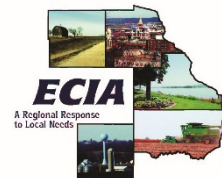


City of Preston

Code of Ordinances

CODIFIED BY: East Central Intergovernmental Association
7600 Commerce Park
Dubuque, IA 52002



ORDINANCE NO. 02

AN ORDINANCE ADOPTING THE CITY CODE OF ORDINANCES.

Be it Ordained by the City Council of the City of Preston, Iowa:

Section 1. Pursuant to published notice, a public hearing has been duly held and the City Council hereby adopts the City of Preston, Iowa Code of Ordinances.

Section 2. An official copy of the City Code as adopted, including a certification by the City Clerk as to its adoption and effective date is on file at the office of the City Clerk.

Section 3. A copy of the code shall be kept available at the City Hall for public inspection and copies will be made available for sale at cost.

Section 4. All general ordinances or parts thereof passed prior to April 26th, 2021, not contained in the City of Preston, Iowa Code of Ordinances are hereby repealed except as hereafter provided, or special ordinances not named.

Section 5. The following ordinances are specifically saved from repeal:

NO ORDINANCES ARE SAVED FROM REPEAL SUBJECT TO THE PROVISIONS OF
CODE OF IOWA SECTION 380.8(1)(a)

Section 6. This ordinance shall be in full force and effect upon publication as required by Iowa law.

Passed by the City Council of Preston, Iowa on the 26th day of April, 2021 and approved this 26th day of April, 2021.

Mayor

Attest:

Teresa Weinschenk
Teresa Weinschenk, City Clerk

Certification: I hereby certify that the foregoing was published as Ordinance Number 02 on April 26, 2021.

Teresa Weinschenk
Teresa Weinschenk, City Clerk

First Reading: 4/26/21
Second Reading: waived 4/26/21
Third Reading: waived 4/26/21

PRESTON CODE OF ORDINANCES

State legislation at any time can be enacted that would change the current law as adopted in your City Code. ECIA has no duty or responsibility to keep you updated on law changes. However, ECIA will make every attempt to notify you when legislative changes occur that have an impact on your City Code. It is the municipality's responsibility to either repeal or amend the ordinances impacted by the legislative changes. ECIA advises you to have your City Attorney review your City Code and the legislative changes that occur after the date of the City's last codification. ECIA cannot provide legal advice

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, transmitted, in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without the prior written permission of ECIA.

CODIFIED BY: East Central Intergovernmental Association
7600 Commerce Park,
Dubuque, IA 52002

Table of Contents

TITLE I, GENERAL PROVISIONS	1
CHAPTER 1, GENERAL PROVISIONS	1
CHAPTER 2, RIGHT OF ENTRY	5
CHAPTER 3, PENALTY	6
TITLE II, POLICY AND ADMINISTRATION	9
CHAPTER 1, CITY CHARTER	9
CHAPTER 2, CITY COUNCIL	10
CHAPTER 3, APPOINTMENT AND QUALIFICATIONS OF MUNICIPAL OFFICERS	13
CHAPTER 4, POWERS AND DUTIES OF MUNICIPAL OFFICERS	15
CHAPTER 5, SALARIES OF MUNICIPAL OFFICERS	27
CHAPTER 6, CITY FINANCE	28
TITLE III, COMMUNITY PROTECTION	33
CHAPTER 1, OFFENSES	33
CHAPTER 2, NUISANCES	41
CHAPTER 3 TRAFFIC CODE	50
CHAPTER 4, LOCAL DESIGNATIONS TRAFFIC CONTROL	78
CHAPTER 5, FIRE PROTECTION	81
CHAPTER 6, CURFEW FOR MINORS	82
CHAPTER 7, REGULATING PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS	86
CHAPTER 8, RESERVED	89
CHAPTER 9, ALCOHOLIC BEVERAGES	90
CHAPTER 10, DRUG PARAPHERNALIA	92
CHAPTER 11, JUNK AND ABANDONED VEHICLES	93
CHAPTER 12, NATURAL GAS CODE	99
CHAPTER 13, BURNING	106
CHAPTER 14, DISCRIMINATORY HOUSING PRACTICES	109
CHAPTER 15, EXCAVATIONS	111
CHAPTER 16, JUNKYARDS	113
CHAPTER 17, PRIVATE WELLS AND WATER SYSTEMS	119
CHAPTER 18, STREET USE AND MAINTENANCE	121
CHAPTER 19, FIREWORKS	122
CHAPTER 20, ENFORCEMENT OF IMMIGRATION LAWS	124
CHAPTER 21, ADULT ENTERTAINMENT	130
TITLE IV, MENTAL AND PHYSICAL HEALTH	147
CHAPTER 1, ANIMAL CONTROL	147

TITLE V, HUMAN DEVELOPMENT - EDUCATION AND CULTURE	150
CHAPTER 1, LIBRARY SERVICES.....	150
TITLE VI, PHYSICAL ENVIRONMENT.....	154
CHAPTER 1, MOBILE HOME REGULATION	154
CHAPTER 2, UTILITIES - SANITARY SYSTEM.....	157
CHAPTER 3, UTILITIES - WATER SYSTEM.....	169
CHAPTER 4, UTILITIES - REFUSE COLLECTION	181
CHAPTER 5, NATURAL GAS UTILITY	184
CHAPTER 6, RESERVED.....	186
CHAPTER 7, UTILITIES-BILLING CHARGES	187
CHAPTER 8, NUMBERING OF BUILDINGS.....	199
CHAPTER 9, SUBDIVISION REGULATIONS.....	200
CHAPTER 10, SIDEWALK REGULATIONS	217
CHAPTER 11, RESTRICTED RESIDENCE DISTRICT	223
CHAPTER 13, PUBLIC WATER SUPPLY WELLHEAD PROTECTION	
REGULATIONS	239
CHAPTER 14, PRESTON CABLE REGULATORY ORDINANCE	245
CHAPTER 15, FLOOD PLAIN MANAGEMENT	280
CHAPTER 16, TERRACE AND DRIVEWAY REGULATIONS.....	291
CHAPTER 17, SUMP PUMP DRAINAGE	292
CHAPTER 18 OUTDOOR FURNACES.....	293
CHAPTER 19 RESERVED.....	294
CHAPTER 20 DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY	
IN THE PRESTON URBAN RENEWAL AREA.....	295

TITLE I, GENERAL PROVISIONS

CHAPTER 1, GENERAL PROVISIONS

1-1-1	Definitions	1-1-7	Catchlines, Titles, Headings and Notes
1-1-2	Grammatical Interpretation		
1-1-3	Prohibited Acts Include Causing, Permitting	1-1-8	Amendments to City Code, Effect of New Ordinances, Amendatory Language
1-1-4	Construction		
1-1-5	Amendment		
1-1-6	Severability		

1-1-1 DEFINITIONS. The following words and phrases whenever used in the Ordinances of the City, shall be construed as defined in this section unless, from the context, a different meaning is intended or unless different meaning is specifically defined and more particularly directed to the use of such words or phrases:

1. "Building" means any man-made structure permanently affixed to the ground.
(Amended during 2013 codification)

2. "City" means the City of Preston, Iowa, or the area within the territorial limits of the City, and such territory outside of the City over which the City has jurisdiction or control by virtue of any constitutional or statutory provision;

3. "Clerk" means the City Clerk.

4. "Computation of time" means the time within which an act is to be done. It shall be computed by excluding the first day and including the last day; and if the last day is Sunday or a legal holiday, that day shall be excluded;

4. "Council" means the City Council of the City. All its members or all Council persons mean the total number of Council persons provided by the City charter under the general laws of the state;

5. "County" means the County of Jackson, Iowa;

6. "Delegation of Authority" means whenever a provision appears requiring an officer of the City to do some act or make certain inspections, it is to be construed to authorize the officer to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision or section designate otherwise.

(Amended during 2013 codification)

7. "Fiscal Year" means July 1 to June 30.

8. "Law" denotes applicable federal law, the Constitution and statutes of the State of Iowa, the Ordinances of the City; and when appropriate, any and all rules and regulations which may be promulgated thereunder;

9. "May" confers a power;

10. "Month" means a calendar month;

11. "Must" states a requirement;

12. "Oath" shall be construed to include an affirmative or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" shall be equivalent to the words "swear" and "sworn";

13. "Or" may be read "and" and "and" may be read "or" if the sense requires it;

14. "Ordinance" means a law of the City; however, an administrative action, order or directive, may be in the form of a resolution;

15. "Owner" applied to a building or land includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or part of such building or land;

16. "Person" means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them;

17. "Personal property" includes money, goods, chattels, things in action and evidences of debt;

18. "Preceding" and "following" mean next before and next after, respectively;

19. "Property" includes real and personal property;

20. "Real property" includes lands, tenements and hereditaments;

21. "Shall" imposes a duty;

22. "Sidewalk" means that portion of a street between the curb line and the adjacent property line intended for the use of pedestrians;

23. "State" means the State of Iowa;

24. "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this City which have been or may hereafter be dedicated and open to

public use, or such other public property so designated in any law of this state;

25. "Tenant" and "occupant" applied to a building or land, includes any person who occupies whole or a part of such building or land, whether alone or with others;

26. "Title of Office". Use of the title of any officer, employee, board or commission means that officer, employee, department, board or commission of the City;

27. "Written" includes printed, typewritten, mimeographed, photocopied, or reproduced by digital reconstruction;

28. "Year" means a calendar year;

29. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such other as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning;

30. When an act is required by an Ordinance the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed as to include all such acts performed by an authorized agent.

1-1-2 GRAMMATICAL INTERPRETATION. The following grammatical rules shall apply in the Ordinances of the City;

1. Gender. Any gender includes the other gender;

2. Singular and Plural. The singular number includes the plural and the plural includes the singular;

3. Tenses. Words used in the present tense include the past and the future tenses and vice versa;

4. Use of Words and Phrases. Words and phrases not specifically defined shall be construed according to the content and approved usage of the language.

1-1-3 PROHIBITED ACTS INCLUDE CAUSING, PERMITTING. Whenever in this Code any act or omission is made unlawful, it includes causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission. A principal is responsible for the unauthorized acts or omissions committed by an agent or employee which have been authorized by the principal.

1-1-4 CONSTRUCTION. The provisions of this Code and all proceeds under it are to be construed with a view to affect its objects and to promote justice.

1-1-5 AMENDMENT. All Ordinances of the City Council passed thereafter shall be in the form of an addition or amendment to the Preston Municipal Code constituting this Municipal Code, and shall include proper references to chapter and section to maintain the orderly codification of the Ordinances.

(Code of Iowa, Sec. 380.2)

1-1-6 SEVERABILITY. If any section, provision or part of the City Code is adjudged invalid or unconstitutional, such adjudication will not affect the validity of the City Code as a whole or any section provision, or part thereof not adjudged invalid or unconstitutional.

1-1-7 CATCHLINES, TITLES, HEADINGS AND NOTES. The catchlines of the several sections of this City Code printed in boldface type as well as the titles, headings, chapter heads, section and subsection heads or titles, editor's notes, cross-references and State law references, unless set out in the body of the section itself, contained in this City Code, do not constitute any part of the law, and are intended merely to indicate, explain, supplement or clarify the contents of a section.

(Amended during 2013 codification)

1-1-8 AMENDMENTS TO CITY CODE, EFFECT OF NEW ORDINANCES, AMENDATORY LANGUAGE.

1. All ordinances passed subsequent to this Code which amend, repeal or in any way affect this City Code may be numbered in accordance with the numbering system of this City Code and printed for inclusion herein. When subsequent ordinances repeal any chapter, section, or subsection or any portion thereof, such repealed portions may be excluded from this City Code by omission from reprinted pages. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time as this City Code and subsequent ordinances numbered or omitted are readopted as a new Code of Ordinances.

2. Amendments to any of the provisions of this City Code may be made by amending such provisions by specific reference to the section or subsection number of this City Code in substantially the following language: "That section _____ of the Code of Ordinances, City of _____, Iowa is hereby amended to read as follows:..." The new provisions shall then be set out in full as desired.

3. In the event a new section not heretofore existing in this City Code is to be added, the following language may be used: "That the Code of ordinances, City of _____, Iowa, is hereby amended by adding a section, to be numbered _____, which said section reads as follows: ..." The new section shall then be set out in full as desired.

(Amended during 2013 codification)

TITLE I, GENERAL PROVISIONS

CHAPTER 2, RIGHT OF ENTRY

1-2-1 Right of Entry

1-2-1 RIGHT OF ENTRY. Whenever necessary to make an inspection to enforce any Ordinance, or whenever there is reasonable cause to believe that there exists an Ordinance violation in any building or upon any premises within the jurisdiction of the City, any authorized official of the City, may, upon presentation of proper credentials, enter such building or premises at all reasonable times to inspect the same and to perform any duty imposed upon such official by Ordinance; provided that, except in emergency situations, such official shall first give the owner and/or occupant, if they can be located after reasonable effort, twenty-four hour written notice of the authorized official's intention to inspect. In the event the owner and/or occupant refuses entry, the official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

TITLE I, GENERAL PROVISIONS

CHAPTER 3, PENALTY

1-3-1 General Penalty

1-3-2 Civil Penalty - Municipal
Infraction

1-3-1 GENERAL PENALTY. The doing of any act prohibited or declared to be unlawful, an offense, or a misdemeanor by the City Code or any Ordinance or Code herein adopted by reference, or the omission or failure to perform any act or duty required by this City Code or any Ordinance or Code or any Ordinance or Code herein adopted by reference is, unless another penalty is specified, punishable in accordance with Iowa Code Section 903.1(1)(a).

Code of Iowa, Sec. 903.1(1)(a)
(Amended during 2013 codification)

1-3-2 CIVIL PENALTY - MUNICIPAL INFRACTION.

(Code of Iowa, Sec. 364.22)

1. Definitions.

a. Municipal Infraction. Except those provisions specifically provided under state law as a felony, an aggravated misdemeanor, or a serious misdemeanor or a simple misdemeanor under Chapters 687 through 747 of the Iowa Code, the doing of any act prohibited or declared to be unlawful, an offense or a misdemeanor by the Code of Ordinances City of Preston, or any Ordinance or Code herein adopted by reference, or omission or failure to perform any act or duty required by the Code of Ordinances City of Preston, or any Ordinance or Code herein adopted by reference, is a "municipal infraction" and is punishable by civil penalty as provided herein.

b. Officer. The term "officer" shall mean any employee or official authorized to enforce the Code of Ordinances of the City of Preston.

c. Repeat offense. The term "repeat offense" shall mean a recurring violation of the same section of the Code of Ordinances.

2. Violations, Penalties, and Alternative Relief.

a. A municipal infraction is punishable by a civil penalty as provided in the following schedule, unless a specific schedule of civil penalties is provided for specific offenses elsewhere in this Code.

Schedule of Civil Penalties

First offense: Not more than seven hundred fifty dollars (\$750.00).

Repeat Offense: Not more than one thousand dollars (\$1,000.00)
(Amended during 2013 codification)

b. Each day that a violation occurs or is permitted to exist by the violator constitutes a separate offense.

c. Seeking a civil penalty as authorized in this chapter does not preclude the City from seeking alternative relief from the court in the same action.

3. CIVIL CITATIONS.

a. Any officer authorized by the City to enforce the Code of Ordinances may issue a civil citation to a person who commits a municipal infraction.

b. The citation may be served by personal service, substituted service, or by certified mail, return receipt requested or by publication as provided in the Iowa Rules of Civil Procedure.

c. The original of the citation shall be sent to the Clerk of the district court. If the infraction involves real property a copy of the citation shall be filed with the County Treasurer.
(Amended during 2013 codification)

d. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:

- (1) The name and address of the defendant.
- (2) The name or description of the infraction attested to by the officer issuing the citation.
- (3) The location and time of the infraction.
- (4) The amount of civil penalty to be assessed or the alternative relief sought, or both.
- (5) The manner, location, and time in which the penalty may be paid.
- (6) The time and place of court appearance.
- (7) The penalty for failure to appear in court.
- (8) The legal description of the affected property, if applicable.
(Amended during 2013 codification)

4. Seeking a civil penalty as authorized in Section 364.22, Code of Iowa, does not preclude the City from seeking alternative relief from the court in the same action. Such relief may include the imposition of a civil penalty by entry of a personal judgment against the defendant, directing that the payment of the civil penalty be suspended or deferred under conditions imposed by the court, ordering the defendant to abate or cease the violation or authorizing the City to abate or correct the violation, or ordering that the City's cost for abatement or correction of the violation be entered as a personal judgment against the defendant or assessed against the property where the violation occurred, or both. If a defendant willfully violates the terms of an order imposed by the court, the failure is contempt.

5. This section does not preclude a peace officer from issuing a criminal citation for violation of a City Code or regulation if criminal penalties are also provided for the violation, nor does it preclude or limit the authority of the City to enforce the provisions of the Code of Ordinances by criminal sanctions or other lawful means. Each day that a violation occurs or is permitted to exist by the defendant constitutes a separate offense. The violation of any provision of this Code of Ordinances or any regulation promulgated thereunder shall also constitute a simple misdemeanor punishable by a fine of \$100.00.

(ECIA Model Code Amended in 2017)

1-3-3 SCHEDULED FINES. The scheduled fine for a violation of any provision of the City Code shall be in accordance with State Code Chapter 805 unless another scheduled amount is provided in the City Code or Iowa Code.

TITLE II, POLICY AND ADMINISTRATION

CHAPTER 1, CITY CHARTER

2-1-1	Charter	2-1-5	Term of Mayor
2-1-2	Form of Government	2-1-6	Copies on File
2-1-3	Powers and Duties		
2-1-4	Number and Term of City Council		

2-1-1 CHARTER. This chapter may be cited as the Charter of the City of Preston, Iowa.

2-1-2 FORM OF GOVERNMENT. The form of government of the City of Preston, Iowa, is the Mayor-Council form of government.

(Code of Iowa, Sec. 372.4)

2-1-3 POWERS AND DUTIES. The City Council and Mayor and other City officers have such powers and shall perform such duties as are authorized or required by state law and by the Ordinances, resolutions, rules and regulations of the City of Preston, Iowa.

2-1-4 NUMBER AND TERM OF CITY COUNCIL. The City Council consists of five City Council members elected at large, elected for terms of four years.

(Code of Iowa, Sec. 372.4, 376.2)

2-1-5 TERM OF MAYOR. The Mayor is elected for a term of four years.

2-1-6 COPIES ON FILE. The City Clerk shall keep an official copy of the charter on file with the official records of the City Clerk, shall immediately file a copy with the Secretary of State of Iowa, and shall keep copies of the charter available at the City Clerk's office for public inspection.

TITLE II, POLICY AND ADMINISTRATION

CHAPTER 2, CITY COUNCIL

2-2-1 Power and Duties
2-2-2 Exercise of Power

2-2-3 Meetings

2-2-1 POWER AND DUTIES. The powers and duties of the City Council include, but are not limited to the following:

1. General. All powers of the City are vested in the City Council except as otherwise provided by law or ordinance.

(Code of Iowa, Sec. 364.2(1))

2. Wards. By ordinance, the City Council may divide the City into wards based upon population, change the boundaries of wards, eliminate wards or create new wards.

(Code of Iowa, Sec. 372.13(7))

3. Fiscal Authority. The City Council shall apportion and appropriate all funds, and audit and allow all bills, accounts, payrolls and claims, and order payment thereof. It shall make all assessments for the cost of street improvements, sidewalks, sewers and other work, improvement or repairs which may be specially assessed.

(Code of Iowa, Sec. 364.2(1), 384.16 & 384.38(1))

4. Public Improvements. The City Council shall make all orders for the doing of work, or the making or construction of any improvements, bridges or buildings.

(Code of Iowa, Sec. 364.2(1))

5. Contracts. The City Council shall make or authorize the making of all contracts, and no contract shall bind or be obligatory upon the City unless either made by ordinance or resolution adopted by the City Council, or reduced to writing and approved by the City Council, or expressly authorized by ordinance or resolution adopted by the City Council.

(Sec. 364.2(1) & 384.95 through 384.102)

6. Employees. The City Council shall authorize, by resolution, the number, duties, term of office and compensation of employees or officers not otherwise provided for by the State law or the Code of Ordinances.

(Code of Iowa, Sec. 372.13(4))

7. Setting Compensation for Elected Officers. By ordinance, the City Council shall prescribe the compensation of the Mayor, City Council members, and other elected City officers, but a change in the compensation of the Mayor does not become effective during the term in which

the change is adopted, and the City Council shall not adopt such an ordinance changing the compensation of any elected officer during the months of November and December in the year of a regular City election. A change in the compensation of City Council members becomes effective for all City Council members at the beginning of the term of the City Council members elected at the election next following the change in compensation.

(Code of Iowa, Sec. 372.13(8))

2-2-2 EXERCISE OF POWER. The City Council shall exercise a power only by the passage of a motion, a resolution, an amendment, or an ordinance in the following manner:

(Code of Iowa, Sec. 364.3(1))

1. Approved Action by the City Council. Passage of an ordinance, amendment, or resolution requires an affirmative vote of not less than a majority of the City Council members. A motion to spend public funds in excess of twenty-five thousand dollars (\$25,000) on any one project, or a motion to accept public improvements and facilities upon their completion also requires an affirmative vote of not less than a majority of the City Council members. Each Council member's vote on an ordinance, amendment or resolution must be recorded.

