §60-6,184)

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-116 EQUIPMENT

Except pursuant to a request for assistance pursuant to section 8-114, it shall be unlawful for any person except for members of the Fire Department to molest, destroy, handle or in any other way to interfere with the use and storage of any of the fire trucks and other apparatus belonging to the City and upon conviction shall be a guilty of a misdemeanor. (Ref. Neb. Rev. Stat. §28-519)

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-117 INTERFERENCE

It shall be unlawful for any person or persons to hinder or obstruct a member of the Fire Department in the performance of their duties and upon conviction shall be a guilty of a

misdemeanor. (Ref. Neb. Rev. Stat. §28-908)

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-118 FALSE ALARM

It shall be unlawful for any person to intentionally and without good and reasonable cause raise any false alarm of fire and upon conviction shall be a guilty of a misdemeanor. (Ref. Neb. Rev. Stat. §28-907 and 35-520)

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-119 DONATIONS TRUST FUND

The Department may maintain a trust fund pursuant to Neb. Rev. Stat. § 35-901. If the Department maintains such a fund, it shall:

1. Except as provided in subsection 3 of this section, deposit all general donations or contributions, bequests, or annuities made to the Volunteer Department and all money raised by or for the Volunteer Department in the trust fund. The trust fund shall be under the control of the Volunteer Department, and the Volunteer Department may make expenditures from the trust fund as it deems necessary. The Volunteer Department shall appoint a treasurer of the Volunteer Department who shall be the custodian of the trust fund.

2. The trust fund shall not be considered public funds or funds of the City of Plattsmouth for any purpose, including the Nebraska Budget Act, nor shall the City incur any liability solely by reason of any expenditure from such fund except liability for property when the City receives title to property acquired with money from such fund.

3. (a) If the total amount of expenditures and receipts in the trust fund exceeds one hundred thousand dollars in any twelve-month period, the Volunteer Department shall inform the City and the City may examine or cause to be examined all books, accounts, vouchers, records, and expenditures with regard to the trust fund.

   (b) Funds, fees, or charges solicited, collected, or received by the Volunteer Department that are (i) in consequence of the performance of fire or rescue services by the Volunteer Department at a given place and time, (ii) accomplished through the use by the Volunteer Department of equipment owned by the City and provided to the Volunteer Department for that purpose, and (iii) paid by or on behalf of the recipient of those services shall not be deposited in a trust fund authorized by this section. Such funds are public funds of the City supporting the Volunteer Department and are deemed to have been collected by the Volunteer Department as the agent of the City and are held by the Volunteer Department on the City's behalf. If such funds are in the possession of a Volunteer Department, the City shall cause all the books, accounts, records, vouchers, expenditures, and statements regarding such funds to be examined and independently audited at the City's expense by a qualified professional auditor or the Auditor of Public Accounts for the immediately

preceding five years.

4. Nothing in this section shall be construed or deemed to permit a violation of the Nebraska Liquor Control Act.

5. All expenditures of public funds as defined in the Nebraska Budget Act for support of the Volunteer Department or its purposes shall be submitted as claims, and approved by the City and published as required by law. All such claims shall be properly itemized for proposed expenditure or reimbursement for costs already incurred and paid except as may be otherwise permitted pursuant to section 35-106.

6. All money raised pursuant to the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, and the Nebraska Small Lottery and Raffle Act shall be subject to such acts with respect to the deposit and expenditure of such money.

7. The Volunteer Department shall not solicit, charge, or collect any funds, fees, or charges as described in subdivision 3(b) of this section without the express authorization of the City Council supporting the Volunteer Department by vote of a majority of the members of the City Council. Such authorization shall not extend beyond a twelve-month period but may be renewed at the City council's discretion in the same manner in which it was initially granted. Upon collection or receipt, such funds, fees, or charges shall be remitted to the designated officer of the City for deposit to the City's account. The City Council may appropriate and expend some or all of such funds for the support of a service award benefit program adopted and conducted pursuant to the Volunteer Emergency Responders Recruitment and Retention Act.

Amended – Ordinance No. 1805 5/5/2010

ARTICLE II - FIRE PREVENTION

SECTION 8-201 FIRE PREVENTION CODE

Incorporated by reference into this code are the standards recommended by the American Insurance Association, Engineering and Safety Department, known as the Fire Prevention Code, 1970 Edition, and all subsequent amendments. This code shall have the same force and effect as if set out verbatim herein. One copy of the Fire Prevention Code is on file with the city clerk and shall be available for public inspection at any reasonable time. (Ref. Neb. Rev. Stat. §18-132, 19-902, 19-922, 81-502)

SECTION 8-202 FIRE CODE ENFORCEMENT

It shall be the duty of all city officials to enforce the incorporated fire code provisions and all infractions shall be immediately brought to the attention of the fire chief.

SECTION 8-203 LAWFUL ENTRY

It shall be the duty of the owner, lessee or occupant of any building or structure, except the interiors of private dwellings, to allow the fire chief to inspect or cause to be inspected as often as necessary the said structure for the purpose of ascertaining and enumerating all conditions therein that are likely to cause fire, or any other violations of the provisions of the city ordinances affecting the hazard of fire. (Ref. Neb. Rev. Stat. §81-512)

SECTION 8-204 VIOLATION NOTICE

It shall be the duty of the owner, lessee or occupant of any building or structure that was lawfully inspected as hereinbefore prescribed, and who receives written or verbal notice of a violation of any of the provisions of the city ordinances, to correct the condition that violates the said ordinance or ordinances within five days from the date of receipt of such notice.

SECTION 8-205 STREET FIRES PROHIBITED

It shall be unlawful for any person to set out a fire on the pavement or near any curb now built or hereafter to be built within the City.

SECTION 8-206 FIRES PROHIBITED

All outside burning of any substance be and hereby is determined unlawful unless the same is burned in a state-approved incinerator or approved by the state fire marshal or his/her agent. This prohibition shall not apply to the burning of wood or other substances in a home heating system or fireplace, nor shall it apply to charcoal or gas grills normally used in outdoor cooking activities.

SECTION 8-207 OPEN BURNING BAN, WAIVER

1. There shall be a statewide open burning ban on all bonfires, outdoor rubbish fires, and fires for the purpose of clearing land.

