

CHAPTER III

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: **REPEALED BY ORDINANCE NO. 1719 – 09/06/2005 – 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 except in an area prohibited by signs as outlined by State Law. Ref. Neb. Rev. Stat. §§ 69-2427 through -2447 and 69-2403 (3).

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: **REPEALED BY ORDINANCE NO. 1719 – 09/06/2005 – 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 by Ordinance No. 1696 – October 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: **REPEALED 8-2-2006 ORDINANCE NO. 1732**

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.

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 care 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.

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.

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.

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)

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)

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 nonsevere 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.

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 or his/her designee. 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, upon payment of the fee, 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 licensing year for a kennel shall be from the date of issuance.

The owner shall also be liable to comply with any ordinance which requires the licensing of each dog or cat in said kennel and any ordinance 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 or his/her designee 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)

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

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 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 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 nonputrifying 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 disassembling of automobiles, trucks, tractors or machinery of any kind, or for the storing or leaving of wornout, 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 (cirsiium lanceolatum), buckthorn (rhamnus sp.) (torn), 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

Whenever the city police or code enforcement officer determines that a nuisance is being maintained within the City, the police chief or his/her designated officer shall cause written notice to be served upon the owner of the property on which such nuisance is located, and further upon the occupant thereof, by registered mail or by personal service. Such notice shall state the type of nuisance located on the property and shall provide that such nuisance shall be abated or removed within five business days following receipt of the notice.

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: COST OF REMOVAL

If the owner or occupant of the lot or piece of ground fails to comply with the order to abate and remove the nuisance within five days after receipt of the notice to abate, the City may have such work done and the cost and expense of such work shall be paid by the owner of the property. If unpaid for two months after such work is done, the City may either levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied and assessed or recover in a civil action the costs and expenses of the work.

(Ref. Neb. Rev. Stat. §18-1720)

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.

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.

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.

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 person's 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.

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.

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 child care 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 child care 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 child care facility triggering the restriction was established after the initial date of the Sexual Predator's residence at that location.

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.

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.

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.

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.

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.

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.

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 anytime 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
1	Any motor vehicle with a manufacturer's gross vehicle weight rating of 10,000 pounds or more	86 db(A)	90db(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 “after market” 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.

SECTION 3-905 STANDARDS

The American National Standard, Specification for Sound Level Meters, designated as ANSI S1.4-1971 (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.

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.

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.

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.

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.

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 cities 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 Plattsburgh 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 Plattsburgh, 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.

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 audio frequency 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.

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 September 6, 2005 – Ordinance No. 1719) (Re-enacted August 7, 2006 – Ordinance No. 1732)