(Code of Iowa, Sec. 380.4)

2. Overriding Mayor's Veto. Within thirty (30) days after the Mayor's veto, the City Council may repass the ordinance or resolution by a vote of not less than two-thirds of the City Council members, and the ordinance or resolution becomes effective upon repassage and publication.

(Sec. 380.6(2))

3. Measures Become Effective. Measures passed by the City Council, other than motions, become effective in one of the following ways:

a. If the Mayor signs the measure, a resolution becomes effective immediately upon signing and an ordinance or amendment becomes a law when published, unless a subsequent effective date is provided within the measure.

(Code of Iowa, Sec. 380.6(1))

b. If the Mayor vetoes a measure and the City Council repasses the measure after the Mayor's veto, a resolution becomes effective immediately upon repassage, and an ordinance or amendment becomes a law when published unless a subsequent effective date is provided with the measure.

(Code of Iowa, Sec. 380.6(2))

c. If the Mayor takes no action on the measure, a resolution becomes effective fourteen (14) days after the date of passage and an ordinance or amendment becomes law when published, but not sooner than fourteen (14) days after the day of passage, unless a subsequent effective date is provided within the measure.

(Code of Iowa, Sec. 380.6(3))

2-2-3 MEETINGS. Procedures for giving notice of meetings of the City Council and other provisions regarding the conduct of City Council meetings are contained in Section 5.06 of this Code of Ordinances. Additional particulars relating to City Council meetings are the following:

1. Regular Meetings. The regular meetings of the City Council are on the second and fourth Mondays of each month at 6:00 p.m. in the City Council Chambers at City Hall. If such day falls on a legal holiday or Christmas Eve, the meeting is held on such different day or time as determined by the City Council.

(Ord. 230, Passed April 22, 2002)

2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the written request of a majority of the members of the City Council submitted to the City Clerk. Notice of a special meeting shall specify the date, time, place and subject of the meeting and such notice shall be given personally or left at the usual place of residence of each member of the City Council. A record of the service of notice shall be maintained by the City Clerk. (Code of Iowa, Sec. 372.13(5))

3. Quorum. A majority of all City Council members is a quorum.

(Code of Iowa, Sec. 372.13(1))

4. Rules of Procedure. The City Council shall determine its own rules and maintain records of its proceedings.

(Code of Iowa, Sec. 372.13(5))

5. Compelling Attendance. Any three (3) members of the City Council can compel the attendance of the absent members at any regular, adjourned or duly called meeting, by serving a written notice upon the absent members to attend at once.

TITLE II, POLICY AND ADMINISTRATION

CHAPTER 3, APPOINTMENT AND QUALIFICATIONS OF MUNICIPAL OFFICERS

2-3-1	Creation of Appointive Officers	2-3-5	Bonds Required
2-3-2	Appointment of Officers	2-3-6	Surety
2-3-3	Terms of Appointive Officers	2-3-7	Blanket Position Bond
2-3-4	Vacancies in Offices	2-3-8	Bonds Filed
		2-3-9	Boards and Commissions

2-3-1 CREATION OF APPOINTIVE OFFICERS. There are hereby created the following appointive officers: City Clerk-Treasurer, Police Chief, Attorney, and Superintendent of Public Utilities.

2-3-2 APPOINTMENT OF OFFICERS. The Mayor shall appoint the Mayor pro tempore and shall appoint and may dismiss the Police Chief and Fire Chief with the consent of a majority of the City Council.

The City Council shall appoint the City Clerk-Treasurer, Deputy City Clerk and the Superintendent of Public Utilities.

All other officers shall be appointed or selected by the City Council unless otherwise provided by law or Ordinance.

(Code of Iowa, Sec. 374.4(3))

2-3-3 TERMS OF APPOINTIVE OFFICERS. The terms of all appointive officers that are not otherwise fixed by law or Ordinance shall be two (2) years.

2-3-4 VACANCIES IN OFFICES. Vacancies in appointive office shall be filled in accordance with State law.

(ECIA Model Code Amended in 2014)

2-3-5 BONDS REQUIRED. Each municipal officer required by law or Ordinance to be bonded shall, before entering upon the duties of the office, execute to the City a good and sufficient bond, to be approved by the City Council, conditioned on the faithful performance of the duties and the proper handling and accounting for the money and property of the City in the official's charge unless the City Council shall have provided for a blanket position surety bond.

(Code of Iowa, Sec. 64.13)

2-3-6 SURETY. Any association or corporation which makes a business of insuring the fidelity of others and which has authority to do such business within Iowa shall be accepted as surety on any of the bonds.

2-3-7 BLANKET POSITION BOND. The City Council shall provide for a blanket position bond to cover all officers and employees of the City, but the City Council may provide by resolution for a surety bond for any other officer or employee that the City Council deems necessary. The City shall pay the premium on any official bond.

(Code of Iowa, Sec. 64.13)

2-3-8 BONDS FILED. All bonds when duly executed shall be filed with the Clerk, except that the Clerk's bond shall be filed with the Mayor.

(Code of Iowa, Sec. 64.23)

(Ord. Passed April 10, 2006)

2-3-9 BOARDS AND COMMISSIONS.

1. Membership and Sections. Membership and selections of members of boards and commissions shall be as specified in this Chapter or the Code of Iowa. Any committee, board, or commission so established shall cease to exist upon the accomplishment of the special purpose for which it was created, or when abolished by a majority vote of the City Council or as specified in the Code of Iowa.

2. Removal of Members of Boards and Commissions: The City Council may remove any member of any board or commission, which it has established.

(Ord. 2018-4, Passed April 23, 2018)

TITLE II, POLICY AND ADMINISTRATION

CHAPTER 4, POWERS AND DUTIES OF MUNICIPAL OFFICERS

2-4-1	General Duties	2-4-8	Powers and Duties of the Police Chief
2-4-2	Books and Records	2-4-9	Powers and Duties of the City Attorney
2-4-3	Deposits of Municipal Funds	2-4-10	Powers and Duties of the Superintendent of Public Works
2-4-4	Transfer of Records and Property To Successor	2-4-11	Powers and Duties of the Fire Chief
2-4-5	Powers and Duties of the Mayor		
2-4-6	Powers and Duties of the Deputy Clerk		
2-4-7	Powers and Duties of the City Administrator		

2-4-1 GENERAL DUTIES. Each municipal officer shall exercise the powers and perform the duties prescribed by law and Ordinance, or as otherwise directed by the City Council unless contrary to State law or City charter.

(Code of Iowa, Sec. 372.13(4))

2-4-2 BOOKS AND RECORDS. All books and records required to be kept by law or Ordinance shall be open to inspection by the public upon request.

(Code of Iowa, Sec. 22.1, 22.2, and 22.7)

2-4-3 DEPOSITS OF MUNICIPAL FUNDS. Prior to the fifth day of each month, each office or department shall deposit all funds collected on behalf of the municipality during the preceding month. The officer responsible for the deposit of funds shall take such funds to the City Clerk, together with receipts indicating the sources of the funds.

2-4-4 TRANSFER OF RECORDS AND PROPERTY TO SUCCESSOR. Each officer shall transfer to the official's successor in office all books, papers, records, documents and property, together with an invoice of the same, in the official's custody and appertaining to the official's office.

2-4-5 POWERS AND DUTIES OF THE MAYOR. The duties of the Mayor shall be as follows:

1. The Mayor shall be the chief executive officer of the City. Except for administrative and supervisory duties delegated by this ordinance to a City Administrator, the Mayor shall supervise all city officers and departments. The Mayor shall have the power to examine all functions of the municipal departments, their records, and to call for special reports from department heads at any time.

(Code of Iowa, Section 372.14(1))

2. The Mayor shall act as presiding officer at all regular and special City Council meetings. The Mayor pro tem shall serve in this capacity in the Mayor's absence.

(Code of Iowa, Sec. 372.14(1) and (3))

3. The Mayor may veto an Ordinance, amendment, or resolution within fourteen days after passage. The Mayor shall explain the reasons for the veto in a written message to the City Council at the time of the veto. Within thirty days after the Mayor's veto, the City Council may pass the measure again by a vote to not less than two-thirds of all of the members of the City Council. If the Mayor vetoes an ordinance, amendment, or resolution and the City Council repasses the measure after the Mayor's veto, a resolution becomes effective immediately upon repassage, and an Ordinance or amendment becomes a law when the Ordinance or a summary of the Ordinance is published, unless a subsequent effective date is provided within the Ordinance or amendment.

If the Mayor takes no action on an Ordinance, amendment, or resolution, a resolution becomes effective fourteen days after the date of passage and an Ordinance or amendment becomes a law when the ordinance or a summary of the Ordinance is published, but not sooner than fourteen days after the date of passage, unless a subsequent effective date is provided within the Ordinance or amendment.

(Code of Iowa. Sec. 380.6)

4. The Mayor shall represent the City in all negotiations properly entered into in accordance with law or Ordinance. The Mayor shall not represent the City where this duty is specifically delegated to another officer by law or Ordinance.

5. The Mayor shall, whenever authorized by the City Council, sign all contracts on behalf of the City. The City Administrator may sign in the Mayor's absence.

(Amended during 2021 codification)

6. The Mayor shall call special meetings of the City Council when the Mayor deems such meetings necessary to the interests of the City.

7. Immediately after taking office the Mayor shall designate one member of the City Council as Mayor pro tempore. The Mayor pro tempore shall be vice-president of the City Council. Except for the limitations otherwise provided herein, the Mayor pro tempore shall perform the duties of the Mayor in cases of absence or inability of the Mayor to perform the duties of the office. In the exercise of the duties of the office the Mayor pro tempore shall not have power to employ or discharge from employment officers or employees that the Mayor has the power to appoint, employ or discharge. The Mayor pro tempore shall have the right to vote as a member of the City Council.

(Code of Iowa, Sec. 372.14(3))

8. The Mayor shall, upon order of the City Council, secure for the City such specialized and professional services not already available to the City. In executing the order of the City Council

the Mayor shall conduct said duties in accordance with the City Ordinance and the laws of the State of Iowa.

9. The Mayor or City Administrator shall sign all licenses and permits which have been granted by the City Council, except those designated by law or Ordinance to be issued by another municipal officer.

(Amended during 2021 codification)

10. Upon authorization of the City Council, the Mayor shall revoke permits or licenses granted by the City Council when their terms, the Ordinances of the City, or the laws of the State of Iowa are violated by holders of said permits or licenses.

11. The Mayor shall order to be removed, at public expense, any nuisance for which no person can be found responsible and liable. This order shall be in writing. The order to remove said nuisances shall be carried out by the Police Chief.

2-4-6 POWERS AND DUTIES OF THE DEPUTY CLERK. The duties of the Deputy Clerk shall be as follows:

1. The Deputy Clerk shall attend any regular and special City Council meetings upon request

2. The Deputy Clerk shall file and preserve all receipts, vouchers, and other documents kept, or that may be required to be kept, necessary to prove the validity of every transaction and the identity of every person having any beneficial relation thereto.

3. The Deputy Clerk shall draw all warrants/checks for the City upon the vote of the City Council. The Deputy Clerk shall show on every warrant/check the fund on which it is drawn and the claim to be paid.

(Code of Iowa, Sec. 372.13(4))

4. The Deputy Clerk shall keep a warrant/check record in a form approved by the City Council, showing the number, date, amount, payee's name, upon what fund drawn, and for what claim each warrant/check is issued.

(Code of Iowa, Sec. 372.13(4))

5. The Deputy Clerk shall bill and collect all charges, rents or fees due the City for utility and other services, and give a receipt therefor.

(Code of Iowa, Sec. 372.13(4))

(Amended during 2021 codification)

2-4-7 POWERS AND DUTIES OF THE CITY CLERK-CITY ADMINISTRATOR. The office of the City Clerk-City Administrator, hereinafter referred to as the Administrator, is created for the general purpose of coordinating the activities, policies and procedures of the government of the City. The Administrator shall be directly responsible to the Mayor and the City Council for the

administration of municipal affairs. Department heads and other appointed officials, with the exception of the City Attorney, City Administrator, Police Chief and the Fire Chief shall be responsible to the Administrator. All department activity requiring the attention of the Council shall be brought before the Council by the Administrator and all Council involvement in administration initiated by the Council shall be coordinated through the Administrator. Without limiting the generality of the foregoing, the powers and duties of the Administrator shall include the following:

(Amended during 2021 codification)

1. The Administrator shall attend all regular and special City Council meetings and prepare and publish a condensed statement of the proceedings thereof, to include the total expenditure from each City fund, within fifteen (15) days of the City Council meeting. The statement shall further include a list of all claims allowed, a summary of all receipts and the gross amount of the claims.

(Code of Iowa, Sec. 372.13(4) and (6))

(ECIA Model Code Amended in 2014)

2. Administration of all ordinances, resolutions, Council policies and directives.

3. Supervise and coordinate City administrative policies and procedures, including purchasing, personnel policies, work scheduling, training and safety programs.

4. Develop long range fiscal management plans and strategies and capital improvements program for Council approval.

5. Coordinate preparation and administration of the City's annual operating budget.

6. Provide continuous study and analysis of the City's operating procedures, organizational structure, facilities and equipment in order to provide recommendation for improvement to the Council whenever possible.

7. Provide positive response to citizens' concerns or requests for action as they become known. This shall be done in a civil, respectful manner within a reasonable period of time and shall include methods for settlement or proper referral of problems.

8. Provide a continuing effort to seek and solicit grants, loans, or other sources of revenue which would benefit the city and/or the community.

9. Represent the City of Preston at such meetings, conferences, seminars, or hearings as the Council may request.

10. Provide employment, reclassification, discipline and termination criteria and recommendations for Council approval.

11. Provide continuous reports to the Council on the status and progress of programs and policies.

12. Assist the mayor and council members in any of their duties as requested and approved by the council.

13. Provide direct liaison and administrative support to the Preston Growth and Development Corporation

14. Provide administrative support and coordination assistance to the Police and Fire Departments.

15. Encourage and assist organizations, wherever possible, in their efforts to promote Preston.

16. Perform such other duties, not in conflict with this ordinance, as may be directed by the mayor and council.

17. Obtain operational familiarity with the municipal accounting system.

18. Record each measure taken by the City Council, stating where applicable whether the Mayor signed, vetoed, or took no action on the measure and what action the City Council made upon the Mayor's veto.

(Code of Iowa, Sec. 380.7(1))

19. The Administrator shall cause to be published either the entire text or a summary of all Ordinances and amendments enacted by the City. "Summary" shall mean a narrative description of the terms and conditions of an Ordinance setting forth the main points of the Ordinance in a manner calculated to inform the public in a clear and understandable manner the meaning of the Ordinance and which shall provide the public with sufficient notice to conform to the desired conduct required by the Ordinance. The description shall include the title of the Ordinance, an accurate and intelligible abstract or synopsis of the essential elements of the Ordinance, a statement that the description is a summary, the location and the normal business hours of the office where the Ordinance may be inspected, when the Ordinance becomes effective, and the full text of any provisions imposing fines, penalties, forfeitures, fees, or taxes. Legal descriptions of property set forth in Ordinances shall be described in full, provided that maps or charts may be substituted for legal descriptions when they contain sufficient detail to clearly define the area with which the Ordinance is concerned. The narrative description shall be written in a clear and coherent manner and shall, to the extent possible, avoid the use of technical or legal terms not generally familiar to the public. When necessary to use technical or legal terms not generally familiar to the public, the narrative description shall include definitions of those terms. The Administrator shall authenticate all such measures except motions with said Administrator's signature, certifying the time and place of publication when required.

(Code of Iowa, Sec. 380.7(1) and (2))

20. The Administrator shall maintain copies of all effective City Ordinances and codes for

public use.

(Code of Iowa, Sec. 380.7(4))

21. The Administrator shall publish notice of public hearings, elections and other official actions as required by State and City law.

(Code of Iowa, Sec. 362.3)

22. The Administrator shall certify all measures establishing any zoning district, building lines, or fire limits, and a plat showing each district, lines or limits to the recorder of the county containing the affected parts of the City.

(Code of Iowa, Sec. 380.11)

23. The Administrator shall be the chief accounting officer of the City.

24. The Administrator shall keep separate accounts for every appropriation, department, public improvement or undertaking, and for every public utility owned or operated by the City. Each account shall be kept in the manner required by law.

(Code of Iowa, Sec. 384.20)

25. Following City Council adoption for the budget, the Administrator shall certify the necessary tax levy for the following year to the County Auditor and the County Board of Supervisors.

(Code of Iowa, Sec. 384.16(5))

26. The Administrator shall report to the City Council at the first meeting of each month the status of each municipal account as of the end of the previous month.

27. The Administrator shall balance all funds with the bank statement at the end of each month.

28. The Administrator shall prepare the annual public report, publish it, and send a certified copy to the State Auditor and other State officers as required by law.

(Code of Iowa, Sec. 384.22)

29. The Administrator shall maintain all City records as required by law.

(Sec. 372.13(3) and (5))

30. The Administrator shall have custody and be responsible for the safekeeping of all writings or documents in which the municipality is a party in interest unless otherwise specifically directed by law or Ordinance.

(Code of Iowa, Sec. 372.13(4))

31. The Administrator shall furnish upon request to any municipal officer a copy of any record, paper or public document under the Administrator's control as it may be necessary to such

officer in the discharge of the duties of the municipal officer. The Clerk shall furnish a copy of any record, paper or public document under the control of the Clerk, which is not a “confidential record” as defined under Iowa Code Section 22.7, to any citizen when requested upon payment of the fee set by City Council resolution. The Clerk shall, under the direction of the Mayor or other authorized officer, affix the seal of the municipal corporation to those public documents or instruments which by Ordinance are required to be attested by the affixing of the seal.

(ECIA Model Code Amended in 2020)

32. The Administrator shall attend all meetings of committees, boards and commissions of the City when requested to do so. The Administrator shall record and preserve a correct record of the proceedings of such meetings.

(Code of Iowa, Sec. 372.13(4))

33. The Administrator shall keep and file all communications and petitions directed to the City Council or to the City generally. The Administrator shall endorse thereon the action of the City Council taken upon matters considered in such communications and petitions.

(Sec. 372.13(4))

34. The Administrator shall issue all licenses and permits approved by the City Council, and keep a record of licenses and permits issued which shall show a date of issuance, license or permit number, official receipt number, name of person to whom issued, term of license or permit, and purpose for which issued.

(Code of Iowa, Sec. 372.13(4))

35. The Administrator shall inform all persons appointed by the Mayor or City Council to offices in the municipal government of their position and the time at which they shall assume the duties of their office.

(Code of Iowa, Sec. 372.13(4))

36. The Administrator shall preserve a complete record of every City election, regular or special and perform duties required by law or Ordinance of the City Clerk in regard to elections.

(Sec. 376.4)

37. Annually, the Administrator shall prepare and submit to the City Council an itemized budget of revenues and expenditures.

(Code of Iowa, Sec. 384.16)

38. The Administrator shall keep the record of each fund separate.

(Code of Iowa, Sec. 372.13(4) and 384.85)

39. The Administrator shall keep an accurate record for all money or securities received by the Administrator on behalf of the municipality and specify date, from whom, and for what purposes received.

40. The Administrator shall prepare a receipt in duplicate for all funds received. The Administrator shall give the original to the party delivering the funds, and retain the duplicate.
(372.13(4))

41. The Administrator shall keep a separate account of all money received by the Administrator for special assessments.
(Code of Iowa, Sec. 372.13(4))

42. The Administrator shall immediately upon receipt of monies to be held in the Administrator's custody and belonging to the City, deposit the same in banks selected by the City Council in amounts not exceeding monetary limits authorized by the City Council.
(Code of Iowa, Sec. 372.13(4))

2-4-8 POWERS AND DUTIES OF THE POLICE CHIEF. The duties of the Police Chief shall be as follows:
(Code of Iowa, Sec. 372.13(4))

1. The Police Chief shall wear upon the Police Chief's outer garment and in plain view a badge engraved with "Police", and such uniform as may be specified by the City Council.

(Police Chief is not required to wear a uniform or wear a badge that is in plain view.)
(ECIA Model Code Amended in 2014)

2. The Police Chief shall assist the City Attorney in prosecuting any persons for the violation of an Ordinance by gathering all the facts and circumstances surrounding the case.

3. The Police Chief shall be sergeant-at-arms of the Council chamber when requested by the City Council.

4. The Police Chief shall report to the City Council upon activities as Police Chief when requested.

5. The Police Chief shall protect the rights of persons and property, preserve order at all public gatherings, prevent and abate nuisances, and protect persons against every manner of unlawful disorder and offense.

6. The Police Chief shall have charge of the City jail when such is provided and of all persons held therein. The Police Chief shall execute all orders of the court referring to the jail. The Police Chief shall feed and shelter persons jailed in the usual manner and as required by law. When no City jail is provided, the Police Chief shall make arrangements to convey any persons requiring detention to the County jail as provided by law and agreements with the County.

7. The Police Chief shall, whenever any person is bound over to the district court, convey the

prisoner to the County jail.