2. The fire chief of the City Fire Department or his/her designee may waive an open burning ban under subsection (1) of this section for an area under his/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 his/her designee to a person desiring to conduct open burning shall be in writing, signed by the fire chief or his/her designee, and on a form provided by the state fire marshal.
3. The fire chief or his/her designee may waive the open burning ban in his/her jurisdiction when conditions are acceptable to the chief or his/her designee. Anyone burning in such jurisdiction when the open burning ban has been waived shall notify the Fire Department of his/her intention to burn.
4. The fire chief may adopt and promulgate rules and regulations listing the conditions acceptable for issuing a permit to conduct open burning under subsection (2) of this section.
5. The Fire Department may charge a fee not to exceed $10.00 for each such permit issued. This fee shall be remitted to the City Council for inclusion in the general funds allocated to the Fire Department. Such funds shall not reduce the tax requirements for the Fire Department. No such fee shall be collected from any state or political subdivision to which such a permit is issued to conduct open burning under subsection (2) of this section in the course of such state's or political subdivision's official duties. (Ref. Neb. Rev. Stat. §81-520.01)

SECTION 8-208 POISONOUS AND FLAMMABLE GASES

Any person, firm or corporation desiring to store or keep in the City any form of poisonous or flammable gas or liquefied petroleum gas in an amount over five gallons for any period of time, or add to, enlarge or replace any facility used for the storage of such gases, must first get permission from the fire chief in accordance with federal, state and local regulations as may be enacted from time to time. The applicant shall provide the name of the gas, place of storage, amount of gas stored and other information as may be required by the fire chief.

For any application where permission is granted, the City Council may prescribe such rules, regulations and precautionary actions as it may deem necessary. Permit requirement for the initial construction or location of storage facilities shall not apply to those facilities in existence on the effective date of this section; provided, any such present use that is discontinued for a period of 60 days shall not be revived without a permit. (Ref. Neb. Rev. Stat. §16-222)

SECTION 8-209 FIRE LIMITS; DEFINED

The following-described territory in the City shall be and constitute the fire limits: All lots and blocks lying between Pearl and Vine Streets east of 7th Street and containing Blocks 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36, and all subdivisions thereof.

SECTION 8-210 FIRE LIMITS; MATERIALS

Within the aforesaid fire limits, no structure shall be built, altered, moved or enlarged unless such structure will be enclosed with walls constructed wholly of stone, well-burned brick, terra cotta, concrete or other such noncombustible materials as will satisfy the fire chief that the said structure will be reasonably fireproof. (Ref. Neb. Rev. Stat. §16-222)

SECTION 8-211 FIRE LIMITS; REMOVAL OR REPAIR REQUIRED

In the event that a building within the fire limits becomes damaged by fire, wind, flood, vandalism or any other cause to the extent of less than 50% of its value, exclusive of the foundation, it shall be the duty of the owner, lessee or occupant to remove or repair the said building in accordance with the provisions of this article. Any such building shall be removed or repaired within 60 days from the date of such fire or other casualty. It shall be unlawful for any person to repair or rebuild any such damaged building or structure or for any owner thereof to fail to remove any such damaged building or structure.

It shall also be unlawful for the owner to fail to protect and guard the public from injury or damage arising out of such excavation or open basement remaining, if any. If such owner fails or neglects to remove such building or structure and to protect and guard the public from injury or damage arising out of any excavation or open basement remaining, the City may cause the removal of such building or structure and the installation of a proper device for protection against injury or damage. Such costs shall be reported to the owner, who shall be responsible for the payment thereof together with interest thereon from the date of such report, and the building and land shall be subject to sale in satisfaction of such claim.

ARTICLE III - EXPLOSIVES

SECTION 8-301 STORAGE

Any person desiring to store or keep explosive materials for any period of time shall notify the Fire Department and register such information with the city clerk at least 24 hours prior to such storage. The transfer of explosive materials to another person within the City shall require the person receiving the explosive materials to register the transfer and the new location of the explosive materials with the city clerk.

All explosive materials shall be stored in a proper receptacle made of concrete, metal or stone and be closed at all times except when in actual use. Such receptacles shall not be located in any room where there are flames or flammable materials. The area surrounding storage facilities shall be kept clear of rubbish, brush, dry grass or trees not less than 25 feet in all directions. Any other combustible materials shall be kept a distance of not less than 50 feet from outdoor storage facilities. (Ref. Neb. Rev. Stat. §16-227)

SECTION 8-302 BULLETS

Cartridges, shells and percussion caps shall be kept in their original containers away from flame, flammable materials and high explosives.

SECTION 8-303 BLASTING PERMITS

Any person wishing to discharge high explosives within the City must secure a permit from the City Council and shall discharge such explosives in conformance with its direction and under its supervision; and in no case shall any person perform blasting operations unless operating under the direct supervision of a person in possession of a valid user's permit issued by the Nebraska State Patrol. (Ref. Neb. Rev. Stat. §28-1229)

SECTION 8-304 TRANSPORTATION

Any person wishing to transport high explosives in the City shall first acquire a permit from the City Police Department and shall take such precautions and use such route as the department may prescribe. Nothing herein shall be construed to apply to the Police Department or any of the Armed Services of the United States. No vehicle transporting explosives shall make an unscheduled stop for longer than five minutes within the City, and in the event of mechanical failure, immediate notice of such breakdown shall be given the police chief, who shall then prescribe such precautions as may be necessary to protect the residents of the City and a reasonable time for removal of the vehicle from the City. (Ref. Neb. Rev. Stat. §16-227, 28-1235)

ARTICLE IV – FIREWORKS

SECTION 8-401 FIREWORKS; LIMITATION ON SALE; APPLICATIONS FOR THE SALE OF FIREWORKS

1. No individual or entity may sell, barter, or exchange any "consumer fireworks", as defined by Nebraska Revised Statute 28-1241, at retail within the corporate limits of the City without first obtaining a license for the retail sale of fireworks, as set forth in this Section, and complying with all state and federal laws and regulations regarding the sale of consumer fireworks.