8. The Police Chief shall execute all lawful orders of any board or commission established by the City Council.

9. The Police Chief shall be in command of all officers appointed for police work and be responsible for the care, maintenance and use of all vehicles and equipment for the department. Police vehicles will not go home with the Chief/Officer without the approval of City Council.
(Amended during 2021 codification)

10. The Police Chief may appoint one or more assistant Police Chiefs, with approval of the City Council, who may perform the Police Chief's duties and who shall be members of the police force.
(ECIA Model Code Amended in 2014)

11. The Police Chief shall make such rules, not in conflict with the provisions of this Ordinance, as needed for the detailed operation of the police department, subject to the approval of the City Council. Such rules shall cover off-duty and on-duty conduct and activity of members, the wearing and care of the uniform, the use and practice with side arms and other police weapons, the use of police radio and other communications, attendance at training meetings and such other matters as the Police Chief determines to be necessary for the operation of the police department. The Police Chief shall see that the discipline and conduct of the department conforms to rules of the department. In the event of an emergency the Police Chief may make temporary rules for the protection of the system until due consideration by the City Council may be had.

12. The Police Chief shall, when requested, aid other municipal officers in the execution of their official duties.

13. The Police Chief shall report all motor vehicle accidents the police department investigates in the regular course of duty to the Iowa Department of Public Safety as provided by law.

14. The Police Chief shall keep a record of all arrests made in the City by police officers. The Police Chief shall record whether said arrest was made under provisions of the laws of the State of Iowa or Ordinances of the City. The record shall show the offense for which arrest was made, who made the arrest, and the disposition made of the charge.

2-4-9 POWERS AND DUTIES OF THE CITY ATTORNEY. The duties of the City Attorney shall be as follows:

(Code of Iowa, Sec. 372.13(4))

1 If requested, the City Attorney shall attend every regular meeting of the City Council and attend those special meetings of the City Council at which the City Attorney is required to be present.

2. The City Attorney shall, upon request, formulate drafts for contracts, forms and other writings which may be required for the use of the City.

3. The City Attorney shall keep in proper files a record of all official opinions and a docket or register of all actions prosecuted and defined by the City Attorney accompanied by all proceedings relating to said actions.

4. The City Attorney shall, upon request, give an opinion in writing upon all questions of law relating to municipal matters submitted by the City Council, the Mayor, members of the City Council individually, municipal boards or the head of any municipal department.

5. The City Attorney shall prepare those Ordinances when the City Council may desire and direct to be prepared and report to the City Council upon all Ordinances before their final passage by the City Council and publication.

6. The City Attorney shall act as Attorney for the City in all matters affecting the City's interest and appear on behalf of the City before any court, tribunal, commission or board. The City Attorney shall prosecute or defend all actions and proceedings when so requested by the Mayor or City Council.

7. The City Attorney shall not appear on behalf of any municipal office or employee before any court or tribunal for the purely private benefit of said officer or employee. The City Attorney shall, however, if directed by the City Council, appear to defend any municipal officer or employee in any cause of action arising out of or in the course of the performance of the duties of his or her office or employment.

8. The City Attorney shall sign the name of the City to all appeal bonds and to all other bonds or papers of any kind that may be essential to the prosecution of any cause in court, and when so signed the City shall be bound upon the same.

9. The City Attorney shall make a written report to the City Council and interested department heads of the defects in all contracts, documents, authorized power of any City officer, and Ordinances submitted to said City Attorney or coming under said City Attorney's notice.

10. The City Attorney shall, upon request, after due examination, offer a written opinion on and recommend alterations pertaining to contracts involving the City before they become binding upon the City or are published.

2-4-10 POWERS AND DUTIES OF THE SUPERINTENDENT OF PUBLIC WORKS. The duties of the Superintendent of public works shall be as follows:

(Code of Iowa, Sec. 372.13(4))

1. The Superintendent shall supervise the installation of all storm sewers in the City in accordance with the regulations of the department of public works pertaining to the installation of

storm sewers.

2. The Superintendent shall maintain and repair the sidewalks, alleys, bridges and streets and keep them in a reasonably safe condition for travelers. The Superintendent shall immediately investigate all complaints of the existence of dangerous or impassable conditions of any sidewalk, street, alley, bridge, underpass or overpass, and is charged with the duty of correcting unsafe defects in them.

3. The Superintendent shall, whenever snow or ice imperil travel upon streets and alleys, be in charge of removing said snow and ice from the streets and alleys in the City and shall do whatever else is necessary and reasonable to make travel upon streets and alleys of the City safe.

4. The Superintendent shall compile and maintain written records of the purchases, accomplishments, disposition of equipment and manpower, an up-to-date inventory, and activities contemplated by the street department. The Superintendent shall make monthly oral and written reports of the activities of the department to the Mayor on or before the first day of each month.

5. The Superintendent shall perform all other duties of a public works nature which are not specifically assigned to other municipal officials or employees.

2-4-11 POWERS AND DUTIES OF THE FIRE CHIEF. The duties of the Fire Chief shall be as follows:

(Code of Iowa, Sec. 372.13(4))

1. The members of the volunteer fire department shall appoint the Fire Chief for a term of one (1) year, with the approval of the City Council.

(Amended during 2021 codification)

2. The Fire Chief shall be charged with the duty of maintaining the efficiency, discipline and control of the fire department. The members of the fire department shall, at all times, be subject to the direction of the Fire Chief.

3. The Fire Chief shall enforce all rules and regulations established by the City Council for the conduct of the affairs of the fire department.

4. The Fire Chief shall exercise and have full control over the disposition of all fire apparatus, tools, equipment and other property used by or belonging to the fire department.

5. The Fire Chief shall cause to be kept records of the fire department personnel, operating cost and efficiency of each element of fire fighting equipment, depreciation of all equipment and apparatus, the number of responses to alarms, their cause and location, and an analysis of losses by value, type and location of buildings.

6. The Fire Chief shall make monthly written reports on or before the fifth day of each

month to the Mayor and City Council concerning the general status and efficiency of the fire department, the number of alarms answered during the month previous, and additional information that may be requested by the Mayor or the City Council. The Fire Chief shall compile an annual report based upon the records maintained by the fire department and summarizing the activities of the fire department for the year. This report shall be filed with the Mayor. The annual report shall also contain recommendations for the improvement of the department.

7. The Fire Chief shall enforce all Ordinances and, where enabled, state laws regulating the following:

- a. Fire prevention.
- b. Maintenance and use of fire escapes.
- c. The investigation of the cause, origin and circumstances of fires.
- d. The means and adequacy of exits in case of fire from halls, theatres, churches, hospitals, asylums, lodging houses, schools, factories and all other buildings in which the public congregates for any purpose.
- e. The installation and maintenance of private fire alarm systems and fire extinguishing equipment.

8. The Fire Chief shall have the right of entry into any building or premises within the Fire Chief's jurisdiction at a reasonable time and after reasonable notice to the occupant or owner. The Fire Chief shall there conduct such investigation or inspection that the Fire Chief considers necessary in light of state law, regulations or Ordinance.

9. The Fire Chief shall make such recommendations to owners, occupants, caretakers or managers of buildings necessary to eliminate fire hazards.

10. The Fire Chief shall, at the request of the State Fire Marshal, and as provided by law, aid said Marshal in the performance of the Marshal's duties by investigating, preventing and reporting data pertaining to fires.

TITLE II, POLICY AND ADMINISTRATION

CHAPTER 5, SALARIES OF MUNICIPAL OFFICERS

2-5-1 Council Member
2-5-2 Mayor

2-5-3 Other Officers

2-5-1 COUNCIL MEMBER. The salaries of each City Council member shall be \$35.00 for each meeting of the City Council but in no event shall any City Council member be paid more than \$1,000 in any one year.

(Code of Iowa, Sec. 372.13(8))

2-5-2 MAYOR. The Mayor shall receive an annual salary of \$2,400.00 to be paid in equal monthly installments.

(Code of Iowa, Sec. 372.13(8))

2-5-3 OTHER OFFICERS. The compensation of all other officers and employees shall be set by resolution of City Council.

(Code of Iowa, Sec. 372.13(4))
(Ord. 267, Passed October 22, 2007)

TITLE II, POLICY AND ADMINISTRATION

CHAPTER 6, CITY FINANCE

2-6-1	Budget Adoption	2-6-8	Budget Officer
2-6-2	Budget Amendment	2-6-9	Expenditures
2-6-3	Reserved	2-6-10	Authorizations to Expend
2-6-4	Accounts and Programs	2-6-11	Accounting
2-6-5	Annual Report	2-6-12	Budget Accounts
2-6-6	Council Transfers	2-6-16	Contingency Accounts
2-6-7	Administrative Transfers		

2-6-1 BUDGET ADOPTION. Annually, the City shall prepare and adopt a budget, and shall certify taxes as follows:

(Code of Iowa, Sec. 384.16)

1. A budget shall be prepared for at least the following fiscal year. When required by rules of the State Auditor's City finance committee, a tentative budget shall be prepared for one or two ensuing years. The proposed budget shall show estimates of the following:

a. Expenditures for each program.

b. Income from sources other than property taxation.

c. Amount to be raised by property taxation, and the property tax rate expressed in dollars per one thousand dollars valuation.

The budget shall show comparisons between the estimated expenditures in each program in the following year and the actual expenditures in each program during the two preceding years. Wherever practicable, as provided in rules of the State Auditor's City finance committee, a budget shall show comparisons between the levels of service provided by each program as estimated for the following year, and actual levels of service provided by each program during the two preceding years.

2. Not less than twenty days before the date that the budget must be certified to the County Auditor and not less than ten days before the date set for hearing, the Clerk shall provide a sufficient number of copies of the budget to meet reasonable demands of taxpayers, and have them available for distribution at the offices of the Mayor and Clerk and at the City library, if any, or at three places designated by Ordinance for posting notices.

(ECIA Model Code Amended in 2012)

[Code of Iowa, Sec. 384.16(2)]

(ECIA Model Code Amended in 2014)

3. The City Council shall set a time and place for public hearing on the budget before the final certification date and shall publish notice before the hearing as provided in Iowa law. Proof of publication shall be filed with the County Auditor.

4. At the hearing, any resident or taxpayer of the City may present to the City Council objections to any part of the budget for the following fiscal year or arguments in favor of any part of the budget.

5. After the hearing, the City Council shall adopt a budget for at least the following fiscal year, and the Clerk shall certify the necessary tax levy for the following year to the County Auditor and the County Board of Supervisors. The tax levy certified may be less than but not more than the amount estimated in the proposed budget, unless an additional tax levy is approved at a City election. Two copies of the complete budget as adopted shall be transmitted to the County Auditor.

2-6-2 BUDGET ADOPTION AND AMENDMENT. The City budget as finally adopted for the following fiscal year becomes effective July first and constitutes the City appropriation for each program and purpose specified therein until amended. The City budget for the current fiscal year may be amended for any of the following purposes:

(Code of Iowa, Sec. 384.18)

1. To permit the appropriation and expenditures of unexpended, unencumbered cash balances on hand at the end of the preceding fiscal year which had not been anticipated in the budget.

2. To permit the appropriation and expenditure of amounts anticipated to be available from sources other than property taxation, and which had not been anticipated in the budget.

3. To permit transfers from the debt service fund, the capital improvements reserve fund, the emergency fund, or other funds established by State law, to any other City fund, unless specifically prohibited by State law.

4. To permit transfers between programs within the general fund.

The budget amendment shall be prepared and adopted in the same manner as the original budget, and is subject to protest as provided in Section 2-5-3 of this chapter, except that the City Finance Committee may by rule provide that amendments of certain types or up to certain amounts may be made without public hearing and without being subject to protest.

2-6-3 RESERVED.

2-6-4 ACCOUNTS AND PROGRAMS. The City shall keep separate accounts corresponding to the programs and items in its adopted or amended budget, as recommended by the State Auditor's City finance committee. The City shall keep accounts which show an accurate and detailed

statement of all public funds collected, received, or expended for any City purpose, by any City officer, employee, or other person, and which show the receipt, use, and disposition of all City property. Public monies may not be expended or encumbered except under an annual or continuing appropriation.

(Code of Iowa, Sec. 384.20)

2-6-5 ANNUAL REPORT. Not later than December first of each year the City shall publish an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. A copy of this report shall be furnished to the Auditor of State.

(Code of Iowa, Sec. 384.22)

2-6-6 COUNCIL TRANSFERS. When the City Clerk determines that one or more appropriation accounts need added authorizations to meet required expenditures therein the City Clerk shall inform the City Council or if the City Council upon its own investigation so determines, and another account within the same programs has an appropriation in excess of foreseeable needs, or, in the case of a clear emergency or unforeseeable need, the contingency account has an unexpended appropriation which alone or with the other accounts can provide the needed appropriations, the City Council shall set forth by resolution the reductions and increases in the appropriations and the reason for such transfers. Upon the passage of the resolution and approval by the Mayor, as provided by law for resolutions, the City Clerk shall cause the transfers to be set out in full in the minutes and be included in the published proceedings of the City Council. Thereupon the Clerk, and where applicable, the City Treasurer, shall cause the appropriation to be revised upon the appropriation expenditure ledgers of the City, but in no case shall the total of the appropriation of a program be increased except for transfers from the contingency account nor shall the total appropriation for all purposes be increased except by a budget amendment made after notice and hearing as required by law for such amendments.

(IAC, Sec. 545.2.4(384,388))

2-6-7 ADMINISTRATIVE TRANSFERS. The City Clerk and/or City Administrator shall have power to make transfers within a single activity between objects of expenditures within activities without prior City Council approval. The City Clerk shall have the power to make transfers between activities, or between sub-programs without prior City Council approval to meet expenditures which exceed estimates or are unforeseen but necessary to carry out City Council directives or to maintain a necessary service and provide the required appropriation balance. Such transfers shall not exceed 10% at any one time of the activity's annual appropriation which is increased or decreased. However, when a given transfer, considering all previous transfers to or from any activity to exceed by ten percent greater or ten percent less than the original appropriation, it shall be presented to the City Council as a resolution including all such administrative transfers to date in the fiscal year for consideration and passage as presented, or as amended by the City Council.

(IAC, Sec. 545.2.4(384,388))

(Amended during 2021 codification)

2-6-8 BUDGET OFFICER. The City Administrator shall be the City budget officer and is responsible for preparing the budget data in cooperation with the City Council or Mayor. The City Administrator shall be responsible for carrying out the authorizations and plans in the budget as set forth in the budget, subject to City Council control and the limitations set out in this Ordinance.

(Code of Iowa, Sec. 372.13(4))

2-6-9 EXPENDITURES. No expenditure shall be authorized by any City officer or employee except as herein provided. All purchases of services, supplies and equipment shall be made only after issuance of a purchase order and no invoice shall be accepted unless authorized by such an order. Purchases not exceeding two thousand dollars (\$2,000.00) may be made by those officials authorized by the City Council but only on issuance of a spot purchase order in writing signed by the authorized officer. A copy of such spot purchase order must be delivered to the Clerk within twenty-four (24) hours, weekends, and holidays excepted. All other purchases shall be valid only if a purchase order has been given in writing and signed by the Clerk. Purchases from petty cash shall be excepted.

(Code of Iowa, Sec. 721.2(1))

(Amended during 2021 codification)

2-6-10 AUTHORIZATIONS TO EXPEND. All purchase orders other than those excepted herein shall be authorized by the City budget officer after determining whether the purchase, if a major item, has been authorized by the budget or other City Council approval. The Clerk shall then determine whether a purchase order may be issued by checking the availability of an appropriation sufficient to pay for such a purchase. A purchase order may be issued only if there is an appropriation sufficient for the purchase and for other anticipated or budgeted purposes. If no adequate appropriation is available for the expenditure contemplated the Clerk shall not issue a purchase order until a budget amendment to transfer of appropriation is made in accordance with power delegated by City Council and within the limits set by law and the City Council. The Clerk shall draw a warrant/check only upon an invoice received, or progress billing for a public improvement, supported by a purchase order and a signed receipt or other certification indicating the material has been delivered of the quality and in the quantities indicated or the services have been performed satisfactorily to the extent invoiced.

(Code of Iowa, Sec. 721.2(1))

2-6-11 ACCOUNTING. The Clerk shall set up and maintain books of original entry to provide a chronological record of cash received and disbursed through all receipts given and warrants written, which receipts and warrants shall be prenumbered, in accordance with modern, accepted methods, and the requirement of the state. The Clerk shall keep a general ledger controlling all cash transactions, budgetary accounts and recording unappropriated surpluses. Warrants/checks shall be signed by the City Clerk and Mayor.

(Code of Iowa, Sec. 384.20)

2-6-12 BUDGET ACCOUNTS. The Clerk shall set up such individual accounts to record receipts by source and expenditures by program and purpose as will provide adequate information and control for budgetary purposes as planned and approved by the City Council. Each individual

account shall be maintained within its proper fund as required by City Council order or State law and shall be so kept that receipts can be immediately and directly compared with specific estimates and expenditures can be related to the appropriation which authorized it. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.

(Code of Iowa, Sec. 384.20)

2-6-16 CONTINGENCY ACCOUNTS. Whenever the City Council shall have budgeted for a contingency account the Clerk shall set up in the accounting records but the Clerk shall not charge any claim to a contingency account. Said contingency accounts may be drawn upon only by City Council resolution directing a transfer to a specific purpose account within its fund and then only upon compelling evidence of an unexpected and unforeseeable need or emergency. All administrative transfers shall be reported in writing at the next regular meeting of the City Council after being made and the fact set out in the minutes for the information of the Mayor and City Council.

TITLE III, COMMUNITY PROTECTION

CHAPTER 1, OFFENSES

3-1-1	Violations of Chapter	3-1-6	Public Safety and Health
3-1-2	Public Peace	3-1-7	Public Property
3-1-3	Public Morals	3-1-8	Environmental Violation
3-1-4	Minors	3-1-9	Environment Violation Penalties
3-1-5	Streets		

3-1-1 VIOLATIONS OF CHAPTER. Commission of any of the acts named in the following sections by any person shall constitute a violation of this chapter.

3-1-2 PUBLIC PEACE. It shall be unlawful for any person to do any of the following:

1. Engage in fighting or violent behavior or invite or defy another person to fight, provided that participants in athletic contests may engage in such conduct which is reasonably related to that sport.

(Code of Iowa, Sec. 723.4(1))

a. Make unusually loud or excessive noise which results in the disturbance of the peace and the public quiet of a neighborhood.

b. The sounding, or the causing or allowing to be sounded, of any horn or signaling device of any automobile, motorcycle, truck or other vehicle unless it is necessary as a warning to prevent or avoid a traffic accident.

c. The playing, using, operating, or the causing or allowing to be played, used or operated, any electronic device or instrument designed for the production, reproduction, and/or amplification of sound at any time with a volume louder than is necessary for the convenient hearing by a reasonable person of normal hearing sensitivity in the room, vehicle, or chamber where such device or instrument is operated. Any noise exceeding the ambient noise level at the property line, at the premise boundary, or at a distance of twenty five (25) feet from a motor vehicle, shall be deemed excessive.

d. Talking, yelling, shouting, hooting, whistling or singing between the hours of eleven (11:00) p.m. and seven (7:00) a.m., so as to be plainly audible at a distance of fifty (50) feet by a reasonable person of normal hearing sensitivity.

3. Willfully permit or suffer to continue, without taking legal steps to prevent the same, upon any premises owned, occupied, possessed or controlled by such person any quarreling, fighting, unusually loud or excessive noise in such a manner calculated to provoke a breach of the peace of others, or the public quiet of the neighborhood.

(Code of Iowa, Sec. 723.4(2))

4. Direct abusive language or make any threatening gesture which the person knows or reasonably should know is likely to provoke a violent reaction by another.

(Code of Iowa, Sec. 723.4(3))

5. Without lawful authority or order of authority, disturb any lawful assembly or meeting of persons by conduct intended to disrupt the meeting or assembly.

(Code of Iowa, Sec. 723.4(4))

6. Without authority, obstruct any street, sidewalk, highway or other public way.

(Sec. 723.4(7))

7. Without authority, solicit contributions, distribute literature, or otherwise peddle or sell goods and services within the traveled portion of any roadway.

(Code of Iowa, Sec. 364.12(2)(a))

3-1-3 PUBLIC MORALS.

1. Indecent exposure. It shall be unlawful for any person to expose such person's genitals, pubes, female nipples, or buttocks to a person other than the person's spouse, or who commits a sex act in the presence or view of a third person, if the person does so to arouse or satisfy the sexual desires of either party and the person knows, or reasonably should know, that the act is offensive to the viewer.

(Code of Iowa, Sec. 709.9)

2. Public Urination/Defecation. It shall be unlawful for any person to urinate or defecate in a public place, other than a structure equipped with a toilet and/or urinal, in the presence of or in view of another person if the person knows, or reasonably should know, that such behavior would be offensive to a reasonable person.

(ECIA Model Code Amended in 2020)

3-1-4 MINORS.

1. Supplying liquor to minors. No person shall sell, give or otherwise supply alcoholic liquor, wine, or beer to any person under twenty-one (21) years of age, or knowingly permit any person under that age to consume alcoholic liquors, wine, or beer, except in the case of alcoholic liquor, wine, or beer, given or dispensed to a person under twenty-one (21) years of age within a private home and with the knowledge and consent of the parent or guardian for beverage or medicinal purposes or as administered to such person by a physician or dentist for medicinal purposes.

(Sec. 123.47)

3-1-5 STREETS.

1. Removal of safeguards or danger signals. No person shall willfully remove, tear down,

destroy or carry away from any highway, street, alley, avenue or bridge any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said highway, street, alley, avenue or bridge without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.5)

2. Obstructing or defacing streets. No person shall obstruct, deface, or injure any public road in any manner by breaking up, plowing or digging within the boundary lines thereof, without permission from the Mayor and council.

(Code of Iowa, Sec. 716.1)

3. Allowing water, snow, ice and accumulations on sidewalk. No abutting property owner shall allow water from an improperly located eave or drain, or from any roof, to fall onto a public sidewalk, or fail to remove snow, ice and accumulations from the sidewalks promptly.

(Sec. 364.12(2)(b and e))

4. Removal of hydrant caps, sewer caps or manhole covers. No person shall remove or carry away hydrant caps, sewer caps or manhole covers without the consent of the person in control thereof.

5. Trees in Street Right of Way.

a. The city of Preston shall continue to trim or maintain trees that are already located on city right of way/terrace. The City will also remain trimming trees around power lines according with Iowa Utilities Board Code. In selecting a location to plant your tree(s), the city will not allow them to interfere with overhead or underground power lines. A 30' clearance is the mandatory distance in your decision to plant trees according to the Iowa Utilities Board. A tree planting will be up to the city's discretion so not to interfere with water, sewer, gas, and electric lines.

(Ord, 241, Passed May 10, 2007)

(Ord., Passed October 22, 2012)

b. No new trees shall be planted or replaced in the street right of way, effective July 1, 2013.

3-1-6 PUBLIC SAFETY AND HEALTH.

1. It shall be unlawful for any person to urinate or defecate in or upon any street, alley, public place or in any place open to public view, provided that this subsection shall not apply to restrooms or public facilities designated for such purpose. No person shall expectorate on the ground or on the floor of any structure within the City limits.

(Code of Iowa, Sec. 364.1)

2. Putting glass, etc., on streets and sidewalks. No person shall throw or deposit on any street or sidewalk any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal,

or any other debris, or any other substance likely to injure any person, animal or vehicle.
(Code of Iowa, Sec. 321.369)

3. Carrying a concealed weapon. It shall be unlawful for any person to carry under such person's clothes or concealed about their person or to be found in possession of any slingshot, knuckles of metal or other material, air gun or any other weapon other than a knife unless licensed by the Iowa Department of Public Safety **or having in possession a permit from the County Sheriff.**

(Code of Iowa, Sec. 724.4)

4. False alarms. No person shall give or cause to be given any false alarm of a fire, nor set fire to any combustible material, or cry or sound an alarm or by any other means without cause.

5. Stench bombs. No person shall throw, drop, pour, explode, deposit, release, discharge or expose any stench bomb or tear bomb, or any liquid, gaseous or solid substance or matter of any kind that is injurious to persons or property, or that is nauseous, sickening, irritating or offensive to any of the senses in, on or about a theater, restaurant, car, structure, place of business, or amusement, or any place of public assemblage, or attempt to do any of these acts, or prepare or possess such devices or materials with intent to do any of these acts. This provision shall not apply to duly constituted police, military authorities, or peace officers in the discharge of their duties, or to licensed physicians, nurses, pharmacists and other similar persons licensed under the laws of this State; nor to any established place of business or home having tear gas installed as a protection against burglary, robbery or holdup, nor to any bank or other messenger carrying funds or other valuables.

6. Discharging firearms and fireworks.

(Code of Iowa, Sec. 727.2)

a. No person, firm, or corporation shall discharge or fire any cannon, gun, bomb, pistol, air gun, or other firearms or set off or burn firecrackers, torpedoes, sky rockets, roman candles, or other fireworks of like construction or any fireworks containing any explosive or inflammable compound, or other device containing any explosive.

b. The City Council may upon application in writing, grant a permit for the display and use of fireworks by any organization or groups of individuals when such fireworks display will be handled by a competent operator.

c. The City Council may, upon application in writing, grant a permit for the operation of a firing range in which the discharge of firearms for training, recreational or competitive events would be allowed upon showing that the range would be under the direction of a competent organization, group or individual.

d. In the interest of public health and safety and at such times as approved by the Chief of Police, the police or their designee may use firearms to control rodent or animal problems when it is

evident that conventional control methods have not resolved the problem.

e. Nothing herein shall be construed to prohibit the use of blank cartridges for a show or the theatre, or for signal purposes in athletic sports or by railroads, or trucks, for signal purposes, or by a recognized military organization and provided further that nothing in this section shall apply to any substance or composition prepared and used for medicinal or fumigation purposes.

7. Abandoned refrigerators. No person shall place, or allow to be placed, any discarded, abandoned, unattended or unused refrigerator, ice box or similar container equipped with an air-tight door or lid, snap lock, or other locking device which cannot be released from the inside, in a location accessible to children, outside any building, dwelling, or within an unoccupied or abandoned building or dwelling, or other structure, under such person's control without first removing the door, lid, snap lock, or other locking device from said icebox, refrigerator or similar container. This provision applies equally to the owner of any such refrigerator, icebox or similar container, and to the owner or occupant of the premises where the hazard is permitted to remain.

(Code of Iowa, Sec. 727.3)

8. Impersonating an officer. No person shall falsely represent themselves or falsely assume to be any law enforcement officer, judge or magistrate. It shall be unlawful to wear or adopt the uniform or insignia of any law enforcement officer on any street or public place.

(Sec. 718.2)

9. Harassment of City Employees.

a. It shall be unlawful for any person to willfully prevent, resist or obstruct or attempt to prevent, resist or obstruct any City employee from the performance of any official duty.

b. It shall be unlawful for any person to communicate by any means, any threat of bodily or property harm to any City employee or to any member of his or her family during the course of, or as a result of, the performance of any official duty by said City employee.

10. Antenna and radio wires. No person shall allow, locate or maintain any antenna wires, antenna supports, radio wires or television wires to exist over any street, alley, highway, sidewalk or public property.

(Code of Iowa, Sec. 364.12(2))

11. Barbed wire. No person shall install, allow to be installed or use barbed wire without the consent of the City Council.

(Code of Iowa, Sec. 364.1)

12. Playing in streets. No person shall coast, sled or play games on streets or highways except in areas blocked off by the Chief of Police for such purposes.

(Code of Iowa, Sec. 364.12)

14. Littering Prohibited.

a. As used in this Code, “discard” means to place, cause to be placed, throw, deposit or drop, and “litter” means any garbage, rubbish, trash, refuse, waste material and yard waste.

b. No person shall discard any litter within the City of Preston, except as provided and approved by the City of Preston, by collecting and discarding such litter in approved areas or approved receptacles.

c. It is unlawful for any person to deposit or place any garbage, rubbish, trash, refuse, waste material or yard waste in any street, alley, lane, public place, private property, or body of water within the City.

d. It is unlawful to place garbage, refuse or yard waste on the private property of another, or into another garbage, refuse or yard waste containers for the purpose of being hauled away.

e. It is unlawful to permit garbage, yard waste or refuse to remain for more than ten (10) days on private property that is under one’s ownership, possession or control. Yard waste may be retained more than ten (10) days if composting is being completed.

f. Notwithstanding the above provisions, garbage, refuse or yard waste may be placed on the untraveled portions of streets, alleys, lanes, public places or on private property to be hauled away, provided the garbage, refuse or yard waste is kept in place in the manner prescribed in this Code.

(ECIA Model Code Amended in 2017)

3-1-7 PUBLIC PROPERTY.

1. Defacing public grounds. No person shall cut, break or deface any tree or shrub in a public park or on any avenue thereto by willfully defacing, cutting, breaking or injuring, except by the authority of the Mayor.

(Code of Iowa, Sec. 364.12(2))

2. Injuring new pavement. No person shall injure new pavement in any street, alley or sidewalk by willfully driving, walking or making marks on such pavement before it is ready for use.

(Code of Iowa, 364.12(2))

3. Destroying park equipment. No person shall destroy or injure any property or equipment in public swimming pools, playgrounds or parks by willfully defacing, breaking, damaging, mutilating or cutting.

(Code of Iowa, Sec. 364.12(2))

4. Injury to public library books or property. No person shall willfully, maliciously or wantonly tear, deface, mutilate, injure or destroy, in whole or in part, any newspaper, periodical,

book, map, pamphlet, chart, picture or other property belonging to any public library or reading room.

5. Defacing or destroying proclamations or notices. No person shall intentionally deface, obliterate, tear down or destroy in whole or in part any transcript or extract from or of any law of the United States or of this State, or any proclamation, advertisement or notification, set up at any place within the City by authority of law or by order of any court, during the time for which the same is to remain set up.

(Code of Iowa, Sec. 716.1)

6. Injury to gravestones or property in cemetery. No person shall willfully and maliciously destroy, mutilate, deface, injure or remove any tomb, vault, monument, gravestone or other structure placed in any public or private cemetery, or any fences, railing or other work for the protection, ornamentation of said cemetery, or of any tomb, vault, monument or gravestone, or other structure aforesaid, on any cemetery lot within such cemetery, or willfully and maliciously destroy, cut, break or injure any tree, shrub, plant or lawn within the limits of said cemetery, or drive outside of said avenues and roads, and over the grass or graves of said cemetery.

(Code of Iowa, Sec. 716.1)

7. Injury to fire apparatus. No person shall willfully destroy or injure any engines, hose carriage, hose, hook and ladder carriage, or other things used and kept for extinguishment of fires.

(Code of Iowa, Sec. 716.1)

8. Obstructing or defacing roads. No person shall obstruct, deface or injure any public road by breaking up, plowing or digging within the boundary lines thereof.

(Code of Iowa, Sec. 716.1)

9. Injury to roads, railways, and other utilities. No person shall maliciously injure, remove or destroy any electric railway or apparatus belonging thereto, or any bridge, rail or plank road; or place or cause to be placed, any obstruction on any electric railway, or on any such bridge, rail or plank road; or willfully obstruct or injure any public road or highway; or maliciously cut, burn, or in any way break down, injure or destroy any post or pole used in connection with any system of electric lighting, electric railway, or telephone or telegraph system; or break down and destroy or injure and deface any electric light, telegraph or telephone instrument; or in any way cut, break or injure the wires of any apparatus belonging thereto; or willfully without proper authorization tap, cut, injure, break, disconnect, connect, make any connection with, or destroy any of the wires, mains, pipes, conduits, meters or other apparatus belonging to, or attached to, the power plant or distributing system of any electric light plant, electric motor, gas plant or water plant; or aid or abet any other person in so doing.

(Code of Iowa, Sec. 716.1)

10. Tapping telecommunications or telephone wires. No person shall wrongfully or unlawfully tap or connect a wire with the telecommunications or telephone wires of any person, company or association engaged in the transmission of information on telephone or

telecommunications lines.

(Code of Iowa, Sec. 727.8)

11. Obstructing ditches and breaking levees. No person shall divert, obstruct, impede, or fill up, without legal authority, any ditch, drain, or watercourse, or break down any levee established, constructed, or maintained under any provision of law.

(Code of Iowa, Sec. 716.1)

3-1-8 ENVIRONMENTAL VIOLATION A municipal infraction which is a violation of Chapter 455B of the Code of Iowa or of a standard established by the City of Preston in consultation with the Iowa Department of Natural Resources, or both, may be classified as an environmental violation. However, the provisions of this section shall not be applicable until the City has offered to participate in informal negotiations regarding the violation or to the following specific violations:

1. A violation arising from noncompliance with a pretreatment standard or requirement referred to in 40 CFR, Section 402.8.

2. The discharge of airborne residue from grain, created by the handling, drying, sorting of grain, by a person not engaged in the industrial production or manufacturing of grain products or by a person engaged in such industrial production or manufacturing if such discharge occurs from September 15 to January 15 of any year.

3-1-9 ENVIRONMENT VIOLATION PENALTIES

1. Violation of a pretreatment standard or requirement, referred to in 40 CFR, Section 403.8, by an industrial user shall be punishable by penalty of not more than one thousand dollars (\$1,000.00) for each day a violation exists or continues.

2. A municipal infraction classified as an environmental violation shall be punishable by a penalty of not more than one thousand dollars (\$1,000.00) for each occurrence. However, an environmental violation shall not be subject to such penalty if all of the following conditions are satisfied:

a. The violation results solely from conducting an initial start-up, cleaning, repairing, performing scheduled maintenance, testing, or conducting a shutdown of either equipment causing the violation or the equipment designed to reduce or eliminate the violation.

b. The City of Preston is notified of the violation within twenty-four (24) hours from the time that the violation begins.

c. The violation does not continue in existence for more than eight (8) hours.

TITLE III, COMMUNITY PROTECTION

CHAPTER 2, NUISANCES

3-2-1	Definitions	3-2-8	Abatement in Emergency
3-2-2	Nuisances Prohibited	3-2-9	Abatement by Municipality
3-2-3	Other Conditions Regulated	3-2-10	Collection of Cost of Abatement
3-2-4	Notice to Abate Nuisance or Condition	3-2-11	Installment Payment of Cost of Abatement
3-2-5	Contents of Notice to Abate	3-2-12	Condemnation of Nuisance
3-2-6	Method of Service	3-2-13	Grass and Lawn
3-2-7	Request for Hearing and Appeal		

3-2-1 DEFINITIONS. For use in this Ordinance, the following terms are defined:

1. NUISANCES DECLARED. The term "nuisance" means whatever is injurious to health, indecent, or unreasonably offensive to the senses or an obstacle to the free use of property, so as essentially to unreasonably interfere with the comfortable enjoyment of life or property. Nuisances shall include, but not be limited to, those activities and items hereinafter set forth in this section below:

(Code of Iowa, Sec. 657.1)
(ECIA Model Code Amended in 2017)

a. The erecting, continuing, or using any building or other place for the exercise of any trade, employment, or manufacture, which by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort, or property of individuals or the public.

(Code of Iowa, Sec. 657.2(1))

b. The causing or suffering any offal, filth, or noisome substance to accumulate or to remain in any place to the prejudice of others.

(Code of Iowa, Sec. 657.2(2))

c. The obstructing or impeding without legal authority the passage of any navigable river, harbor, or collection of water.

(Code of Iowa, Sec. 657.2(3))

d. The corrupting or rendering unwholesome or impure the water of any river, stream, or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.

(Code of Iowa, Sec. 657.2(4))

e. The obstructing or encumbering by fences, buildings, plantings or otherwise the public roads, private ways, streets, alleys, commons, landing places, or burying grounds.

(Code of Iowa, Sec. 657.2(5))

f. Houses of ill fame, kept for the purpose of prostitution and lewdness, gambling houses, or houses resorted to for the use of opium or hashish or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.

(Sec. 657.2(6))

g. Billboards, signboards, and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof, especially near intersecting streets.

(Code of Iowa, Sec. 657.2(7))

h. Any object or structure hereafter erected within 1,000 feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation, including take-off and landing, unless such object or structure constitutes a proper use or enjoyment of the land on which the same is located.

(Code of Iowa, Sec. 657.2(9))

i. The depositing or storing of inflammable junk, such as old rags, rope, cordage, rubber, bones, and paper, by any person, including a dealer in such articles, within the fire limits of this City, unless it be in a building of fire resistant construction.

(Code of Iowa, Sec. 657.2(10))

j. The emission of dense smoke, noxious fumes, or fly ash.

(Code of Iowa, Sec. 657.2(11))

k. Weeds. Any condition relating to weeds which is described as a nuisance in the Preston Municipal Code of Ordinances or under state law. Dense growth of all weeds, grasses, vines, brush, or other vegetation in the City so as to constitute a health, safety, or fire hazard including any City owned property between the abutting property line and the street right-of-way. Any condition related to weeds described or defined as a nuisance under the Code of Iowa or the City Municipal Code.

(Code of Iowa, Sec. 657.2(11))

(ECIA Model Code Amended in 2017)

l. Trees infected with Dutch elm disease.

(Code of Iowa, Sec. 657.2(13))

m. Effluent from septic tank or drain field running or ponding on the ground in the open.

n. Any article or substance placed upon a street, alley, sidewalk, public ground, or in any ditch, waterway, or gutter so as to obstruct the drainage.

(Code of Iowa, Sec. 716.1)

o. Accumulations of rubbish or trash tending to harbor vermin, rodents, and rank growth of weeds or other vegetation and plants, which is conducive to hazard.

(Sec. 657.2)

(Ord. 236, Passed February 10, 2003)

p. Causing or suffering any refuse, garbage, obnoxious substances, hazardous wastes, junk or salvage materials to be collected or to remain in any place to the prejudice to others; causing or suffering any refuse, garbage, obnoxious substances, hazardous wastes, junk or salvage materials or other offensive or disagreeable substances to be thrown, left or deposited in or upon any street, avenue, alley, sidewalk, park, public square, public enclosure, lot, vacant or occupied, or upon any pond or pool of water; except for compost piles established and maintained with written permission from the Jackson County Public Health Department and junk or salvage materials property stored in accordance with the Preston Municipal Code;

q. Diseased or damaged trees or shrubs. Any dead, diseased or damaged trees or shrubs, which may harbor insects or diseased pests or diseases injurious to other trees or shrubs or any healthy tree which is in such a state of deterioration that any part of such tree may fall and damage property or cause injury to persons.

r. Any ditch, drain or water course which is now or hereafter may be constructed so as to prevent surface water and overflow water from adjacent lands entering or draining into and through the same; any storm water detention basin not maintained in an appropriate manner so as to allow its proper function.

s. Stagnant water standing on any property, any property, container or material kept in such condition that water can accumulate and stagnate.

t. Conditions which are conducive to the harborage or breeding of vermin.

u. Infestations of vermin such as rats, mice, skunks, snakes, starlings, pigeons, bees, wasps, cockroaches or flies.

v. Facilities for the storage or processing of sewage, such as privies, vaults, sewers, private drains, septic tanks, cesspools and drainage fields, which have failed or do not function properly or which are overflowing, leaking or emanating odors; septic tanks, cisterns and cesspools which are abandoned or no longer in use unless they are empty and cleaned with clean fill; an evolved cesspools or septic tank which does not comply with the JacksonCounty Department of Health regulation.

w. Unoccupied buildings or unoccupied portions of buildings which are unsecured.

x. Dangerous buildings or structures.

y. Abandoned buildings.

z. Any hazardous thing or condition on property which may contribute to injury of any person present on the property; hazards include, but are not limited to, open holes, open wells, open foundation, dangerous trees or limbs, abandoned and unsecured refrigerators or trapping devices.

aa. The storage, parking, leaving or permitting the storage, parking or leaving of any inoperable or obsolete vehicle upon private property within the City for a period in excess of 48 hours, unless exempted herein. This section shall not apply to any vehicle enclosed within a building on private property or to any vehicle held in connection with a legal junk yard or automobile or truck-oriented use operated in the appropriate zone and in compliance with the Preston Municipal Code of Ordinances.

bb. All junk yard or salvage operations except those permitted by ordinance and operating in full compliance with the Preston Municipal Code of Ordinances.

cc. The open burning of trash, refuse, garbage, junk or salvage materials, yard waste, leaves and tree trimmings shall be prohibited within the City limits, provided, however, the City Council may designate up to three weekends each year to allow City residents to burn leaves and tree trimmings in accordance with the City's Open Burning Policy. Outdoor cooking or burning of wood is permitted if performed in a container constructed of steel, brick or masonry and the fire is no larger than two feet in diameter. Additional open burning may be permitted upon written request, only with the special permission of the City Council provided the burning is in compliance with Open Burning Policy guidelines established by the City in consultation with the Fire Department.

dd. Any accumulations of ice, water and snow on public sidewalks, or the failure to remove said accumulations within 48 hours after the creation of such accumulations exist, shall constitute a nuisance and shall be abated pursuant to the provisions specified in the Preston Municipal Code of Ordinances.

ee. The parking of motor vehicles on private property without the consent of the property owner or responsible party.

ff. Any nuisance described as such or declared by Chapter 657 of the Code of Iowa.

gg. The sounding of any horn or other signaling device on any vehicle on any street, public or private place within the City, except as a danger warning, which makes a loud or harsh sound to the disturbance or annoyance of any person and can be plainly audible at a distance of 50 feet.

hh. The use of amplified sound creating a disturbance or annoyance to others and can be plainly heard 50 feet from the source of the amplified sound.

ii. Yelling, shouting, hooting, whistling or singing at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in the vicinity.

jj. The erection, excavation, demolition, alteration, repair or construction of any building or other property between the hours of 9:00 p.m. and 7:00 a.m., except in the case of an emergency of a public health and safety nature, with the approval of the City.

kk. No person shall obstruct, deface, destroy or injure any public right-of-way in any manner by breaking up, plowing or digging within the right-of-way without City permission.

ll. No person shall throw or deposit on any public or private property any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter or any other debris or like substance which may injure or damage any person, animal or vehicle or which may annoy, injure or become dangerous to the health, comfort or property of individuals or the public.

mm. No person shall allow any plants to grow uncultivated and out of context with the surrounding plant life when such plant has a seed head formed or forming and with a height of 6 inches or more, nor shall any person allow their grass to grow unattended with a consistent height above 6 inches.

nn. Causing or suffering any refuse, garbage, obnoxious substances, hazardous wastes, junk or salvage materials to be collected or to remain in any place that prejudices others.

oo. Causing or suffering any refuse, garbage, obnoxious substances, hazardous wastes, junk or salvage materials or other offensive or disagreeable substances to be thrown, left or deposited in or upon any street, alley, avenue, sidewalk, park, public square, public enclosure, lot, vacant or occupied.

pp. The storage of any appliances, scrap metal, indoor furniture, broken furniture, used building material, unstacked wood, broken toys, broken bicycles and tricycles, bathroom fixtures and similar objects visible from the public right-of-way or adjoining property.

qq. Pools and ponds containing stagnant water.

rr. Pipes, lumber, drywall, flooring, roofing shingles and other building material left on the property visible from the public right-of-way or adjoining property for a period of time exceeding 72 hours.

ss. Rusty, deteriorated, dilapidated or unusable play equipment visible from any adjoining property.

tt. Dilapidated dwelling units exhibiting peeling paint, untreated wood, broken gutters, broken windows, dry rot, missing banisters, railings and spindles, broken doors and the like creating an eyesore and offending members of the public.