2. Vendors applying to the City for a license to sell consumer fireworks shall obtain an application for a fireworks license from the City Clerk's office and submit the completed application, together with the other items required in this Section, to the City Clerk's office. Applications will not be accepted prior to April 1st of the year for which vendor is seeking a license, and applications will not be accepted after June 1st of the year for which vendor is seeking a license. Applications must be submitted by United States Postal Service regular First Class Mail or in person at the City Clerk's office; emailed or faxed applications will be rejected without notice to the applicant.

3. In addition to submitting a completed application, each vendor must:

    a. submit a copy of their State license;

    b. pay a non-refundable application fee set by the City Council;

    c. provide the requisite occupation tax;

    d. provide a certificate of insurance;

    e. provide a copy of their state sales tax permit;

    f. provide a bond in an amount set by resolution of the City Council;

    g. provide a site plan which illustrates the facilities at which the fireworks will be sold; and

    h. if the vendor is other than the record owner of the property on which the fireworks will be sold, provide evidence satisfactory to the City that the vendor has obtained the record owner's authorization for the vendor to sell fireworks on the property.

4. Before the City Council considers the application, the City Clerk shall submit the application to the Fire Chief who shall inspect the site proposed and make a recommendation regarding the potential fire hazard to the City Council, with the application. The Fire Chief shall recommend denial when the fireworks location is a moveable vehicle, a gasoline or filling

station, a trailer, a premises holding a liquor or beer license, or a temporary structure for which a duly authorized and issued building permit has not been properly secured.

5. If the City Council grants the license, the City Council shall direct the City Clerk to issue the license. Such license shall authorize the sale of consumer fireworks only between June 24 and July 5 of each year.

6. The City Council may revoke a license at any time after proper notice and a hearing if one is requested. No license is transferable and separate licenses are required for each location. (Ref. Neb. Rev. Stat. §§ 28-1246; 28-1249)

7. The vendor's bond will not be returned after expiration or revocation of a license until the Fire Chief and Police Chief have inspected the property for which the license was granted and determined that the vendor complied with the terms of the license and applicable local and state law.

Enacted - Ordinance No. 1806 5/17/2010; Ordinance No. 1897 8/3/2015; Ordinance No. 1980 5/17/2021

SECTION 8-402 FIREWORKS; LIMITATION ON HOURS FOR DISPLAY

1. No person shall discharge any "consumer fireworks", as defined by Nebraska Revised Statute 28-1241, within the corporate limits of the City except as follows:

    a. From 8:00 a.m. to 11:00 p.m. on June 24 through July 2;

    b. From 8:00 a.m. to 11:59 p.m. on July 3 through July 4;

    c. From 8:00 a.m. to 11:00 p.m. on July 5;

    d. From 11:00 p.m. on December 31 to 1:00 a.m. the following January 1; or

    e. During a fireworks display for which a special event license has been granted pursuant to this Section.

2. No person shall discharge any "display fireworks", as defined by Nebraska Revised Statute 28-1241, within the corporate limits of the City except during a fireworks display for which a special event license has been granted pursuant to this Section.

3. The City Council may issue a fireworks display license for special events, which license shall specify the place, hours of display, fire protection requirements, and public liability insurance limits for such event.

Enacted - Ordinance No. 1806 5/17/2010; Ordinance No. 1892 4/20/2015; Ordinance No. 1909 7/18/2016; Ordinance No. 1980 5/17/2021

ARTICLE V: EMERGENCY MEDICAL SERVICES DEPARTMENT

SECTION 8-501 CREATION, DUTIES, OPERATION AND FUNDING

There is hereby created the City of Plattsmouth Emergency Medical Services Department. It shall be the duty of the Emergency Medical Services Department to provide for the transportation of sick, injured, wounded or otherwise incapacitated persons needing emergency medical attention. The Emergency Medical Services Department shall perform its duties subject to the requirements of state statutes regarding an emergency medical service and shall not carry out any of its duties until such requirements are met. The direct management and control of the Emergency Medical Services Department shall be vested in the Emergency Medical Services Director. The Emergency Medical Services Director shall be appointed by the Mayor for his or her term, subject to the approval of the City Council.

The Emergency Medical Services Department shall be composed of such paid and volunteer pre-hospital emergency medical service providers approved from time to time by the City Council. Prior to responding to a medical call, all proposed new volunteer members of the department shall be added to a list for approval, and approved by, the City Council. (Ref. *Neb. Rev. Stat.* §§ 16-217, 16-253, and 16-309)

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-502 OFFICERS GENERALLY; APPOINTMENT

There is hereby created the office of the Emergency Medical Services Director.

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-503 EMERGENCY MEDICAL SERVICES DIRECTOR; POWERS AND DUTIES GENERALLY

The Emergency Medical Services Director shall have such powers and authority and shall perform such duties as are provided by this Code and by state law. The general duties hereunder are, at the direction of the City Administrator, to command the department and control the property, implements and apparatus used by the department. The Emergency Medical Services Director shall:

1. have the immediate superintendence of all pre-hospital emergency medical service providers.

2. develop merit based standards, subject to the approval of the City Council, for all volunteer positions within the Department to ensure the ability to perform the essential functions of the position.

3. establish and regularly update, in cooperation with the City's Physician Medical Director, rules and regulations for qualification as a volunteer member of the

Department. Each member of the Emergency Medical Services Department shall be furnished with a copy of the rules and regulations and sign an acknowledgment of the receipt thereof, and shall thereafter comply with said rules and regulations in the Emergency Medical Services Director's management of the Emergency Medical Services Department.

4. make recommendations to the City Administrator for hiring and removal of additional paid staff.

5. maintain the Emergency Medical Services Department in a state of readiness to promptly respond to any emergency, manmade or natural disaster, traffic or other accident, or other calls for service or assistance.

6. ensure that the emergency medical service providers are competent and maintain currency with their level of licensing, and that they are well-informed and trained in the modern methods of emergency medical services.

7. ensure that the Emergency Medical Services Department provides community relations programs from time to time as are necessary or appropriate to develop or maintain positive relationships between the Emergency Medical Services Department and the community.

8. execute orders of the City Administrator.

9. act as a member of the Board of Health.

10. cause the repair, improvement or maintenance of the equipment and personally supervise and approve of the same.

11. report to the City Council at the first regular meeting in January of each year.

12. on or before the first day in April and October of each year cause to be filed with the city clerk and the clerk of the District Court of Cass County a certified copy of the rolls of all members in good standing in their respective companies in order to obtain the exemptions provided by law.