(ECIA Model Code Amended in 2017)

((This is not an exclusive or exhaustive list of possible nuisances.)

2. The term "property owner" means the contract purchaser if there is one of record, otherwise the record holder of legal title.

(Code of Iowa, Sec. 364.1)

3-2-2 NUISANCES PROHIBITED. The creation or maintenance of a nuisance is hereby prohibited, and a nuisance may be abated by criminal citation, municipal infraction or as otherwise provided in this Ordinance or Code of Iowa.

(Code of Iowa, Sec. 657.3)

(ECIA Model Code Amended in 2017)

3-2-3 OTHER CONDITIONS REGULATED. The following actions are required and may also be abated in the manner provided in this Ordinance:

1. The removal of diseased trees or dead wood, but not diseased trees and dead wood outside the lot and property lines and inside the curb lines upon the public street.

(Code of Iowa, Sec. 364.12(3)(b))

2. The removal, repair, or dismantling of dangerous buildings or structures.

(Sec. 364.12(3)(c))

3. The numbering of buildings.

(Code of Iowa, Sec. 364.12(3)(d))

4. The connection to public drainage systems from abutting property when necessary for public health or safety.

(Code of Iowa, Sec. 364.12(3)(e))

5. The connection to public sewer systems from abutting property, and the installation of sanitary toilet facilities and removal of other toilet facilities on such property.

(Sec. 364.12(3)(f))

6. The cutting or destruction of weeds or other growth which constitutes a health, safety, or fire hazard.

(Code of Iowa, Sec. 364.12(3)(g))

3-2-4 NOTICE TO ABATE NUISANCE OR CONDITION. Whenever the Mayor, City Administrator, or other authorized municipal officer finds that a nuisance or other prohibited condition exists, the Mayor or officer may notify the property owner as shown by the records of the County Auditor to abate the nuisance within a reasonable time after notice. Notice and opportunity to abate the nuisance is not required prior to bringing legal action.

(Code of Iowa, Sec. 364.12(3)(h))

(ECIA Model Code Amended in 2014)

(ECIA Model Code Amended in 2017)
(Amended during 2021 codification)

3-2-5 CONTENTS OF NOTICE TO ABATE. The notice to abate shall contain:
(Sec. 364.12(3)(h))

1. A description of what constitutes the nuisance or other condition.
2. The location of the nuisance or condition.
3. A statement of the act or acts necessary to abate the nuisance or condition.
4. A reasonable time within which to complete the abatement.
5. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against such person.

3-2-6 METHOD OF SERVICE. The notice may be sent by regular mail to the property owner as shown by the records of the County Auditor.

(Code of Iowa, Sec. 364.12(3)(h))
(ECIA Model Code Amended in 2014)

3-2-7 REQUEST FOR HEARING AND APPEAL. Any person ordered to abate a nuisance or condition may have a hearing with the officer ordering the abatement as to whether a nuisance or prohibited condition exists. A request for a hearing must be made in writing and delivered to the officer/employee ordering the abatement within seven (7) working days of the receipt of the notice or the right to a hearing shall be waived. If an appeal is not filed as set forth herein, it will be conclusively presumed that a nuisance or prohibited condition exists and it must be abated as ordered.

At the conclusion of the hearing, the hearing officer shall render a written decision as to whether a nuisance or prohibited condition exists. If the officer finds that a nuisance or prohibited condition exists, the officer must order it abated within an additional time which must be reasonable under the circumstances. The property owner may appeal this decision by filing written notice with the City Clerk within five (5) calendar days of the decision. This appeal shall be heard before the City Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance or prohibited condition is found to exist, it shall be ordered abated within a time reasonable under the circumstances.

(ECIA Model Code Amended in 2017)

3-2-8 ABATEMENT IN EMERGENCY. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action that may be required under this chapter without prior notice, and assess the costs as provided herein, after notice to the property owner under the applicable provision of Sections 3-2-4 and 3-2-5 and

hearing as provided in Section 3-2-7.

(Code of Iowa, Sec. 364.12(3)(h))

3-2-9 ABATEMENT BY MUNICIPALITY. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the City Clerk, who shall pay such expenses on behalf of the municipality.

(Code of Iowa, Sec. 364.12(3)(h))

3-2-10 COLLECTION OF COST OF ABATEMENT. The Clerk shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the City Clerk shall certify the costs to the County Treasurer and they shall then be collected with, and in the same manner, as general property taxes.

(Code of Iowa, Sec. 364.12(3)(h))

3-2-11 INSTALLMENT PAYMENT OF COST OF ABATEMENT. If the amount expended to abate the nuisance or condition exceeds \$100, the City may permit the assessment to be paid in up to ten annual installments, to be paid in the same manner and at the same rate of interest charged delinquent real estate taxes by the County Treasurer.

(Code of Iowa, Sec. 364.13)

3-2-12 CONDEMNATION OF NUISANCE. The City may condemn a residential, commercial or industrial building found to be abandoned and a public nuisance and take title to the property for the public purpose of disposing of the property under Chapter 657A by conveying the property to a private individual for rehabilitation or for demolition and construction of housing.

(Code of Iowa, Sec. 364.12A, 657A.1, 657A.10a)

(ECIA Model Code Amended in 2014)

(ECIA Model Code Amended in 2017)

3-2-13 GRASS AND LAWN. The City requires property owners and occupants to maintain grass lawns at a uniform height within the boundaries of their property and on abutting street right-of-way in order to prevent unsightly, offensive or nuisance conditions.

1. Cutting Specifications and Standards of Practice

a. Every owner shall cut, mow and maintain grass, weeds, and brush adjacent to the curb line, including the parking area abutting the owner's property, in such a manner so as to be in conforming with and at an even height to all other grass, weeds, or brush growing on the remainder of the owner's property.

b. Every owner shall cut, mow and maintain all grass, weeds and brush upon the owners' property and adjacent to the curb line or outer boundary of any street, which includes the parking

area abutting the owners' property, to a uniform height.

2. Uniform Height Specifications. Grass, weeds, or brush shall be cut, mowed and maintained so as not to exceed the following height specifications:

- a. Developed Residential Areas – not to exceed six inches (6")
- b. Agricultural Areas – not to exceed twelve inches (12")
- c. Undeveloped Residential Areas – not to exceed eight inches (8")
- d. Business and Industrial Areas – not to exceed six inches (6")

3. Noxious Weeds

a. Every owner shall cut and control noxious weeds upon the owner's property and adjacent to the curb line or outer boundary of the street, which includes the parking area abutting the owner's property, by cutting noxious weeds to the ground level or use of herbicides to eliminate or eradicate such weeds.

b. Noxious weeds include any weed growth or plant designated as noxious by the State Department of Natural Resources rules and regulations or by the Code of Iowa.

4. Penalty

a. Any property which is not mowed by the property owner in compliance with this ordinance may be mowed by the City or their agents and charged \$60.00 per hour for such mowing. The bill will be sent to the property owner and if not paid 60 days thereafter, will be assessed to the City for such costs, which will be collected in the same manner as general property taxes.

(Ord. 1-2015, Passed July 13, 2015)

TITLE III COMMUNITY PROTECTION

CHAPTER 3 TRAFFIC CODE

3-3-1	Short Title	ONE-WAY STREETS AND ALLEYS
3-3-2	Definitions	
3-3-3	Traffic Accident Reports	3-3-15 Authority to Designate One-Way Streets and Alleys
3-3-4	Police Department to Submit Annual Reports	3-3-16 One-Way Streets and Alley
		3-3-17 Authority to Restrict Direction of Movement on Streets During Certain Periods
	ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS	
3-3-5	Authority of Police and Fire Department Officials	SPECIAL STOPS REQUIRED
3-3-6	Required Obedience to Provisions of this Chapter and State Law	3-3-18 Through Highways
		3-3-19 Authority to Erect Stop Signs
		3-3-20 Stops at Intersecting Through Highways and Other Intersections
	TRAFFIC CONTROL DEVICES	3-3-21 Stop When Traffic Is Obstructed
3-3-7	Authority to Install Traffic-Control Devices	3-3-22 School Stops
3-3-8	Chief of Police to Designate Crosswalks, Establish, and Mark Traffic Lanes	PEDESTRIANS' RIGHTS AND DUTIES
3-3-9	Play Streets	3-3-23 Prohibited Crossing
		3-3-24 Pedestrians on Left
	SPEED REGULATIONS	METHOD OF PARKING
3-3-10	Changing State Speed Limits in Certain Zones	3-3-25 Standing or Parking Close To Curb
		3-3-26 Standing or Parking on the Left-Hand Side of One-Way Streets
		3-3-27 Signs or Markings Indicating Angle Parking
	TURNING MOVEMENTS	3-3-28 Obedience to Angle Parking Signs or Markings
3-3-11	Turning Markers, Buttons and Signs	STOPPING, STANDING OR PARKING PROHIBITED IN SPECIFIED PLACES
3-3-12	Authority to Place Restricted Turn Signs	
3-3-13	Obedience to No-Turn Signs	3-3-29 Stopping, Standing or Parking Prohibited in Specified Places
3-3-14	"U" Turns	3-3-30 Authority to Paint Curbs and Erect

- Signs Prohibiting Standing or Parking
- 3-3-31 Authority to Impound Vehicles

STOPPING, STANDING OR PARKING

- 3-3-32 Parking Signs Required
- 3-3-33 Parking During Snow Emergency
- 3-3-34 All-Night Parking Prohibited
- 3-3-35 Truck Parking Limited

MISCELLANEOUS DRIVING RULES

- 3-3-36 Vehicles Not to be Driven on Sidewalks
- 3-3-37 Clinging to Vehicles
- 3-3-38 Following too Closely
- 3-3-39 Parking for Certain Purposes Prohibited
- 3-3-40 Driving Through Funeral or Other Procession
- 3-3-41 Drivers in a Procession
- 3-3-42 Funeral Processions to be Identified
- 3-3-43 Load Restrictions Upon Vehicles Using Certain Streets
- 3-3-44 Truck Routes
- 3-3-45 Engine and Compression Brakes

BICYCLE REGULATIONS

- 3-3-46 Definitions
- 3-3-47 Traffic Code Applies to Persons Riding Bicycles
- 3-3-48 Riding on Bicycles
- 3-3-49 Riding on Roadways and Bicycle Paths
- 3-3-50 Speed
- 3-3-51 Emerging from Alley or Driveway
- 3-3-52 Carrying Articles
- 3-3-53 Parking

- 3-3-54 Riding on Sidewalks
- 3-3-55 Lamps and Other Equipment on Bicycles

SNOWMOBILES

- 3-3-56 Snowmobile, 3-Wheel & 4-Wheel Definitions
- 3-3-57 Permitted Areas of Operation
- 3-3-58 Regulations
- 3-3-59 Equipment Required
- 3-3-60 Unattended Vehicles
- 3-3-61 Restriction of Operation
- 3-3-62 Traffic Regulation
- 3-3-63 Municipal Infraction

GOLF CARTS

- 3-3-64 Definitions
- 3-3-65 Operation of Golf Carts

PENALTIES AND PROCEDURE ON ARREST

- 3-3-66 Citation Placed on Illegally Parked Vehicle
- 3-3-67 Presumption in Reference to Illegal Parking
- 3-3-68 Local Parking Fines
- 3-3-69 Failure to Pay Parking Citations

OFF-ROAD VEHICLES

- 3-3-70 Purpose
- 3-3-71 Definitions
- 3-3-72 Operation on Roadways
- 3-3-73 Restrictions
- 3-3-74 Penalties

SPORT UTILITY VEHICLES (SIDE BY SIDE)

- 3-3-75 Definitions
- 3-3-76 Operation of Sport Utility

PENALTIES AND PROCEDURE ON ARREST

		Illegal
3-3-77 Citation Placed on Illegally		Parking
Parked	3-3-79	Local Parking Fines
Vehicle	3-3-80	Failure to Pay Parking Citations
3-3-78 Presumption in Reference to		

3-3-1 SHORT TITLE. This chapter may be known and cited as the "Traffic Code".

3-3-2 DEFINITIONS. Where words and phrases used in this chapter are defined in Chapter 321 of the Code of Iowa, such definitions shall apply to this Ordinance.

1. "Park and parking" means the stopping or standing of a vehicle, except for the purpose of, and while actually engaged in, loading or unloading merchandise or passengers.

2. "Stand or standing" means the halting of a vehicle, whether occupied or not, except for the purpose of and while actually engaged in receiving or discharging passengers.

3. "Stop", when required means complete cessation of movement.

4. "Stop or stopping", when prohibited, means any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

5. "Business districts" means: the territory contiguous to and including a highway when fifty percent or more of the frontage thereon for a distance of three hundred feet or more is occupied by buildings in use for business.

6. "Residential districts" means all areas of the City not included in business districts.

7. "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway.

(Code of Iowa, Sec 321.1)

3-3-3 TRAFFIC ACCIDENT REPORTS. The driver of a vehicle involved in an accident within the limits of this City shall file a report as and when required by the Iowa Department of Public Safety. A copy of this report shall be filed with the Chief of Police. All such reports shall be for the confidential use of the police department and shall be subject to the provisions of Section 321.271 of the Code of Iowa. The City shall maintain a suitable system of filing traffic accident reports.

(Sec. 321.266)

3-3-4 POLICE DEPARTMENT TO SUBMIT ANNUAL REPORTS. The Police Chief shall prepare annually a traffic report which shall be filed with the Mayor. Such report shall contain

information on traffic matters in this City concerning the number of traffic accidents, the number of persons killed or injured, the number and nature of violations, and other pertinent traffic data including the plans and recommendations for future traffic safety activities.

ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS

3-3-5 AUTHORITY OF POLICE AND FIRE DEPARTMENT OFFICIALS. Provisions of this chapter and the Iowa law relating to motor vehicles and law of the road shall be enforced by the officers of the police department. The officers of the police department are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws. In the event of a fire or other emergency, officers of the police department may direct traffic as conditions require notwithstanding the provisions of the traffic laws. Officers of the fire department may direct or assist the police in directing traffic threat or in the immediate vicinity.

(Code of Iowa, Sec. 321.229)

3-3-6 REQUIRED OBEDIENCE TO PROVISIONS OF THIS CHAPTER AND STATE LAW. Any person who shall willfully fail or refuse to comply with any lawful order of a police officer or direction of a fire department officer during a fire, or who fails to abide by the provisions of this chapter and the applicable provisions of the following Iowa statutes relating to motor vehicles and the law of the road is in violation of this chapter. These sections of the Code are adopted by reference:

1. 321.98 Operation without registration.
2. 321.180 Violations of instruction permit limitations.
3. 321.193 Violation of conditions of restricted license.
4. 321.194 Violation of conditions of minor's school license.
5. 321.216 Unlawful use of license.
6. 321.218 Driving without a valid license (as to simple misdemeanor offenses only).
7. 321.219 Permitting unauthorized minor to drive.
8. 321.220 Permitting unauthorized person to drive.
9. 321.229 Failure to comply with lawful order of peace officer.
10. 321.231 Failure of driver of emergency vehicle to exercise caution while on emergency run (stop signs and signals).

11. 321.232 Radar jamming devices.
12. 321.234 Failure to observe seating requirements.
13. 321.236 (Parking) Violation of local ordinance (not a state offense).
14. 321.256 Failure to obey traffic control device.
15. 321.257 Failure to obey or yield to pedestrian or to official traffic control signal.
16. 321.260 Unlawful possession of, or interference with traffic control device.
17. 321.264 Striking unattended vehicle.
18. 321.265 Striking fixtures upon a highway.
19. 321.275 Motorcycle and motorized bicycles violations.
20. 321.277 Reckless driving.
21. 321.278 Drag racing prohibited.
22. 321.285 Speed restrictions.
23. 321.286 Truck speed limits (highway).
24. 321.287 Bus speed limits (highway).
25. 321.288 Failure to maintain control.
26. 321.294 Failure to maintain minimum speed when directed by officer.
27. 321.295 Excessive speed on bridge.
28. 321.297 Driving on wrong side of two-way highway.
29. 321.298 Failure to yield half of roadway upon meeting vehicle.
30. 321.299 Passing on wrong side.
31. 321.303 Unsafe passing.
32. 321.304 Unlawful passing.

33. 321.305 Violating one-way traffic designation.
34. 321.306 Improper use of lanes.
35. 321.307 Following too closely.
36. 321.308 Following too closely (trucks and towing vehicles).
37. 321.309 Failure to use approved drawbar.
38. 321.310 Unlawful towing of four-wheeled trailer.
39. 321.311 Turning from improper lane.
40. 321.312 Making U-turn on curve or hill.
41. 321.313 Unsafe starting of a stopped vehicle.
42. 321.314 Unsafe turn or failure to give signal.
43. 321.315 Failure to give continuous turn signal.
44. 321.316 Failure to signal stop or rapid deceleration.
45. 321.317 Signal light requirements; see equipment violation.
46. 321.318 Incorrect hand signal.
47. 321.319 Failure to yield to vehicle on right.
48. 321.320 Failure to yield upon left turn.
49. 321.321 Failure to yield upon entering through highway.
50. 321.322 Failure to obey stop or yield sign.
51. 321.323 Unsafe backing on highway.
52. 321.324 Failure to yield to emergency vehicle.
53. 321.325 Pedestrian disobeying traffic control signal.
54. 321.326 Pedestrian walking on wrong side of highway.

55. 321.327 Pedestrian right-of-way.
56. 321.328 Pedestrian failing to use crosswalk.
57. 321.329 Vehicle failing to yield to pedestrian.
58. 321.331 Soliciting ride from within roadway.
59. 321.332 Unlawful use of white cane.
60. 321.333 Failure to yield to blind person.
61. 321.340 Driving in or through safety zone.
62. 321.341 Failure to properly stop at railroad crossing.
63. 321.342 Failure to obey stop sign at railroad crossing.
64. 321.343 Failure to stop certain cargo or passenger vehicle at railroad crossing.
65. 321.344 Unlawful movement of construction equipment across railroad track.
66. 321.353 Unsafe entry into sidewalk or roadway.
67. 321.354 Stopping on traveled part of highway.
68. 321.358 Stopping, standing, or parking where prohibited.
69. 321.360 Prohibited parking in front of certain buildings.
70. 321.361 Parking too far from curb/angular parking.
71. 321.362 Parking without stopping engine and setting brake.
72. 321.363 Driving with obstructed view or control.
73. 321.365 Coasting upon downgrade.
74. 321.366 Improper use of median, curb, or controlled access facility.
75. 321.367 Failure to maintain distance fire-fighting vehicle.
76. 321.368 Crossing unprotected fire hose.

77. 321.369 Putting debris on highway/roadway.
78. 321.370 Removing injurious material.
79. 321.371 Clearing up wrecks.
80. 321.372 School bus provisions.
81. 321.377 Excessive speed of school bus.
82. 321.381 Driving or towing unsafe vehicle.
83. 321.382 Operating underpowered vehicle.
84. 321.383 Failure to display reflective device on slow-moving vehicles.
85. 321.384 Failure to use headlamps when required.
86. 321.385 Insufficient number of headlamps.
87. 321.386 Insufficient number of headlamps-motorcycles and motorized bicycles.
88. 321.387 Improper rear lamp.
89. 321.388 Improper registration plate lamp.
90. 321.389 Improper rear reflector.
91. 321.390 Reflector requirements.
92. 321.391 Improper type of reflector.
93. 321.392 Improper clearance lighting on truck or trailer.
94. 321.393 Lighting device color and mounting.
95. 321.394 No lamp or flag on rear-projecting load.
96. 321.395 Parking on certain roadways without parking lights.
97. 321.397 Improper light on bicycle.
98. 321.398 Improper light on other vehicle.

99. 321.402 Improper use of spotlight.
100. 321.403 Improper use of auxiliary driving lights.
101. 321.404 Improper brake light.
102. 321.408 Back-up lamps.
103. 321.409 Improperly adjusted headlamps.
104. 321.415 Failure to dim.
105. 321.419 Improper headlighting when night driving.
106. 321.420 Excessive number of driving lights.
107. 321.422 Lights of improper color-front or rear.
108. 321.423 Special light/signal provision.
109. 321.430 Defective braking equipment.
110. 321.431 Brake performance ability.
111. 321.432 Defective audible warning device.
112. 321.433 Unauthorized use of emergency audible warning devices on motor vehicle.
113. 321.434 Use of siren or whistle on bicycle.
114. 321.436 Defective or unauthorized muffler system.
115. 321.437 Mirrors.
116. 321.438 Windshields.
117. 321.439 Defective windshield wiper.
118. 321.440 Defective tires.
119. 321.441 Unauthorized use of metal tire or track.
120. 321.442 Unauthorized use of metal projection on wheels.

- 121. 321.444 Failure to use safety glass.
- 122. 321.445 Failure to maintain or use safety belts.
- 123. 321.446 Failure to secure child.
- 124. 321.449 Special regulations.
- 125. 321.450 Hazardous materials.
- 126. 321.454 Width and length violations.
- 127. 321.455 Excessive side projection of load – passenger vehicle.
- 128. 321.456 Excessive height.
- 129. 321.457 Excessive length.
- 130. 321.458 Excessive projection from front of vehicle.
- 131. 321.459 Excessive weight – dual axels (each over 2000 lb. over).
- 132. 321.460 Spilling loads on highways.
- 133. 321.461 Excessive tow-bar length.
- 144. 321.462 Failure to use required towing equipment.
- 145. 321.463 Maximum gross weight.
- 146. 321.466 Gross weight in excess of registered gross weight (for each 2000 lb. over).

TRAFFIC CONTROL DEVICES.

3-3-7 AUTHORITY TO INSTALL TRAFFIC-CONTROL DEVICES. The Chief of Police shall cause to be placed and maintained traffic-control devices when and as required under this chapter or other Ordinances of this City to make effective their provisions, and may so cause to be placed and maintained such additional, emergency, or temporary traffic-control devices for the duration of an emergency or temporary condition as traffic conditions may require, to regulate traffic under the traffic Ordinances of this City or under State law or to guide or warn traffic. The Chief of Police shall keep a record of all traffic-control devices maintained by the department. All traffic-control devices shall comply with current standards established by the Manual of Uniform Traffic Control Devices for Streets and Highways.

(Code of Iowa, Sec. 321.255 and 321.256)

3-3-8 CHIEF OF POLICE TO DESIGNATE CROSSWALKS, ESTABLISH, AND MARK TRAFFIC LANES. The Chief of Police is hereby authorized:

1. To designate and maintain by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where, due to traffic conditions, there is particular danger to pedestrians crossing the street or roadway, and at such other places as traffic conditions require.

2. To mark lanes for traffic on street pavements at such places as traffic conditions require, consistent with the traffic Code of this City. Where traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of a lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

3-3-9 PLAY STREETS. The Chief of Police has the authority to declare any street or part thereof a play street and to place appropriate signs or devices in the roadway indicating and helping to protect the same.

Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon the street or any portion thereof except drivers of vehicles having business or whose residences are within the closed area, and then the driver shall exercise the greatest care in driving upon the street or portion thereof.

SPEED REGULATIONS.

3-3-10 CHANGING STATE SPEED LIMITS IN CERTAIN ZONES. It is hereby determined upon the basis of an engineering and traffic investigation that the speed permitted by State law upon the following streets or portions thereof is greater or less than is necessary for the safe operation of vehicles thereon, and it is declared that the maximum speed limit upon these streets or portions thereof described shall be as follows:

(Code of Iowa, Sec. 321.290)

1. Iowa Highway #64, forty-five (45) miles per hour from one hundred (100) feet West of Manufacturing Drive to four hundred (400) feet West of Mitchell Street.

2. Iowa Highway #64, forty-five (45) miles per hour from three hundred (300) feet East of Winter Street to Iowa Department of Transportation STA 805.

3. Iowa Highway #64, thirty-five (35) miles per hour from four hundred (400) feet West of Mitchell Street to three hundred (300) East of Winter Street.

TURNING MOVEMENTS.

3-3-11 TURNING MARKERS, BUTTONS AND SIGNS. The Chief of Police may cause

markers, buttons, or signs to be placed within or adjacent to intersections, and thereby require and direct, as traffic conditions require, that a different course from that specified by the State law be traveled by vehicles turning at intersections, and when markers, buttons, or signs are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by the markers, buttons, or signs, including right-hand turns at intersections with automatic traffic signals.

(Code of Iowa, Sec. 321.311)

3-3-12 **AUTHORITY TO PLACE RESTRICTED TURN SIGNS.** The Chief of Police is authorized to determine those intersections, as traffic conditions require, at which the drivers of vehicles shall not make a right or left turn. The making of turns may be prohibited between certain hours of any day, in which event the same shall be plainly indicated on signs.

3-3-13 **OBEDIENCE TO NO-TURN SIGNS.** Whenever authorized signs are erected indicating that no right or left turn is permitted, no driver of a vehicle shall disobey the directions of any such signs.

3-3-14 **"U" TURNS.** It shall be unlawful for a driver to make a "U" turn except at an intersection. "U" turns are prohibited at intersections within the business district and at intersections where there are automatic traffic signals.

ONE-WAY STREETS AND ALLEYS.

3-3-15 **AUTHORITY TO DESIGNATE ONE-WAY STREETS AND ALLEYS.** Whenever any traffic Code of this City designates any one-way street or alley the Chief of Police shall cause to be placed and maintained signs giving notice thereof and the regulation shall not be effective unless the signs are in place. Signs indicating the direction of traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited. It shall be unlawful for any person to operate any vehicle in violation of markings, signs, barriers or other devices placed in accordance with this section.

3-3-16 **ONE-WAY STREETS AND ALLEYS.** Upon the following streets and alleys vehicular traffic shall move only in the indicated direction:

Farley Street - between Stephens and Main Streets, East
Gillet Street - between Stephens and Main Streets, West
Variances to be allowed by special permit only.

3-3-17 **AUTHORITY TO RESTRICT DIRECTION OF MOVEMENT ON STREETS DURING CERTAIN PERIODS.** The Chief of Police is authorized to determine and recommend to the Council certain streets, or specified lanes thereon, upon which vehicular traffic shall proceed in one direction during one period and the opposite direction during another period of the day and shall, upon authority given by Ordinance, place and maintain appropriate markings, signs, barriers, or other devices to give notice thereof. The Chief of Police may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the

roadway.

It shall be unlawful for any person to operate any vehicle in violation of markings, signs, barriers, or other devices placed in accordance with this section.

SPECIAL STOPS REQUIRED.

3-3-18 THROUGH HIGHWAYS. Streets or portions of streets described below are declared to be through highways:

White St.

Main St.

Mitchell St.

School St., West City Limits to Main Street

(Code of Iowa, Sec. 321.345 and 321.350)

3-3-19 AUTHORITY TO ERECT STOP SIGNS. Whenever any Ordinance of this City designates and describes a through highway it shall be the duty of the Chief of Police to cause to be placed and maintained a stop sign on each and every street intersecting through highway except as modified in the case of intersecting through highways.

3-3-20 STOPS AT INTERSECTING THROUGH HIGHWAYS AND OTHER INTERSECTIONS. At the intersections of through highways and at intersections upon streets other than through highways, where, because of heavy cross-traffic or other traffic conditions, particular hazard exists, the Chief of Police is hereby authorized to determine whether vehicles shall stop or yield at one or more entrances to the intersection and shall present recommendations to the Council, and, upon approval of the Council, shall erect an appropriate sign at every place where a stop or yield is required.

3-3-21 STOP WHEN TRAFFIC IS OBSTRUCTED. Notwithstanding any traffic-control signal indication to proceed, no driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle.

3-3-22 SCHOOL STOPS. When a vehicle approaches an authorized school stop, the driver shall bring the vehicle to a full stop at a point ten feet from the approach side of the crosswalk marked by an authorized school stop sign, and thereafter proceed in a careful and prudent manner until the driver shall have passed such school site.

PEDESTRIANS' RIGHTS AND DUTIES.

3-3-23 PROHIBITED CROSSING. Pedestrians crossing a street in the business district shall cross in the crosswalks only.

(Code of Iowa, Sec. 321.327)

3-3-24 PEDESTRIANS ON LEFT. Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway. Where sidewalks are not provided pedestrians at all times when walking on or along a roadway, shall walk on the left side of the roadway.

(Code of Iowa, Sec. 321.326)

METHOD OF PARKING.

3-3-25 STANDING OR PARKING CLOSE TO CURB. No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within eighteen inches of the curb or edge of the roadway except as provided in the case of angle parking and vehicles parked on the left-hand side of one-way streets.

(Code of Iowa, Sec. 321.361)

3-3-26 STANDING OR PARKING ON THE LEFT-HAND SIDE OF ONE-WAY STREETS. No person shall stand or park a vehicle on the left-hand side of a one-way street other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the left-hand wheels of the vehicle within eighteen inches of the curb or edge of the roadway except as provided in the case of angle parking.

(Code of Iowa, Sec. 321.361)

3-3-27 SIGNS OR MARKINGS INDICATING ANGLE PARKING. The Chief of Police, as traffic conditions require, shall determine upon what streets angle parking shall be permitted and shall mark or sign the streets or portions thereof indicating the method of angle parking. The determination shall be subject to approval by Council resolution.

(Code of Iowa, Sec. 321.361)

3-3-28 OBEDIENCE TO ANGLE PARKING SIGNS OR MARKINGS. Upon those streets or portions of streets that have been signed or marked for angle parking, no person shall park or stand a vehicle other than at an angle to the curb or edge of the roadway or in the center of the roadway as indicated by the signs and markings.

STOPPING, STANDING, OR PARKING PROHIBITED IN SPECIFIED PLACES.

3-3-29 STOPPING, STANDING, OR PARKING PROHIBITED IN SPECIFIED PLACES. No person shall stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device, in any of the following places:

(Code of Iowa, Sec. 321.358)

1. On a sidewalk.
2. In front of a public or private driveway.
3. Within an intersection.

4. Within five (5) feet of either side of the point on the curb nearest to a fire hydrant.
5. On a crosswalk.
6. Within ten (10) feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of the roadway.
7. Within twenty (20) on either side of a mailbox that is so placed and equipped to permit the depositing of mail from vehicles on the roadway.
8. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly signposted.
9. Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic.
10. On the roadway side of any vehicle stopped or parked at the edge or curb of street.
11. Opposite the entrance to a garage or driveway in such a manner or under such conditions as to leave available less than twenty (20) feet of the width of the roadway for the free movement of vehicular traffic.
12. Upon any street or in any alley in any part of the City in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway of such street or alley for the free movement of vehicular traffic, except when necessary in obedience to traffic regulations or traffic signs, or signals of a police officer.
13. At any place where official signs or curb markings prohibit stopping, standing or parking.
14. Within ten (10) feet of the crosswalk at all intersections within the City.
15. In an alley under any fire escape at any time.
16. Upon Gillet Street between Main and Mitchell Streets on all Wednesdays and predicted snow or ice accumulations between the hours of 3:00 A.M. and 6:00 A.M. to allow for cleaning of the streets.

(Amended during 2021 codification)

17. Upon the East side of Manufacturing Drive from Highway 64 to 1st Street.
18. Upon any street within the corporate limits that is so posted for snow and ice removal.
19. Upon the area between the curb line and the street right-of-way line, known as the "terrace" in local usage, on any street with concrete curb and gutter installed.

3-3-30 **AUTHORITY TO PAINT CURBS AND ERECT SIGNS PROHIBITING STANDING OR PARKING.** When, because of restricted visibility or when standing or parked vehicles constitute a hazard to moving traffic, or when other traffic conditions require, the Chief of Police may cause curbing to be painted with a yellow or orange color and erect "no parking" or "standing" signs. It shall be unlawful for the operator of any vehicle to stand or park a vehicle in an area so painted or sign-posted. It shall be unlawful for any person, other than after having first secured the permission of the Chief of Police, to paint any curbing, sidewalk or street with yellow or orange colored paint or to erect "no parking" signs.

(Code of Iowa, Sec. 321.358(10))

3-3-31 **AUTHORITY TO IMPOUND VEHICLES.** Members of the police department are authorized to remove, or cause to be removed, a vehicle from a street, public alley, or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the police

department, or otherwise maintained by the City, under the following circumstances:

1. When a vehicle is upon a roadway and is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal.
2. When any vehicle is left unattended upon a street and constitutes a definite hazard or obstruction to the normal movement of traffic.
3. When any vehicle is left parked upon a street for a continuous period of forty-eight hours or more. A diligent effort shall first be made to locate the owner. If the owner is found, the owner shall be given the opportunity to remove the vehicle.
4. When any vehicle is left parked in violation of a ban on parking during a snow emergency as proclaimed by the Mayor.

In addition to the penalties hereinafter provided, the owner or driver of any vehicle impounded for violation of any of the provisions of this chapter shall be required to pay the reasonable cost of towing charges and storage.

STOPPING, STANDING OR PARKING.

3-3-32 **PARKING SIGNS REQUIRED.** Whenever by this or any other chapter of this City Code any parking time limit is imposed or parking is prohibited on designated streets or portions of streets it shall be the duty of the Police Chief to erect appropriate signs giving notice thereof and the regulations shall not be effective unless signs are erected and in place at the time of any alleged offense. When signs are erected giving notice thereof, no person shall disobey the restrictions stated on such signs.

(Code of Iowa, Sec. 321.236)

3-3-33 **PARKING DURING SNOW EMERGENCY.** No person shall park, abandon, or leave unattended vehicle on any public street, alley, or City-owned off-street parking area during any snow emergency proclaimed by the Mayor or City Administrator unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall. A snow emergency parking ban shall continue from its proclamation through the duration of the snow or ice storm and the forty-eight hour period after cessation of the storm except as above provided upon streets which have been fully opened.

The ban shall be of uniform application and the Chief of Police is directed to publicize the requirements widely, using all available news media, in early November each year. When predictions or occurrences indicate the need, the Mayor or City Administrator shall proclaim a snow emergency and the Police Chief shall inform the news media to publicize the proclamation and the parking rules under the emergency. Such emergency may be extended or shortened when conditions warrant.

(Sec. 321.236)
(Amended during 2021 codification)

3-3-34 ALL-NIGHT PARKING PROHIBITED. No person, except physicians or other persons on emergency calls, shall park a vehicle on any street marked to prohibit all night parking and giving notice thereof, for a period of time longer than thirty minutes between the hours of 2 a.m. and 5 a.m. of any day.

3-3-35 TRUCK PARKING LIMITED. No person shall park a motor truck, semi-trailer, or other motor vehicle with trailer attached in violation of the following regulations.

(Code of Iowa, Sec. 321.236[1])

1. Parking Restricted. Excepting only when such vehicles are actually engage in the delivery or receiving of merchandise or cargo, no person shall park or leave unattended any vehicle more than nineteen (19) feet in length on any streets within the City. When actually receiving or delivering merchandise or cargo such vehicle shall be stopped or parked in a manner which will no interfere with other traffic, and such receiving and delivery time shall not exceed thirty (30) minutes of any one time.

2. Noise. No such vehicle shall be left standing or parked upon any street, alley, public or private parking lot, or drive of any service station with the engine, auxiliary engine, air compressor, refrigerating equipment or other device in operation giving off audible sounds excepting only the drive of a service station when actually being serviced, and then in no event for more than thirty (30) minutes.

3. Livestock. No such vehicle containing livestock shall be parked on any street, alley or highway for a period of time of more than thirty (30) minutes.

(Ord., Passed August 9, 2010)

3-3-35A TRAILERS. Semi-trailers, livestock trailers, and trailers exceeding fifteen (15) feet in length shall not be parked on City streets or right-of-way or on private property used for a residential purpose within the City.

(ECIA Model Code Amended in 2020)

3-3-35 (1) RECREATIONAL VEHICLES. It shall be unlawful to park a boat trailer, utility trailer, or unoccupied motor home, travel or camping trailer, on any public street, alley or place for a period of time in excess of twenty-four (24) hours. Upon application to the Police Department, emergency or temporary parking for occupied travel trailers, campers and motor homes may be permitted at designated locations on public streets, alleys, or any other public or private place for a three (3) day period, subject to extended time of up to three (3) days upon reapplication, and subject to any other prohibitions or regulations imposed by traffic and parking ordinances of the City.

(Ord., Passed August 9, 2010)

3-3-35 (2) UNLICENSED VEHICLES AND TRAILERS. Motor vehicles or trailers of any kind

or type without current license plates shall not be parked or stored on any lot other than in completely enclosed buildings.

(Ord., Passed August 9, 2010)
(Amended during 2021 codification)

MISCELLANEOUS DRIVING RULES.

3-3-36 VEHICLES NOT TO BE DRIVEN ON SIDEWALKS OR CLOSED STREETS. The driver of a vehicle shall not drive upon or within any sidewalk area or any street or portion thereof which has been lawfully closed to vehicular traffic.

3-3-37 CLINGING TO VEHICLES. No person shall drive a motor vehicle on the streets of this City unless all passengers of the vehicle are inside the vehicle in the place intended for their accommodation. No person shall ride on the running board of a motor vehicle or in any other place not customarily used for carrying passengers. No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself or herself to any vehicle upon a roadway.

3-3-38 FOLLOWING TOO CLOSELY. The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles, the condition of the street or highway and the vehicles thereon.

3-3-39 PARKING FOR CERTAIN PURPOSES PROHIBITED. No person shall park a vehicle upon the roadway for the principal purpose of:

1. Displaying such vehicle for sale.
2. Displaying advertising.
3. Selling merchandise from the vehicle except in a duly established market place or when so authorized or licensed under the Ordinances of this City.
4. Storage or as junk or dead storage for more than forty-eight hours.

3-3-40 DRIVING THROUGH FUNERAL OR OTHER PROCESSION. No driver of any vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when the vehicles are conspicuously designated as required in this chapter. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or police officers.

3-3-41 DRIVERS IN A PROCESSION. Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practical and shall follow the vehicle ahead as closely as is practical and safe.

3-3-42 FUNERAL PROCESSIONS TO BE IDENTIFIED. A funeral procession composed of

vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant or other identifying insignia or by such other method as may be determined and designated by the police department.

3-3-43 LOAD RESTRICTIONS UPON VEHICLES USING CERTAIN STREETS. When signs are erected giving notice thereof, no person shall operate any vehicle with a gross weight in excess of the amounts specified on the signs at any time upon any of the following streets or parts of streets:

3-3-44 TRUCK ROUTES.

1. Every motor vehicle weighing five tons or more, when loaded or empty, having no fixed terminal within the City or making no schedule or definite stops within the City for the purpose of loading or unloading, shall travel over or upon the following streets within the City and none other:

White Street (Highway 64), Main Street (Highway 64 North)

2. Any motor vehicle weighing five tons or more, when loaded or empty, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading, shall proceed over or upon the designated routes set out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from the designated route.

3. The owner, or any other person, employing or otherwise directing the driver of any vehicle shall not require or knowingly permit the operation of such vehicle upon a street in any manner contrary to this section.

3-3-45 ENGINE AND COMPRESSION BRAKES.

1. It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within the City, any engine brake, compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual or explosive noise from such vehicle.

2. The usage of an engine brake, compression brake or mechanical exhaust device designed to aid in braking or deceleration in such a manner so as to be audible at a distance of three hundred feet (300') from the motor vehicle shall constitute evidence of a prima facie violation of this section.

BICYCLE REGULATIONS.

3-3-46 DEFINITIONS. For the purpose of this Chapter the following terms are defined:

1. "Bicycles" shall mean either of the following:

a. A device having two wheels and having at least one saddle or seat for the use of a rider which is propelled by human power.

b. A device having two or more wheels with fully operable peddles and an electric motor less than seven hundred fifty watts (one horsepower), whose maximum speed on a paved level surface, when powered solely by such a motor while ridden, is less than twenty miles per hour.

(Code of Iowa, Sec. 321.1)

3-3-47 TRAFFIC CODE APPLIES TO PERSONS RIDING BICYCLES. Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to drivers of vehicles by the laws of this State regarding rules of the road applicable to vehicles or by the traffic Ordinances of this City applicable to drivers of vehicles, except as to those provisions which by their nature can have no application. Whenever a person dismounts from a bicycle such person shall be subject to all regulations applicable to pedestrians.

3-3-48 RIDING ON BICYCLES. A person propelling a bicycle shall not ride other than astride a permanent and regular seat. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

3-3-49 RIDING ON ROADWAYS AND BICYCLE PATHS. Every person operating a bicycle upon a roadway shall ride as near to the right-hand side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction. Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

3-3-50 SPEED. No person shall operate a bicycle at a speed greater than is reasonable and prudent under existing conditions.

3-3-51 EMERGING FROM ALLEY OR DRIVEWAY. The operators of a bicycle emerging from an alley, driveway, or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right of way to all pedestrians approaching on the sidewalk or sidewalk area, and upon entering the roadway shall yield the right of way to all vehicles approaching on said roadway.

3-3-52 CARRYING ARTICLES. No person operating a bicycle shall carry any package, bundle, or article which prevents the rider from keeping at least one hand upon the handle bars.

3-3-53 PARKING. Bicycles shall be parked upon the roadway of a street against the curb, or upon the sidewalk in a rack to support bicycles, or against a building, or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

3-3-54 RIDING ON SIDEWALKS. No person shall ride a bicycle on a sidewalk within a business district. When signs are erected on a sidewalk or roadway prohibiting the riding of bicycles

on the sidewalk or roadway, no person shall disobey such signs. Whenever a person is riding a bicycle upon a sidewalk, the person shall yield the right of way to any pedestrian and shall give a timely audible signal before overtaking and passing a pedestrian.