13. review and approve, subject to section 1-510, all expenditures of the Emergency Medical Services Department.

14. keep, or cause to be kept, in books for these purposes, a record of all meetings of the Emergency Medical Services Department; an attendance record of all members at said meetings; a record of all training sessions and a list of attendees; a record of all calls which shall include the name of the party transported, the location of the place where the squad responded, the address and location where the party was taken, why such transportation was needed all other information the Director deems relevant and necessary for the good and

protection of the Department and the City; a full report of all transactions of the department; a detailed report of all complaints against members and the judgment of the Emergency Medical Services Director thereupon; and such other books and records as the Emergency Medical Services Director deems necessary and advisable to keep related to the business of the department, all of which shall be placed on file with the City Clerk on a monthly basis. All non-medical records shall be available to the public at all reasonable times.

15. examine and investigate charges against any member of the Emergency Medical Services Department and request the assistance of law enforcement in the investigation.

16. establish a management and command structure for the Department to assure proper supervision of the Department. (Ref. *Neb. Rev. Stat.* § 16-246 and 16-309)

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-504 MEMBERSHIP

The Emergency Medical Services Department shall consist of as many paid and volunteer members as may be decided by the City Council. All proposed volunteer members shall be identified by the Emergency Medical Services Director and approved by the City Council prior to gaining membership status. To qualify for such recommendation by the Director, proposed members shall have satisfied prior to advancement to the City Council the criteria for qualification as a volunteer member. To remain in active volunteer membership status, members must actively and faithfully perform the duties of their position and continue to meet the criteria for qualification as a volunteer member.

Members shall be considered employees of the City for the purpose of worker's compensation.

The City shall purchase a life insurance policy (or group policy) to cover each active volunteer emergency medical service providers in the amount and with terms required by state law.

The members may hold meetings and engage in social activities with the approval of the City Council. A record of all meetings shall be kept and filed on a monthly basis with the City Clerk.

Members shall be subject to such rules and regulations and shall perform such duties as may be prescribed or required of them by this Code.

Volunteer members of the Emergency Medical Services Department when testifying as a witness in connection with his or her officially assigned duties in that capacity alone shall not be deemed an employee of the State of Nebraska or of the City.

All members of the Emergency Medical Services Department may be required to submit to a physical examination and/or random drug testing at any time as required by the Emergency

Medical Services Director or by the city council.

All members of the Emergency Medical Services Department shall, when possible, wear an appropriate uniform by which they may be known to the public during the performance of their duties. The City shall furnish said uniforms; provided, however, that any member who shall lose or destroy the same shall be required to pay the cost of replacing it; and when any member shall leave the department, he or she shall immediately deliver all property belonging to the City, to an officer of the Emergency Medical Services Department. (Ref. *Neb. Rev. Stat.* § 35-108 and 48-115)

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-505 SUSPENSION AND EXPULSION OF VOLUNTEER MEMBERS

During the pendency of any charges against any volunteer member of the department, the Emergency Medical Services Director may suspend from duty any such volunteer member until such charges can be examined and investigated.

Following the examination and investigation of any such charges, any volunteer member may be removed by the City Council from membership in the Emergency Medical Services Department upon recommendation of the Emergency Medical Services Director. If the Emergency Medical Services Director does not recommend removal, upon the recommendation of the Mayor and a vote of 3/4 of the City Council as a whole, the City Council may remove any such volunteer member from membership following such examination and investigation.

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-506 DISCIPLINE AND DISCHARGE OF PAID STAFF

All paid staff are subject to the City's Employee Handbook.

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-507 SERVICE OUTSIDE CITY LIMITS RESTRICTED

1. The Emergency Medical Services Department is authorized to remove equipment from the City limits to provide mutual aid to fire and medical districts with whom the City has a mutual aid agreement.

2. The Emergency Medical Services Department may move its emergency equipment and personnel outside the limits of the city in order to render aid in the event of a disaster or civil defense emergency or in connection with any program of practice or training for such disaster or civil defense emergency when such program is conducted or participated in by the civil defense agency of this state. Such movement may be to any point in this state, or may be into any adjoining state when mutual aid arrangements have been entered into on behalf of this state and such other state as authorized by statute.

3. The Emergency Medical Services Department may move its emergency equipment and personnel outside the limits of the city for limited periods of time for the purpose of honoring fallen firefighters and emergency medical service providers from other fire and medical districts and for the purpose of participating in parades and similar events in other cities. (Ref. *Neb. Rev. Stat.* §§ 81-829.39 and 81-829.48)

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-508 CONTRACTS FOR SERVICE

1. The Emergency Medical Services Department may move its emergency equipment and personnel outside the limits of the city in accordance with contracts entered into between the city and business establishments, industries, other political subdivisions or government agencies.

2. The mayor and council are authorized to enter into contracts with business establishments, industries, other political subdivisions or government agencies for the purpose of providing emergency medical services outside the limits of the city.

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-509 APPROVED MUTUAL AID AGREEMENTS

The City previously has, and hereby affirms, an agreement with the Plattsmouth Rural Fire District to provide emergency medical services thereunder. The City previously has, and hereby affirms, its current mutual aid agreements. All such agreements shall be approved by the City Council and thereafter placed on file at the office of the City Clerk for inspection at any reasonable time during normal business hours. (Ref. *Neb. Rev. Stat.* §§ 18-1706 *et seq.,* 81-829.39 and 81-829.48)

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-510 INTERFERENCE WITH PRE-HOSPITAL EMERGENCY MEDICAL SERVICE PROVIDERS AND MEDICAL EQUIPMENT

Any person who shall willfully offer any hindrance to, or interfere with, any emergency medical services provider in the performance of his/her duty, or shall in any manner willfully injure any medical squad, apparatus or other equipment for providing medical services, or shall give any false medical alarm shall be deemed guilty of a misdemeanor.

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-511 DEPARTMENTAL EXPENDITURES

No obligations, except in emergencies and with regard to minor expenditures, shall be incurred on behalf of the Emergency Medical Services Department unless authorized pursuant to ordinance 1-510.

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-512 EQUIPMENT

It shall be unlawful for any person, except for members of the Emergency Medical Services Department, to molest, destroy, handle or in any other way to interfere with the use and storage of any of the medical squads and other apparatus belonging to the City and upon conviction shall be a guilty of a misdemeanor. (Ref. *Neb. Rev. Stat.* § 28-519)

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-513 FALSE CALL

It shall be unlawful for any person to intentionally and without good and reasonable cause raise any false alarm for emergency medical services and upon conviction shall be a guilty of a misdemeanor. (Ref. *Neb. Rev. Stat.* § 28-907)

Amended – Ordinance No. 1805 5/5/2010

SECTION 8-514 DONATIONS TRUST FUND

The Department may maintain a trust fund pursuant to Neb. Rev. Stat. § 35-901. If the Department maintains such a fund, it shall:

1. Except as provided in subsection 3 of this section, deposit all general donations or contributions, bequests, or annuities made to the Volunteer Department and all money raised by or for the Volunteer Department in the trust fund. The trust fund shall be under the control of the Volunteer Department, and the Volunteer Department may make expenditures from the trust fund as it deems necessary. The Volunteer Department shall appoint a treasurer of the Volunteer Department who shall be the custodian of the trust fund.

2. The trust fund shall not be considered public funds or funds of the City of Plattsmouth for any purpose, including the Nebraska Budget Act, nor shall the City incur any liability solely by reason of any expenditure from such fund except liability for property when the City receives title to property acquired with money from such fund.

3. (a) If the total amount of expenditures and receipts in the trust fund exceeds one hundred thousand dollars in any twelve-month period, the Volunteer Department shall inform the City and the City may examine or cause to be examined all books, accounts, vouchers, records, and expenditures with regard to the trust fund.

(b) Funds, fees, or charges solicited, collected, or received by the Volunteer Department that are (i) in consequence of the performance of fire or rescue services by the Volunteer Department at a given place and time, (ii) accomplished through the use by the Volunteer Department of equipment owned by the City and provided to the Volunteer Department for that purpose, and (iii) paid by or on behalf of the recipient of those services shall not be deposited in a trust fund authorized by this section. Such funds are public funds of the City supporting the Volunteer Department and are deemed to have been collected by the Volunteer Department as the agent of the City and are held by the Volunteer Department on the City's behalf. If such funds are in the possession of a Volunteer Department, the City shall cause all the books, accounts, records, vouchers, expenditures, and statements regarding such funds to be examined and independently audited at the City's expense by a qualified professional auditor or the Auditor of Public Accounts for the immediately preceding five years.

4. Nothing in this section shall be construed or deemed to permit a violation of the Nebraska Liquor Control Act.

5. All expenditures of public funds as defined in the Nebraska Budget Act for support of the Volunteer Department or its purposes shall be submitted as claims, and approved by the City and published as required by law. All such claims shall be properly itemized for proposed expenditure or reimbursement for costs already incurred and paid except as may be otherwise permitted pursuant to section 35-106.

6. All money raised pursuant to the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, and the Nebraska Small Lottery and Raffle Act shall be subject to such acts with respect to the deposit and expenditure of such money.

7. The Volunteer Department shall not solicit, charge, or collect any funds, fees, or charges as described in subdivision 3(b) of this section without the express authorization of the City Council supporting the Volunteer Department by vote of a majority of the members of the City Council. Such authorization shall not extend beyond a twelve-month period but may be renewed at the City council's discretion in the same manner in which it was initially granted. Upon collection or receipt, such funds, fees, or charges shall be remitted to the designated officer of the City for deposit to the City's account. The City Council may appropriate and expend some or all of such funds for the support of a service award benefit program adopted and conducted pursuant to the Volunteer Emergency Responders Recruitment and Retention Act.

Amended – Ordinance No. 1805 5/5/2010

ARTICLE VI - PENAL PROVISION

SECTION 8-601 VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

Violations of this chapter which are listed in the City's fine/waiver schedule may be disposed of pursuant to a waiver of appearance, a plea of "guilty", and the payment of court costs and the corresponding fine for such violation listed in the City's fine/waiver schedule.

Amended – Ordinance No. 1681 11/4/2002; Ordinance No. 1930 12/18/2017)

MUNICIPAL CODE

CHAPTER 9

BUILDING REGULATIONS

ARTICLE I - INTERNATIONAL BUILDING CODES

SECTION 9-101 ADOPTION OF CODES

The current editions, and the latest additions published hereafter, of the following building codes are hereby adopted by the City of Plattsmouth, Nebraska for all construction within the City and its zoning jurisdiction:

(1) The International Building Code (IBC), 2000 edition, published by the International Code Council, and all incorporated codes including:

International Electrical Code;
International Mechanical Code;
International Plumbing Code;
International Fuel Gas Code;
International Fire Code;
International Private Sewage Disposal Code; and
International Property Maintenance Code.

(2) The International Residential Code (IRC), 2000 edition, published by the International Code Council; and

(3) The International Existing Building Code, 2009 Edition, published by the International Code Council;

Whenever a new edition of a code adopted above is published, such new edition shall be considered the applicable building code.

Amended – Ordinance No. 1810 6/21/2010

SECTION 9-102 ENFORCEMENT

Hereafter all city officials shall be governed by the provisions of the above codes and no building permit shall be issued nor construction approved unless such building permit and construction conforms to such codes.

SECTION 9-103 VIOLATION OF BUILDING CODES

Any violation of the building codes adopted shall result in the immediate disconnection of all utilities from any building or structure not conforming to the code provisions, and the construction of any building or structure in violation of such codes shall be a misdemeanor punishable by a fine of not more than $500.00, with each day's violation a separate offense.

ARTICLE II - BUILDING INSPECTOR

SECTION 9-201 POWER AND AUTHORITY

The building inspector shall be the city official who shall have the duty of enforcing all building and housing regulations as herein prescribed. He/she shall inspect all buildings repaired, altered, built or moved in the corporate limits of the City and the county area within one mile of the corporate limits, as often as necessary to insure compliance with all city ordinances. The building inspector shall have the power and authority to order all work stopped on any construction, alteration or relocation which violates any provisions prescribed herein. He/she shall issue permission to continue any construction, alteration or relocation when he/she is satisfied that no provision will be violated.