3-3-55 LAMPS AND OTHER EQUIPMENT ON BICYCLES. Every bicycle, when in use at nighttime, shall be equipped with a lamp on the front that emits a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type that is visible from all distances from fifty feet to 300 feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector. Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.

SNOWMOBILES.

(Ord. 271, Passed February 9, 2009)

3-3-56 SNOWMOBILE.

1. "Snowmobile" means a self-propelled vehicle designed for travel on snow or ice in a natural terrain steered by wheels, skis or runners.
2. "Operate" means to control the operation of a snowmobile.
3. "Operator" means a person who operates or is in actual control of a snowmobile.

3-3-57 PERMITTED AREAS OF OPERATION. Snowmobiles will be allowed to operate in the City as follows:

School Street, Amos Street from School to Gillet Street, Amos to Main, Main Street North to City Limits, Mitchell Street, School to White, White Street West to City Limits, and Koch and Asmussen Streets between Mitchell and Main Streets.

The routes established herein shall be the only permitted snowmobile, 3-wheel & 4-wheel route and the snowmobiles, 3-wheel & 4-wheel ATVs shall be operated within the roadways of said public streets and shall also be subject to the following regulations.

(Ord. 234, Passed January 13, 2003)

3-3-58 REGULATIONS. It shall be unlawful for any person to operate a snowmobile under the following circumstances:

1. On private property of another without the express permission to do so by the owner or occupant of said property.
2. On public school grounds, park property, playgrounds, recreational areas and golf courses without express permission to do so by the proper public authority.

3. In a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons.

4. In a careless, reckless or negligent manner so as to endanger the safety of any person or property of any other person.

5. Without having such snowmobile registered as provided for by Iowa Statute except that this provision shall not apply to the operation of a snowmobile on the private property of the owner by the owner or a member of his immediate family.

6. Within the right-of-way of any public street or alley within the City unless the operator shall have a valid driver's license; or designated by permit, emergency, or snow related route.

7. No person shall operate a snowmobile in the City from two o'clock (2:00) a.m. to ten o'clock (10:00) a.m., except for the purpose of loading and unloading a snowmobile from another vehicle or trailer.

(Ord. 234, Passed January 13, 2003)

3-3-59 EQUIPMENT REQUIRED. All snowmobiles operated within the City shall have the following equipment:

1. Mufflers which are properly attached and which reduce the noise of operation of the vehicle to the minimum noise necessary for operating the vehicle and no person shall use a muffler cut-out, by-pass or similar device on said vehicle.

2. Adequate brakes in good condition and at least one headlight and one taillight.

3. Snowmobiles routes within the city of Preston will be closed from the 1st day of May until the 1st day of October of every year.

4. A safety or so-called "dead-man" throttle in operating condition; a safety or "dead-man" throttle is defined as a device which when pressure is removed from the accelerator or throttle causes the motor to be disengaged from the driving track.

(Ord. 234, Passed January 13, 2003)

3-3-60 UNATTENDED VEHICLES. It is unlawful for the owner or operator to leave or allow a snowmobile to be or remain unattended on public property while the motor is running or the key left in the ignition.

3-3-61 RESTRICTION OF OPERATION. The City Council may, by resolution, prohibit the operation of snowmobiles within the right-of-way of the public roads, streets or alley or other City property within the City when the public safety and welfare so requires.

3-3-62 TRAFFIC REGULATION. Each person operating a snowmobile shall strictly observe all

traffic signs and signals and all other traffic rules and regulations applicable thereto, and shall obey the orders and directions of any police officer of the City authorized to direct or regulate traffic.

3-3-63 MUNICIPAL INFRACTION. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this ordinance commits a Municipal Infraction, subject to penalty as set out in Title I, Chapter 3 of the Code of Ordinances of the City of Preston, Iowa.

GOLF CARTS

3-3-64 DEFINITIONS. For use in this ordinance "golf cart" is defined as a motorized 4-wheeled vehicle designed to transport person(s) on a golf course.

3-3-65 OPERATION OF GOLF CARTS. Golf carts may be operated on City streets by persons possessing a valid driver's license provided that a special permit is obtained from the City Council. The application for a permit shall set forth that the applicant meets the requirements of this section, the proposed routes of the applicant, and a compelling need for issuance of the permit. The City Council may impose restrictions and conditions in addition to those set forth in this section and may deny an application when a compelling need for the permit is not demonstrated. A golf cart shall not be operated upon a City street which is a primary road extension, i.e., State or Federal highway, but shall be allowed to cross a City street which is a primary road extension through the City. The golf cart shall be equipped with adequate brakes, a slow-moving vehicle sign, and a bicycle safety flag. The golf cart shall be operated only on the streets from sunrise to sunset. Golf carts operated on City streets need not be registered under Chapter 321 of the Code of Iowa

PENALTIES AND PROCEDURE ON ARREST.

3-3-66 CITATION PLACED ON ILLEGALLY PARKED VEHICLE. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by any Ordinance of this City or State law, the officer finding such vehicle shall prepare a written parking citation giving the registration number, and other identifying information to such vehicle in a conspicuous place and directing the driver of the vehicle to appear at the place designated in the citation within seven days, or to pay the local scheduled fine established by the section titled "LOCAL PARKING FINES" in this chapter at the City Clerk's office as provided therein.

3-3-67 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING. In any prosecution charging a violation of any parking Ordinance or State law governing the standing, stopping, or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such Ordinance or law, together with proof that the defendant named in the complaint was at the time of such parking violation the registered owner of such vehicle, shall constitute prima facie evidence that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which such violation occurred.

3-3-68 LOCAL PARKING FINES. Scheduled fines as follows are established, payable by mail or in person at the City Clerk's office within seven days of the violation, for the following parking violations:

		Penalty After <u>30 Days</u>
1. Overtime parking	\$ 20.00	
2. Prohibited parking	\$ 20.00	
3. No parking zone	\$ 20.00	
4. Blocking alley	\$ 20.00	
5. Illegal parking	\$ 20.00	
6. Street cleaning	\$ 20.00	
7. Snow removal ban	\$ 25.00	
8. Persons with disabilities parking	\$100.00	
		(Code of Iowa, Sec. 805.8)
		(Code of Iowa, Sec. 321L.4(2))

3-3-69 FAILURE TO PAY PARKING CITATIONS. If a violator of the restrictions on stopping, standing, or parking under the parking Ordinances of this City or of State law fails to make payment of the scheduled fine as specified on a parking citation affixed to such motor vehicle within thirty days, the scheduled fine increases to thirty-five dollars (\$35.00) and the City shall send the owner of the motor vehicle to which the parking citation was affixed a letter informing the owner of the violation and warning that in the event such letter is disregarded for a period of five days from date of mailing, a court citation will be issued requiring a court appearance and subjecting the violator to court costs.

(Ord. 264, Passed May 14, 2007)

OFF-ROAD VEHICLES

3-3-70 PURPOSE. The purpose of the resolution is to designate that portion of City of Preston roadways designated by the City of Preston upon which all-terrain vehicles or off-road utility vehicles may be operated.

3-3-71 DEFINITIONS

1. "All-terrain Vehicle" means a motorized flotation-tire vehicle with not less than three and not more than six low-pressure tire that is limited in engine displacement to less than one thousand cubic centimeters and in total dry weight to less than 1,000 pounds and that has a seat or saddle designated to be straddled by the operator and handlebars for steering control.

2. "Off Road Utility Vehicle" means a motorized flotation-tire vehicle with not less than four and not more than eight low pressure tire that is limited that is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight to not more than 1,800 pounds and that has a seat that is of bucket or bench design, not intended to be straddled by the operator and a steering wheel or control levers for control.

3. "Roadway" means that portion of the highway improved, designed or ordinarily used for vehicle travel.

4. "Department" means Department of Natural Resources (DNR).

3-3-72 OPERATION ON ROADWAYS. A registered all-terrain vehicle or off-road utility may be operated on designated Jackson County, Iowa roadways from one-half hour after sunrise to one-half hour before sunset for up to ten (10) controlled bi-weekly rides from June 9, 2012 to October 20, 2012, at which time they will be in Preston, June 9th , July 14th , August 18th , and September 22nd, said operations shall cease or with proper notice this schedule may be altered by the Jackson County Board of Supervisors.

3-3-73 RESTRICTIONS

1. A person shall not drive or operate an all-terrain vehicle and/or off-road utility vehicle:

a. At a rate of speed greater than 35 miles per hour or greater than reasonable or proper under all existing circumstances.

b. In a careless, reckless, or negligent manner so as to endanger the person or property of another or of to cause injury or damage thereto.

c. While under the influence of intoxicating liquor or narcotics or habit-forming drugs.

d. Without a lighted headlight, taillight and properly functioning, unaltered stock muffler as defined in section 31.1.12 of the Iowa Code.

e. In any tree nursery or planting in a manner which damages or destroys growing stock.

f. On any public land, ice, or snow, in violation of official signs of the commission prohibiting such operations in the interest of safety for persons, property, or the environment. Any officer appointed by the commission may post an official sign in an emergency for the protection of person, property or the environment.

g. In any park, wildlife area, preserve, refuge, game management area, or an portion of a meandered stream, or any portion of the bed of non-meandered stream, which has been identified as a navigable stream or river by rule adopted by the department and which is covered by water, except on designated riding areas and designated riding trails. This paragraph does not prohibit the use for ford crossings of public roads or any other ford crossing when used for agricultural purposes; the operation of construction vehicles engaged in lawful construction, repair, or maintenance in a streambed; or the operation of all-terrain vehicle on ice.

h. Upon an operating railroad right-of-way, an all-terrain vehicle may be driven directly

across railroad right-of-way only at an established crossing and, notwithstanding any other provisions of law, may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic. This paragraph does not apply to a law enforcement officer or railroad employee of a utility with authority to enter upon the railroad right-of-way in the lawful performance of the employee's duties.

2. A person shall not operate or ride an all-terrain vehicle and/or off-road utility vehicle with a firearm in the person's possession.

3. Number of persons allowed on the all-terrain vehicle:

a. A person shall not operate an all-terrain and/or off-road vehicle with more persons on the vehicle than it was designated to carry which is defined as factory approved seat for each and every rider. No passenger shall ride on any rack or cargo area.

b. Paragraph "a" does not apply to a person who operated an all-terrain vehicle as part of a farm operation as defined in section 352.2.

4. A person shall not operate an off-road vehicle on a designated riding trails unless the riding area or trail is signed by the department as open to off-road utility vehicle operation.

5. A person shall not operate an all-terrain vehicle and/or utility vehicle unless the operator has a valid driver's license; unless the vehicle is registered; and unless the operator has proof of insurance.

3-3-74 PENALTIES. Violation of this Resolution constitutes a Simple Misdemeanor, punishable by a fine of at least \$250.00 and no more than \$625.00.

(Resolution 2012-9, Passed May 14, 2012)

SPORT UTILITY VEHICLES (SIDE-BY-SIDE)

3-3-75 DEFINITIONS. For use in this ordinance "sport utility" is defined as a motorized four, or more wheeled vehicle which shall include, but is not limited to UTVs, LTVs, utility vehicles, side by sides and any other recreational off-highway vehicle.

3-3-76 OPERATION OF SPORT UTILITY. Sport Utility Vehicle (side-by-side) may be operated on City streets by persons possessing a valid instruction permit or a driver's license provided that a special permit is obtained from the City Council. The application for a permit shall set forth that the applicant meets the requirements of this section, the proposed routes of the applicant, and a compelling need for issuance of the permit. The City Council may impose restrictions and conditions in addition to those set forth in this section and may deny an application when a compelling need for the permit is not demonstrated. A sport utility vehicle (side-by-side) shall not be operated upon a City street which is a primary road extension, i.e., State or Federal highway, but shall be allowed to cross a City street which is a primary road extension through the

City. The sport utility vehicle (side-by-side) shall be equipped with adequate brakes, and brake lights and shall be operated only on the streets from sunrise to sunset. A Sport Utility Vehicle operated on City streets need not be registered under Chapter 321 of the Code of Iowa.

PENALTIES AND PROCEDURE ON ARREST.

3-3-77 CITATION PLACED ON ILLEGALLY PARKED VEHICLE. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by any Ordinance of this City or State law, the officer finding such vehicle shall prepare a written parking citation giving the registration number and other identifying information to such vehicle in a conspicuous place and directing the driver of the vehicle to appear at the place designated in the citation within seven days, or to pay the local scheduled fine established by the section titled "LOCAL PARKING FINES" in this chapter at the City Clerk's office as provided therein.

3-3-78 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING. In any prosecution charging a violation of any parking Ordinance or State law governing the standing, stopping, or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such Ordinance or law, together with proof that the defendant named in the complaint was at the time of such parking violation the registered owner of such vehicle, shall constitute prima facie evidence that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which such violation occurred.

3-3-79 LOCAL PARKING FINES. Scheduled fines as follows are established, payable by mail or in person at the City Clerk's office within seven days of the violation, for the following parking violations:

	Penalty After 30 Days
1. Overtime parking	\$ 20.00
2. Prohibited parking	\$ 20.00
3. No parking zone	\$ 20.00
4. Blocking alley	\$ 20.00
5. Illegal parking	\$ 20.00
6. Street cleaning	\$ 20.00
7. Snow removal ban	\$ 25.00
8. Persons with disabilities parking	\$ 100.00

(Code of Iowa, Sec. 805.8)
(Code of Iowa, Sec. 321L.4(2))

3-3-80 FAILURE TO PAY PARKING CITATIONS. If a violator of the restrictions on stopping, standing, or parking under the parking Ordinances of this City or of State law fails to make payment of the scheduled fine as specified on a parking citation affixed to such motor vehicle within thirty days, the scheduled fine increases to thirty-five dollars (\$35.00) and the City shall send the owner of the motor vehicle to which the parking citation was affixed a letter informing the

owner of the violation and warning that in the event such letter is disregarded for a period of five days from date of mailing, a court citation will be issued requiring a court appearance and subjecting the violator to court costs.

(Ord. 2017-3, Passed July 24, 2017)

(Ord. 2018-5, Passed September 24, 2018)

TITLE III, COMMUNITY PROTECTION

CHAPTER 4, LOCAL DESIGNATIONS TRAFFIC CONTROL

3-4-1 School Zones

3-4-3 Yield Intersections

3-4-2 Stop Intersections

3-4-1 SCHOOL ZONES. The following areas are hereby established as school zones pursuant to Section 321.249, Code of Iowa. All motor vehicles approaching said zones are required to stop when moveable signs have been placed in the street within the zone or when the traffic control lights are in operation:

School Street at the designated crosswalk between the former elementary and high schools.
The intersection of Mitchell and DeGroat Streets.

The school zone designation shall be in effect from 7:30 A.M. to 4:00 P.M. on regular school days and during all evening school functions.

1. Flashing Beacon.

a. The Iowa Department of Transportation has approved the installation and future maintenance of a traffic control device at the following location on Iowa Highway 64 in the City of Preston:

Station 0764+35 (MP 049.168) and Station 079+70 (MP 049.269)

b. Condition and/or restrictions. Operation of the flashing amber light to be allowed 1/2 hour before school starts to 15 minutes after school starts and from 15 minutes before school ends to 1/2 hour after school ends. May be operated for special school events upon approval of the Iowa Department of Transportation.

(Ord. 2017-1, Passed May 8, 2017)

3-4-2 STOP INTERSECTIONS The following intersections are hereby designated as stop intersections and all vehicles shall come to a full stop before entering such streets from intersecting streets.

On Amos Street at Gillet Street going North

On Orin Street at Gillet Street going North

At Miles Street on Anna going North

At Miles Street on Anna going South

AT ST. JOSEPH'S STREET ON FAITH, AND HOPE GOING SOUTH

At West Street on DeGroat Street going West

At DeGroat Street on Street going South

At School Street on West, Mitchell, Stephens, Elliot, Merrill, and Amos Streets going South
 At School Street on Hope, Faith, West, and Stephens Street going North
 At Main Street on Miles, Wilson, Grant, Asmussen, Farley, and DeGroat Streets going East
 At Main Street on Gillet, Farley, DeGroat, and School Streets going West
 At White Street on Mitchell, Simpson, Anna, Main, and Winter Streets going North
 At White Street on Mitchell, Simpson, Anna, Main, and Winter Streets going South
 At Mitchell Street on Miles, Wilson, Grant, Koch, Gillet, and DeGroat Streets going West
 At Mitchell Street on Wilson, Grant, Gillet, and DeGroat Streets going East
 At Anna and Simpson Streets on Wilson Street going West
 At Anna and Simpson Streets on Wilson Street going East
 At Amos Street on DeGroat Street going West
 At Amos Street on DeGroat Street going East
 At Farley Street on Stephens and Elliot Streets going North
 At Farley Street on Elliot going North
 At Gillet Street on Elliot Street going North
 At Miles Street on Simpson Street going North
 At White Street on Industrial Lane, Manufacturing Drive, and First Avenue going South
 (Ord. 241, Passed June 13, 2005)
 (Ord. 261, Passed October 9, 2006)
 (Ord., Passed May 14, 2012)

3-4-1 YIELD INTERSECTIONS. The following intersections are hereby designated as yield intersections and all vehicles shall yield the right-of-way before entering such intersections.

At Amos Street on Farley Street going East
 At Amos Street on Farley Street going West
 At Merrill Street on DeGroat Street going East
 At Merrill Street on DeGroat Street going West
 At Stephens and Elliot Streets on DeGroat Street going East –now stop signs
 At Stephens and Elliot Street on DeGroat Street going West – now stop signs
 At Stephens on Mildred and Henri Streets going East
 At Stephens on Mildred and Henri Streets going West
 At Miles Street on Anna Street going North
 At Simpson Street on Grant Street going East
 At Simpson Street on Grant Street going West
 At Merrill Street on Farley Street going East
 At Merrill Street on Farley Street going West
 At Davis Street on Merrill and Amos Street going North
 At Davis Street on Amos Street going South
 At Gillet Street on Davis Street going West
 At West Street on Davis Street going West
 At School Street on Main Street going South
 At Grant Street on Anna going North and South (Stop Sign)
 At Amos Street on Farley going East and West (Yield Sign)

At Merrill Street on DeGroat going East and West (Yield Sign)

At DeGroat Street on Merrill going North (Yield Sign)

At DeGroat Street on Merrill going South (Yield Sign)

(Ord. 232, Passed July 22, 2002)

(Amended during 2007 codification)

(Ord., Passed December 12, 2011)

TITLE III, COMMUNITY PROTECTION

CHAPTER 5, FIRE PROTECTION

3-5-1	Establishment and Purpose	3-5-5	Liability Insurance
3-5-2	Volunteer Fire Fighters	3-5-6	Fires Outside City Limits
3-5-3	Fire Fighter's Duties		
3-5-4	Worker's Compensation and Hospitalization Insurance		

3-5-1 ESTABLISHMENT AND PURPOSE. A volunteer fire department is hereby established to prevent and extinguish fires and to protect lives and property against fires, to promote fire prevention and fire safety, and to answer all emergency calls for which there is no other established agency.

(Code of Iowa, Sec. 364.16)

3-5-2 VOLUNTEER FIRE FIGHTERS. Fifty (50) residents of Preston, Iowa, at least age eighteen (18) shall be appointed to serve as a volunteer fire fighter. Prior to appointment as a volunteer fire fighter and every four years thereafter a volunteer fire fighter must pass a medical physical examination.

(Code of Iowa, Sec. 362.10)

3-5-3 FIRE FIGHTER'S DUTIES. When called by the Chief, all fire fighters shall report for duty immediately in the manner directed by the Chief. They shall be subject to call at any time. They shall obey strictly the commands of any other fire fighter who has been appointed by the Chief to be in command temporarily. Fire fighters shall report for training as ordered by the Chief.

(Code of Iowa, Sec. 372.13(4))

3-5-4 WORKER'S COMPENSATION AND HOSPITALIZATION INSURANCE. The City Council shall contract to insure the City against liability for worker's compensation and against statutory liability for the costs of hospitalization, nursing, and medical attention for volunteer fire fighters. All volunteer fire fighters shall be covered by the contract.

3-5-5 LIABILITY INSURANCE. The City Council shall contract to insure against liability of the City or members of the department for injuries, death or property damage arising out of and resulting from the performance of departmental duties.

3-5-6 FIRES OUTSIDE CITY LIMITS. The department shall answer calls to fires and other emergencies outside the City limits if the Fire Chief determines that such emergency exists and that such action will not endanger persons and property within the City limits.

(Code of Iowa, Sec. 364.16)

TITLE III, COMMUNITY PROTECTION

CHAPTER 6, CURFEW FOR MINORS

3-6-1	Preamble	3-6-5	Defenses
3-6-2	Findings and Purpose	3-6-6	Enforcement
3-6-3	Definitions	3-6-7	Penalty, Municipal Infraction
3-6-4	Offenses		

3-6-1 PREAMBLE. The City of Preston recognizes that all citizens including minors have certain inalienable rights and that among them are the rights of liberty and the pursuit of happiness. Further, all citizens including minors have the right to freedom of religion, freedom of speech, freedom of assembly, and of association. This section should be interpreted to avoid any construction that would result in the appearance of interference with the free exercise of religious worship and political association and this Ordinance shall not be construed to mean that the City intends to interfere with a minor's freedom of association for political, economic, religious, or cultural matters or association for purposes such as marches, demonstrations, picketing, or prayer vigils which are otherwise lawful and peaceful assemblies.