SECTION 9-202 RIGHT OF ENTRY

It shall be unlawful for any person to refuse to allow the building inspector entry into any building or structure where the work of construction, alteration, repair or relocation is taking place for the purpose of making official inspections at any reasonable hour.

SECTION 9-203 TIME OF INSPECTION

The building inspector, upon notification from the permit holder or his/her agent, shall make the following inspections of the building or structure and shall either approve that portion of the construction as completed, or shall notify the permit holder or his/her agent that the work fails to comply with the requirements of the Municipal Code: foundation inspection shall be made after trenches are excavated and the necessary forms erected; frame inspection shall be made after the roof, framing, fire-blocking and backing is in place and all pipes, chimneys and vents are complete; and final inspection shall be made after the building is completed and ready for occupancy. It shall be unlawful for any person to do work or cause work to be done beyond the point indicated in each successive inspection without the written approval of the building inspector.

SECTION 9-204 APPEAL FROM DECISION

In the event it is claimed that the true intent and meaning of this chapter has been wrongly interpreted by the building inspector; that the time allowed for compliance with any order of the building inspector is too short; or that conditions peculiar to a particular building make it unreasonably difficult to meet the literal requirements prescribed by this chapter and the building inspector; then the owner, his/her agent or the occupant may file a notice of appeal within ten days after the decision or order of the building inspector has been made. The Board of Adjustment shall have the power and authority, when appealed to, to modify the decision or order of the building inspector. Such a decision shall be final, subject only to any remedy which the aggrieved person may have at law or equity. Applications for review shall be in writing and shall state the reasons why the variance should be made. A variance shall be granted only where it is evident that reasonable safety and sanitation is assured and may include conditions not generally specified by this code to achieve that end. A copy of any variance so granted shall be sent to both the building inspector and the applicant.

Amended – Ordinance No. 1701 3/15/2004

SECTION 9-205 BARRICADES AND LIGHTS

It shall be the duty of the owner, tenant or lessee causing the construction, demolition or moving of any building or improvement within the City to have during such work suitable guards or barricades protecting all excavations, open basements, building materials and debris. The failure, neglect or refusal of said persons to erect such guards shall constitute a violation of this section, and the City police or the building inspector shall stop all work until guards are erected and maintained as required.

ARTICLE III - BUILDING PERMITS

SECTION 9-301 APPLICATION; FEES

Any person desiring to commence or proceed to erect, construct, repair, enlarge, change the dimensions, demolish or relocate any building or dwelling, or cause the same to be done within the city limits or in the county area within one mile of the city limits, shall file with the city clerk an application for a building permit. No building permit shall be required for any structure that is 10 feet by 15 feet or less. The application shall be in writing on a form to be furnished by the city clerk for that purpose. Each applicant shall set forth the legal description of the land upon which the construction or relocation is to take place, the nature of the use or occupancy, the principal dimensions, the estimated cost, the names of the owner, architect and contractor, a sketch, picture or blueprint of the proposed construction, and such other information as may be requested thereon. In addition, the applicant shall cause the boundaries of the land and location of the proposed project to be accurately staked out. The application, plans and specifications so filed with the city clerk shall be checked and examined by the building inspector, who shall make an on-site inspection of the land involved in the proposed project, and if they are found to be in conformity with the requirements of this chapter and all other ordinances applicable thereto, the building inspector shall issue the said applicant a permit upon the payment of a fee, the amount of such fee to be set from time to time by resolution of the City Council.

SECTION 9-302 LIMITATION

If the work for which a permit has been issued shall not have begun within six months of the date thereof, or if the construction shall be discontinued for a period of six months, the permit shall be void. Before work can be resumed, a new permit shall be obtained in the same manner and form as an original permit.

SECTION 9-303 DISPLAY OF PERMIT

All building permits issued in accordance with the foregoing provisions of Sections 9-201 and 9-202 shall be prominently displayed in plain view and protected from weather within the front 20 feet of the lot or parcel of land upon which work is to be done in accordance with the terms of the permit, from the time of issuance of said permit until completion of all work being done in accordance with the terms of said permit.

SECTION 9-304 NEW CONSTRUCTION, SIDEWALKS REQUIRED

If the building permit application is for new construction, including moving in any type of previously constructed or modular home, except the following:

1. garages;
2. additions less than 1/2 the size of the original structure;
3. allowed outbuildings;
4. on real estate outside the city limits, but within the one mile jurisdiction of the City, and which is not subdivided for development or suitable for sale of additional tracts;

sidewalks shall be constructed in accordance with sidewalk standards and specifications set forth by the city engineer and approved by resolution of the City Council on all lots fronting a street, including both street sides of a corner lot, by the owner prior to the time of completion of the main structure(s) on said lot(s).

Prior to the issuance of a building permit, if a variance/exemption from the immediate construction of a sidewalk has been granted by the Council or building inspector, the owner shall execute an agreement to construct the required sidewalk later pursuant to the agreement.

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 an historic 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. Nothing in this Section 9-305 may be construed to prevent ordinary maintenance or repair where such maintenance or repair does not involve a material change of appearance.

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 Plattsmouth, 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 Plattsmouth cannot be maintained or enhanced by disregarding the heritage of the City of Plattsmouth and that people of the City of Plattsmouth 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 historic 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 Plattsmouth, 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 historic 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 Plattsmouth; 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 Plattsmouth.

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 historic 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 an historic 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 an historic district shall be given by the Board in the official newspaper of the City of Plattsmouth 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 an historic 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 an historic 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 an historic 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 an historic 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 historic 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 an historic 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 an "Historic District."

   g. An historic 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 an historic 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 an historic district.

   i. Within ten (10) days after the effective date of an ordinance designating property as a landmark or an historic 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 an historic 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 an historic 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 an historic 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 an historic 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 an historic 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 an historic 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 historic 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 an historic district.

Amended – Ordinance No. 1714 12/6/2004; Ordinance No. 1903 11/2/2015

ARTICLE IV – MOVING BUILDING

SECTION 9-401 REGULATIONS

It shall be unlawful for any person, firm or corporation to move any building or structure within the City without first obtaining a written permit to do so. Application shall be made in writing to the city clerk and shall include the present and future location of the building to be moved, the proposed route, the equipment to be used, the number of rooms therein and such other information as the City Council may require. The application shall be accompanied by a certificate issued by the county treasurer to the effect that all provisions regulating the moving of buildings have been complied with on the part of the owner of the real estate upon which the said building is presently located, including the payment of all taxes or special assessments and the payment of the pro rata share of bonded indebtedness of the City, including for school districts therein, pursuant to Nebraska statutes governing collection of taxes; a photograph accurately depicting the present condition of said building; a termite inspection certificate covering the building and its present location; and a detailed plan showing proposed exterior remodeling of the building and future location subsequent to moving. The applicant, if other than the owner, shall also furnish good and sufficient evidence of his/her authority to move said building. The city clerk shall refer the said application to the building inspector for inspection and report to the City Council. Upon approval of the City Council, the city clerk shall then issue the said permit; provided that all fees and deposits as set forth below have been paid or provided. The permit issued shall expire six months from its date of issuance. In the event that the building has not been moved within such six month period, a new application must be made with the city clerk and all of the terms set forth above complied with before issuance of a new permit.

SECTION 9-402 FEE AND DEPOSIT

Prior to the granting of any permit, the applicant shall have paid to the City a fee in an amount set from time to time by resolution of the City Council and shall have provided to the City a good and sufficient corporate surety bond, check or cash in an amount set by motion of the City Council and conditioned upon moving said building without doing damage to any private or municipal property. At such time as the building moving has been completed, the building inspector shall inspect the premises and report to the city clerk as to the extent of damages, if any, resulting from the said relocation and whether any city laws have been violated during the said operation. Upon a satisfactory report from the building inspector, the city clerk shall return the corporate surety bond, cash or check deposited by the applicant. In the event the basement, foundation or portion thereof is not properly filled, covered, or in a clean and sanitary condition, the City Council may apply the money deposited for the purpose of defraying the expense of correcting the said conditions. If the expense of correcting the hazardous condition is greater than the amount of the deposit set by resolution of the City Council, as required herein, the Council may recover such excess expense by civil suit or otherwise as prescribed by law.

SECTION 9-403 EXEMPTION

No moving permit shall be required to move a building that is 10 feet wide or less and 20 feet long or less and, when in a position to move, 15 feet high or less.

ARTICLE V - DEMOLITION OF BUILDINGS

SECTION 9-501 REGULATIONS

It shall be unlawful for any person, partnership, corporation or other legal entity to tear down or demolish any building or structure within the City without first obtaining a written permit to do so. Application shall be made in writing to the city clerk and shall include:

1. the present location of the building to be torn down or demolished;
2. how it will be torn down or demolished;
3. how materials and debris will be removed from the premises and dispensed of;
4. a photograph accurately depicting the present condition of said building;
5. a termite inspection certificate covering the building at its present location;
6. good and sufficient evidence of his/her authority to tear down or demolish said building, if applicant is not the owner; and
7. such other information as the City Council may require.

The city clerk shall refer the said application to the building inspector for inspection and then report to the City Council. Upon approval of the City Council, the city clerk shall issue the permit; provided that all fees and deposits as set forth below have been paid or provided. Tearing down, demolition, removal of debris and filling of excavations will be completed within six months of issuance of the permit. If not completed within said time, a new permit, fee and deposit (if needed) must be obtained and paid.

SECTION 9-502 FEE AND DEPOSIT

Prior to the granting of any permit, the applicant shall have paid to the City a fee in an amount set from time to time by resolution of the City Council and shall have provided to the City a good and sufficient corporate surety bond, check or cash in an amount set by motion of the City Council and conditioned upon tearing down or demolishing such building without doing damage to any private or municipal property. At such time as the building tear down or demolition has been completed, the building inspector shall inspect the premises and report to the city clerk as to the extent of damages, if any, resulting from the said relocation and whether any city laws have been violated during the said operation. Upon a satisfactory report from the building inspector, the city clerk shall return the corporate surety bond, cash or check deposited by the applicant. In the event the basement, foundation or portion thereof is not properly filled, covered or in a clean and sanitary condition, the City Council may apply the money deposited for the purpose of defraying the expense of correcting the said conditions. If the expense of correcting the hazardous condition is greater than the amount of the deposit set by resolution of the City Council, as required herein, the Council may recover such excess expense by civil suit or otherwise as prescribed by law.

SECTION 9-503 EXEMPTION

No permit shall be required to tear down or demolish a building that is 10 feet wide or less and 20 feet long or less.

ARTICLE VI - PENAL PROVISION

SECTION 9-601 VIOLATION; PENALTY

Any person who violates or refuses to comply with any of the provisions of this chapter, which is incorporated by reference, shall be guilty of a misdemeanor, and upon conviction shall be subject to fine of not more than $500.00 dollars and/or imprisonment for up to 30 days for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

Amended – Ordinance No. 1681 11/4/2002

MUNICIPAL CODE

CHAPTER 10

FINE / WAIVER SCHEDULE

CHAPTER X FINE/WAIVER SCHEDULE

The City Council of the City of Plattsmouth has determined that the following violations of the Plattsmouth Revised Municipal Code may be disposed of pursuant to a waiver of appearance, a plea of "guilty", and the payment of court costs and the corresponding fine listed below for such violation:

Code Section	**Penalty Section**	**Description of Offense**	**Fine**
2-206	2-1301	Parks, Curfew Violation	$50
2-609	2-609	Cemetery, Curfew Violation	$25
3-105	3-701	Misdemeanors, Trash – Dumping on Property of Another	$50
3-109	3-701	Misdemeanors, Discharge of Firearms	$100
3-111	3-701	Misdemeanors, Discharging BB Guns, Etc.	$25
3-114	3-701	Misdemeanors, Disorderly Conduct	$100
3-121	3-701	Misdemeanors, Public Urination / Indecent Exposure	$100
3-302	3-701	Dogs/Cats, Failure to License	$30
3-304	3-701	Dogs/Cats, Wrongful Licensing	$30
3-305	3-701	Dogs/Cats, Unauthorized Removal of Tags	$50
3-306	3-701	Dog/Cats, Dog Running at Large	$50
3-306.01	3-701	Dogs/Cats, Cat Running at Large	$50
3-308	3-701	Dogs/Cats, Failure to Vaccinate for Rabies	$25
3-314	3-701	Dogs/Cats, Failure to Control Offensive Barking	$35
3-402	3-701	Kennels, Failure to License	$50
3-501	3-701	Animals, Keeping Prohibited Animals in City	$50
3-507	3-701	Animals, Fowl Running at Large	$25

3-513(2)	3-701	Animals, Failure to Remove Waste	$25
4-114	4-501	Motor Vehicles, Funeral Processions	$50
4-114	4-501	Motor Vehicles, Engine Breaking	$50
4-135	4-501	Other Vehicles, Off-roading in Parks	$25
4-144.01	4-501	Motor Vehicles, Operating Trucks Off Routes	$100
4-146	4-501	Motor Vehicles, Screeching Tires	$50
4-402(1)	4-501	Other Vehicles, Bicycle Violations	$25
4-402(2)	4-501	Other Vehicles, Skateboarding on Sidewalk	$25
4-407	4-501	Other Vehicles, Unauthorized Use of Minibike	$25
4-424	4-501	Other Vehicles, Failure to License Moped	$50
4-426	4-501	Other Vehicles, Unauthorized Use of Moped	$25
4-431	4-501	Other Vehicles, Unauthorized Use of Miniature Vehicles	$25
4-434	4-439	UTVs, Unauthorized Use	$50
4-435	4-439	UTVs, Failure to Register	$100
4-436	4-439	UTVs, Operating without a License	$50
4-437	4-439	UTVs, Failure to Procure Insurance	$50
4-442	4-446	Golf Cars, Unauthorized Use	$50
4-443	4-446	Golf Cars, Failure to Register	$100
4-444	4-446	Golf Cars, Operating without a License	$50
4-445	4-446	Golf Cars, Failure to Procure Insurance	$50
8-402	8-601	Fireworks, Unauthorized Use	$50

Amended – Ordinance No. 1931 12/18/2017; Ordinance No. 1947 1/8/2019

MUNICIPAL CODE

CHAPTER 11

MUNICIPAL PLANNING

ARTICLE I - MUNICIPAL LIMITS

SECTION 11-101 MUNICIPAL LIMITS; DEFINED

All additions, lots, lands, subdivisions and parcels of ground included within the ofl1cial Municipal Map and plat on file at the office of the county register of deeds having been by act or ordinance of the City Council or by law duly annexed to or made a part of this city, or having been by the act, authority, acquiescence, consent, platting and dedication of their respective owners, created either as the original townsite or as additions to the City, arc declared to be within the corporate limits or the City. Lawfully constituted additions or changes in municipal limits shall be indicated upon the maps and plat by the city engineer after such addition or change has been completed in accordance with the ordinances of this city and the laws or the State of Nebraska.

Enacted – Ordinance No. 1733 8/7/2006

SECTION 11-102 ORIGINAL PLATS

Each and all plats, lots, blocks, additions, subdivisions, outlots and parcels of ground included within the corporate limits of the City and not vacated of record prior to the enactment of this chapter, including the Original Plat of the City, are accepted, approved and confirmed as valid, and each and all of such lots, blocks, additions, subdivisions and outlots as previously platted and recorded in the office of the county register or deeds and not vacated, and all other parcels of ground included within the corporate limits are declared to be within the city and an integral part thereof

Enacted – Ordinance No. 1733 8/7/2006

ARTICLE II - SUBDIVISION REGULATIONS

SECTION 11-201 ADOPTED BY REFERENCE

To provide for harmonious development of the City and its environs; for the integration of new subdivision streets with other existing or planned streets or with other features of the Comprehensive Plan; for adequate open spaces for traffic, recreation, 1ight, air; for the distribution of population and traffic in a manner which will tend to create conditions favorable to health, safety, convenience or prosperity; and insure conformance of subdivision plans with capital improvements programs of the City; and to secure equitable handling of all subdivision plans by providing uniform procedures and standards for observance of subdivides and the Planning Commission and City Council, the Subdivision Regulations for the City of Plattsmouth, including any amendments as may be made therein from time to time, are incorporated by reference as if set out in full. One copy of the Subdivision Regulations shall be kept on file with the city clerk and available for public inspection during regular office hours.

Enacted – Ordinance No. 1733 8/7/2006

ARTICLE III - ZONING REGULATIONS

SECTION 11-301 ADOPTED BY REFERENCE

For the purpose of setting minimum standards to promote the public health, safety, morals, convenience, order, prosperity and general welfare of the community of Plattsmouth, Nebraska, and to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public improvements, the zoning regulations of the City or Plattsmouth, presented and prepared by the city are adopted. The adoption or such zoning regulations shall include any amendments thereto as may be made from time to time. The zoning regulations, as well as such amendments, are incorporated by reference in this section as if set out in full. One copy of the zoning regulations shall be maintained by the city clerk at the city office and available for public inspection during regular office hours.

Enacted – Ordinance No. 1733 8/7/2006

SECTION 11-302 OFFICIAL ZONING MAP

The City of Plattsmouth, Nebraska, and certain properties within and up to two miles in all directions of its corporate limits arc divided into zones, or districts, as shown on the official zoning map which, together with all explanatory material and documentation is adopted by reference, declared to be part of the zoning regulations of the City of Plattsmouth and further declared to be part of this article. The official zoning map adopted January 5, 2004 and as subsequently amended sha11 be identified by the signature of the Mayor, attested to by the city clerk and bearing the seal of the City under the following words:

"This is to certify that this is the Official Zoning Map adopted in section 1 of Ordinance No. 1733 of the City of Plattsmouth, Nebraska adopted August 7, 2006."

The official zoning map, together with all changes, amendments, or additions thereto, shall be maintained in the office of the city clerk and available for public inspection during regular office hours.

Enacted – Ordinance No. 1733 8/7/2006

ARTICLE IV - PENAL PROVISION

SECTION 11-401 VIOLATION; PENALTY

Anyone violating any of the terms and conditions of any of the foregoing chapter and articles shall be deemed guilty of a misdemeanor and shall be lined in a sum of not more than $500.00 for each offense, recoverable with costs, or by imprisonment in the county jail for a term not to exceed 30 days. Each day such violation continues may be considered a separate offense.

Enacted – Ordinance No. 1733 8/7/2006

MUNICIPAL CODE

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