(Code of Iowa, Sec. 364.1)

3-6-2 FINDINGS AND PURPOSE. The City Council has determined that there has been an increase in juvenile violence and crime by persons under the age of 18 in the City of Preston; and persons under the age of 18 are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities and to be victims of older perpetrators of crime; and The City of Preston has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over and responsibility for children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities.

3-6-3 DEFINITIONS. In this chapter:

1. Curfew hours means 11:00 p.m. until 5:00 a.m.
2. Emergency means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
3. Establishment means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

4. Guardian means:
 - a. A person who, under court order, is the guardian of the person of a minor; or
 - b. A public or private agency with whom a minor has been placed by a court.
5. Minor means any person under age 18 years of age.
6. Operator means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.
7. Parent means a person who is:
 - a. A biological parent, adoptive parent, or step-parent of another person; or
 - b. At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.
8. Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.
9. Remain means to:
 - a. Linger or stay; or
 - b. Fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.
10. Serious Bodily Injury means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss of impairment of the function of any bodily member or organ.

3-6-4 OFFENSES.

1. A minor commits an offense if the minor remains in any public place or on the premises of any establishment within the City during curfew hours.
2. A parent or guardian of a minor commits an offense if they knowingly permit, or by insufficient control allow, the minor to remain in any public place or on the premises of any establishment within the City during curfew hours.
3. The owner, operator, or any employee of an establishment commits an offense if they

knowingly allow a minor to remain upon the premises of the establishment during curfew hours.

3-6-5 DEFENSES.

1. It is a defense to prosecution under this chapter that the minor was:
 - a. Accompanied by the minor's parent or guardian;
 - b. On an errand at the direction of the minor's parent or guardian, without any detour or stop;
 - c. In a motor vehicle involved in interstate travel;
 - d. Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
 - e. Involved in an emergency;
 - f. On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
 - g. Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Preston, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Preston, a civic organization, or another similar entity that takes responsibility for the minor;
 - h. Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
 - i. Married or had been married.

2. It is a defense to prosecution under Subsection 3-6-4(3) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

3-6-6 ENFORCEMENT.

1. Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in Section 3-6-5 is present.

2. A minor who is in violation of this Ordinance shall be reunited with the minor's parent or guardian or custodian or other adult taking the place of the parent or shall be taken home by the police officers of the City of Preston.

3-6-7 PENALTY, MUNICIPAL INFRACTION. The violation of this chapter shall be a municipal infraction with penalties not to exceed those contained in the City Code.

"Editor's Note: The courts have carefully scrutinized curfew Ordinances and before enacting such an Ordinance, you should consult with your City Attorney. See *Maquoketa v. Russell*, 484 NW2d, 179 (Iowa 1992) and *Quit v. Strauss*, 8 F2d 260 (1993)."

TITLE III, COMMUNITY PROTECTION

CHAPTER 7, REGULATING PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

3-7-1	Definitions	3-7-7	Bond Required
3-7-2	Exemptions	3-7-8	Obstruction of Pedestrian or Vehicular Traffic
3-7-3	Permits	3-7-9	Display of Permit
3-7-4	Requirements	3-7-10	Permit Not Transferable
3-7-5	Hours of Solicitation	3-7-11	Revocation of Permit
3-7-6	Consumer Protection Law		

3-7-1 DEFINITIONS. For use in this chapter, the following terms are defined as follows:

1. A "peddler" is any person carrying or transporting goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house-to-house or upon the public street.

2. A "solicitor" is any person who solicits or attempts to solicit from house-to-house or upon public streets, orders for commercial goods, wares, subscriptions, publications, periodicals, merchandise, or services to be delivered or fulfilled at a future date. For the purposes of this chapter, "solicitor" does not include a person who contacts another person at such person's residence without prior invitation to enlist support for or against, or solicit funds for patriotic, philanthropic, charitable, political, or religious purposes, whether or not there is an incidental purpose involving the sale of some goods or service.

3. A "transient merchant" includes every merchant, whether an individual person, a firm, corporation, partnership, or association, who brings or causes to be brought within the municipality any goods, wares, or merchandise of any kind, nature, or description, with the intention of temporarily or intermittently selling or offering to sell at retail such goods, wares, or merchandise. Temporary association with a local merchant, dealer, trader, or auctioneer, for conducting such transient business in connection with, as part of, or in the name of any local merchant, dealer, trader, or auctioneer, does not exempt any such person, firm, or corporation from being considered a transient merchant.

The provisions of this chapter shall not be construed to apply to newspaper carriers, persons selling at wholesale to merchants, nor to persons running a huckster wagon, or selling or distributing livestock feeds, fresh meats, fish, fruit, or vegetables, nor to persons selling their own work or production either by themselves or their employees.

3-7-2 EXEMPTIONS. The provisions of this chapter shall not apply to nonprofit civic, charitable, religious, or educational groups engaged in retail sale for the purposes of fund raising.

3-7-3 PERMITS. Before any person or organization engages in any of the practices defined herein, they must comply with all applicable Ordinances, and must also obtain from the City Clerk a permit in accordance with the provisions of sections 3-7-4 and 3-7-5. This permit shall extend no longer than one (1) year. A fee of \$50.00, one day through thirty (30) days, \$100.00, thirty-one (31) days through six (6) months, \$150.00 over six (6) months, but not to exceed one (1) year shall be paid at the time of registration to cover the cost of investigation and issuance.

(Code of Iowa, Sec. 9C.2)

(Ord., Passed October 24, 2011)

3-7-4 REQUIREMENTS. Any applicant engaged in any activity described in 3-7-1 of this chapter must file with the City Clerk an application in writing that gives the following information:

1. Name and social security number.
2. Permanent and local addresses and, in case of transient merchants, the local address from which proposed sales will be made.
3. A brief description of the nature of the sales method.
4. Name and address of the firm for or on whose behalf the orders are solicited, or the supplier of the goods offered for sale.
5. Length of time for which the permit is desired.
6. A statement as to whether or not the applicant has been convicted of any crime, and if so, the date, the nature of the offense, and the name of the court imposing the penalty.
7. Motor vehicle make, model, year, color, and registration number, if a vehicle is to be used in the proposed solicitation.

3-7-5 HOURS OF SOLICITATION. No person may conduct those activities described in Section 3-7-1 except between the hours of 10:00 a.m. and 8:00 p.m. on each day, and no solicitation shall be done on Sundays or legal holidays.

3-7-6 CONSUMER PROTECTION LAW. All solicitors and peddlers shall be informed of, agree to comply with, and comply with the State law, Section 555A.3, Code of Iowa, requiring a notice of cancellation to be given in duplicate, properly filled out, to each buyer to whom such person sells a product or service and, comply with the other requirements of the law.

3-7-7 BOND REQUIRED. Before a permit under this chapter is issued, each person subject to this Ordinance shall post with the Clerk, a bond, by a surety company authorized to insure the fidelity of others in Iowa, in the amount of \$1,000 to the effect that the registrant and the surety consent to the forfeiture of the principal sum of the bond or such part thereof as may be necessary:

(1) to indemnify the City for any penalties or costs occasioned by the enforcement of this chapter, and (2) to make payment of any judgment rendered against the registrant as a result of a claim or litigation arising out of or in connection with the registrant's peddling or solicitation. The bond shall not be retired until one year from the expiration of the permit.

3-7-8 OBSTRUCTION OF PEDESTRIAN OR VEHICULAR TRAFFIC. No person, while engaged in any of the practices described in Section 3-7-1, shall block or obstruct the path of any pedestrian or vehicular traffic, or block or obstruct any way of ingress or egress to roads, buildings, or other enclosures or conveyances, including, but not limited to, vehicles, elevators, and escalators.

3-7-9 DISPLAY OF PERMIT. Each solicitor or peddler shall, at all times while doing business within the City of Preston, shall keep in possession a copy of the permit required above and shall display said permit upon request of prospective customers. Each transient merchant shall publicly display the required permit at his place of business.

3-7-10 PERMIT NOT TRANSFERABLE. Permits issued under the provisions of this chapter are not transferable in any situation and are to applicable only to the individual completing the application.

3-7-11 REVOCATION OF PERMIT. The City Council, after notice and hearing, may revoke any permit issued under this ordinance where the permit holder has made fraudulent statements, has violated this ordinance, or has otherwise conducted business in an unlawful manner.

TITLE III, COMMUNITY PROTECTION

CHAPTER 8, RESERVED

TITLE III, COMMUNITY PROTECTION

CHAPTER 9, ALCOHOLIC BEVERAGES

3-9-1	Purpose	3-9-3	Action by Council
3-9-2	Required Obedience to Provisions of this Chapter and State Law	3-9-4	Transfers

3-9-1 PURPOSE. The purpose of this chapter is to provide for administration of licenses and permits and for local regulations and procedures for the conduct of the sale and consumption of beer, wine, and liquor, for the protection of the safety, health, and general welfare of this community.

(Code of Iowa, Sec. 364.1)

3-9-2 REQUIRED OBEDIENCE TO PROVISIONS OF THIS CHAPTER AND STATE LAW.
The following sections of the Iowa Code are hereby adopted by reference:

1. 123.2 and 123.3 General Prohibition and Definitions
2. 123.18 Favors From Licensee or Permittee
3. 123.22 State Monopoly
4. 123.28 Open Alcoholic Beverage Containers
5. 123.30 Liquor Control Licenses - Classes
6. 123.31 Application Contents
7. 123.33 Records
8. 123.34 Expiration - License or Permit
9. 123.35 Simplified Renewal Procedure
10. 123.36 Liquor Fees - Sunday Sales
11. 123.38 Nature of Permit or License - Surrender - Transfer
12. 123.39 Suspension or Revocation of License or Permit - Civil Penalty
13. 123.40 Effect of Revocation

14. 123.44 Gifts of Liquors Prohibited
15. 123.46 Consumption in Public Places - Intoxication - Right to Chemical Test - Notifications - Exoneration
16. 123.47 Persons Under Legal Age - Penalty
17. 123.49 Miscellaneous Prohibitions
18. 123.50 Criminal and Civil Penalties
19. 123.51 Advertisements for Alcoholic Liquor, Wine or Beer
20. 123.52 Prohibited Sale
21. 123.90 Penalties Generally
22. 123.95 Premises Must Be Licensed - Exception as to Conventions and Social Gatherings
23. 123.122 through 123.145 Beer Provisions (Division II)
24. 123.150 Sunday Sales Before New Year's Day
25. 123.171 through 123.182 Wine Provisions (Division V)
26. 321.284 Open Containers in Motor Vehicles - Drivers
27. 321.284A Open Containers in Motor Vehicles - Passengers

3-9-3 ACTION BY COUNCIL. The City Council shall approve or disapprove the application. Action taken by the City Council shall be endorsed on the application. The application, fee, penal bond, and certificate of dram shop liability insurance (if applicable) shall be forwarded to the Iowa Alcoholic Beverages Division for further action as provided by law.

(Code of Iowa, Sec. 123.32(2))

3-9-4 TRANSFERS. The City Council may, in its discretion, authorize a licensee or permittee to transfer the license or permit from one location to another within the City, provided that the premises to which the transfer is to be made would have been eligible for a license or permit in the first instance and the transfer will not result in the violation of any law or Ordinance. An applicant for a transfer shall file with the application for transfer proof of dram shop liability insurance and penal bond covering the premises to which the license is to be transferred.

(Code of Iowa, Sec. 123.38)

TITLE III, COMMUNITY PROTECTION

CHAPTER 10, DRUG PARAPHERNALIA

3-10-1 Definitions

3-10-3 Prohibition

3-10-2 Exemption

DEFINITIONS

3-10-1 DEFINITIONS. As used in this Section, “drug paraphernalia” means all equipment, products, or materials of any kind used or attempted to be used in combination with a controlled substance, except those items used in combination with the lawful use of a controlled substance, to knowingly or intentionally and primarily do any of the following:

1. Manufacture a controlled substance.
2. Inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.
3. Test the strength, effectiveness, or purity of a controlled substance.
4. Enhance the effect of a controlled substance.

3-10-2 EXEMPTION. “Drug paraphernalia” does not include hypodermic needles or syringes if manufactured, delivered, sold, or possessed for a lawful purpose.

3-10-3 PROHIBITION. It is unlawful for any person to knowingly or intentionally manufacture, deliver, sell, or possess drug paraphernalia.

(Code of Iowa, Sec. 124.414)

TITLE III, COMMUNITY PROTECTION

CHAPTER 11, JUNK AND ABANDONED VEHICLES

3-11-1	Purpose	3-11-8	Junk Vehicles Declared a
3-11-2	Definitions		Nuisance
3-11-3	Removal of Abandoned Vehicles	3-11-9	Notice to Abate
3-11-4	Notification of Owners and	3-11-10	Abatement by Municipality
	Lienholders	3-11-11	Collection of Cost of Abatement
3-11-5	Impoundment Fees and Bonds	3-11-12	Exceptions
3-11-6	Hearing Procedures	3-11-13	Interference with Enforcement
3-11-7	Auction or Disposal of		
	Abandoned Vehicles		

3-11-1 PURPOSE. The purpose of this chapter is to protect the health, safety, and welfare of the citizens and safety of property of this City by providing for removal of abandoned motor vehicles and the elimination of the open storage of abandoned and junk motor vehicles and machinery except in authorized places.

(Code of Iowa, Sec. 3641.1)

3-11-2 DEFINITIONS. For the purpose of this chapter, the following terms are defined as follows:

1. "Department" means Police Department of Preston.
2. "Abandoned vehicle" means any of the following:
 - a. A vehicle that has been left unattended on public property for more than twenty-four hours and lacks current registration plates or two or more wheels or other parts which render the vehicle totally inoperable; or
 - b. A vehicle that has remained illegally on public property for more than twenty-four hours; or
 - c. A vehicle that has been unlawfully parked on private property or has been placed on private property without the consent of the owner or person in control of the property for more than twenty-four hours; or
 - d. A vehicle that has been legally impounded by order of the Chief of Police and has not been reclaimed for a period of ten days; or
 - e. Any vehicle parked on the street determined by the Chief of Police to create a hazard to other vehicular traffic.

(Code of Iowa, Sec. 321.89(1)(b))

3. "Private property" means any real property within the City which is not public property as

defined in this section.

4. "Public property" means any public right-of-way open for the purposes of vehicular travel.

5. A "junk vehicle" means any unlicensed vehicle stored within the corporate limits of the City of Preston, Iowa, and which has any one of the following characteristics:

a. Any vehicle with a broken or cracked windshield, or window or headlight or any other cracked or broken glass.

b. Any vehicle with a broken or loose fender, door or bumper or hood or door handle or window handle or steering wheel, trunk top or trunk handle or tail pipe.

c. Any vehicle which has become the habitat of rats, mice, or snakes, or any other vermin or insects.

d. Any motor vehicle if it lacks an engine or two or more wheels or other structural parts which render said motor vehicle totally inoperable.

e. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

(Cedar Falls v. Flett 330 N.W. 2nd 251, 253, Iowa 1983)
(Amended during 2013 codification)

6. "Vehicle" means every device in, upon, or by which a person or property is or may be transported or drawn upon a highway or street, excepting devices moved by human power or used exclusively upon stationary rails or tracks, and shall include without limitation a motor vehicle, automobile, truck, trailer, motorcycle, tractor, buggy, wagon, farm machinery, or any combination thereof.

3-11-3 REMOVAL OF ABANDONED VEHICLES.

1. The Chief of Police may, without prior notice or hearing, remove and impound any abandoned vehicle as defined in section 3-10-2 (1). The Chief of Police may hire other personnel, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles.

2. The impoundment and storage of all vehicles pursuant to this chapter shall be in such areas or places designated by the City Council.

3. When a vehicle is taken into custody and impounded under the provisions of this chapter, the Chief of Police shall maintain a record of the vehicle, listing the color, year of manufacture, manufacturer's trade name, body style, vehicle identification number, and license plate and year displayed on the vehicle. The records shall include the date and hour of tow, location towed from,

location towed to, person or firm doing the towing, reason for towing, and the name of the officer authorizing the tow.

(Code of Iowa, Sec. 321.89(2))

4. Nothing in this chapter shall govern the procedures of any police officer in taking into custody and impounding any vehicle to be used or proposed to be used as evidence in a criminal case involving crimes other than violations of this chapter.

3-11-4 NOTIFICATION OF OWNERS AND LIENHOLDERS.

1. When a vehicle is taken into custody under the provisions of this chapter or under any provisions of State law, the Chief of Police shall notify, within three days, by certified mail with five-days return receipt, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to their last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall:

- a. Describe the year, make, model, and serial number of the vehicle.
- b. Describe the personal property found in the vehicle.
- c. Describe the location of the facility where the vehicle is being held.
- d. Inform the persons receiving notice:

(1) of their right to reclaim the vehicle and personal property within ten days after the effective date of the notice;

(2) that the right can be exercised upon payment of all towing, preservation, notice, and storage charges resulting from placing the vehicle in custody;

(3) that failure of the owner or lienholders to exercise their right to reclaim the vehicle within the reclaiming period shall be deemed a waiver by the owner and all lienholders of all right, title, claim, and interest in the vehicle;

(4) that failure to reclaim the vehicle is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher.

e. State that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or personal property by the Chief of Police or the assessment of fees and charges provided by this chapter may request a hearing to contest these matters in accordance with the provisions of Section 3-10-6.

f. State that a request for a hearing must be in writing and received by the department prior to the expiration of the ten-day reclaiming period.

g. State that in the event a hearing is requested immediate release of the vehicle may be obtained by posting a cash bond as required by Section 3-10-5.

(Code of Iowa, Sec. 321.89(3)(a))

2. The owner, lienholders or any person receiving notice may, by written request received by the Chief of Police prior to the expiration of the ten-day reclaiming period, obtain an additional fourteen days within which the vehicle may be reclaimed.

(Code of Iowa, Sec. 321.89(3)(c))

3. Notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet the requirements of this chapter. The published notice may contain multiple listings of abandoned vehicles but shall be published within the same time requirements and shall contain the same information as prescribed for mailed notice in this section. Published notice shall be used if:

- a. the identity of the last registered owner cannot be determined, or
- b. the registration contains no address for the owner, or
- c. it is impossible to determine with reasonable certainty the identity and address of all lienholders.

(Code of Iowa, Sec. 321.89(3)(b))

4. If the persons receiving notice do not request a hearing or exercise their right to reclaim the vehicle or personal property within the reclaiming period, the owner of the vehicle or owners of the personal property shall no longer have any right, title, claim, or interest in or to the vehicle.

5. No court in any case in law or equity shall recognize any right, title, claim, or interest of the owner and lienholders after the ten-day reclaiming period.

(Code of Iowa, Sec. 321.89(3))

3-11-5 IMPOUNDMENT FEES AND BOND.

1. Before the owner or other person lawfully entitled to possession of any vehicle that has been impounded under the provisions of this chapter or any other provision of law may recover such vehicle, such person shall present to the Chief of Police evidence of such person's identity and right to possession of the vehicle, shall sign a receipt for its return, and shall pay the costs of:

- a. an impoundment fee
- b. towing charges
- c. preservation charges
- d. storage charges
- e. notice charges

(Code of Iowa, Sec. 321.89(3)(a))

2. The amount of the charges specified in a-e shall be set by the City Council. The notice charges shall be limited to the actual cost.

3. If a hearing is requested under Section 3-10-4 (1)(e), the owner or person lawfully entitled to possession of the vehicle shall be permitted to secure the immediate release of the vehicle upon posting a cash bond in an amount equal to the sum of:

- a. the fees required by Section 3-10-5(1)

b. the amount of the fine or penalty for each violation for which there is an outstanding or otherwise unsettled traffic violation notice or warrant.

3-11-6 HEARING PROCEDURES. The registered owner, any lienholder of record, or duly authorized agents thereof, may object to the legality of the impoundment or the assessment of fees and request a hearing thereon. No person shall be entitled to more than one hearing on each impoundment. Upon receipt of a timely objection to the impoundment, the objector shall be informed of the reason for the impoundment and a hearing shall be held, without unnecessary delay, before the City Council pursuant to 1-4-1 at seq.

(Code of Iowa, Sec. 321.89(3))

3-11-7 AUCTION OR DISPOSAL OF ABANDONED VEHICLES. The Chief of Police shall follow the procedures in State law for the auction or disposal of abandoned vehicles.

(321.89(4))

3-11-8 JUNK VEHICLES DECLARED A NUISANCE. Except as hereinafter provided, it is hereby declared that the parking, leaving, or storage of a junk vehicle upon either public or private property within the corporate limits of the City of Preston, Iowa, constitutes a threat to the health and safety of the citizens and is a nuisance within the meaning of Section 657.1 of the Code of Iowa. If any junk vehicle is stored upon private property or public property in violation thereof, the owner of the property shall be liable for said violation.

3-11-9 NOTICE TO ABATE.

1. Whenever the Chief of Police shall find a junk vehicle placed or stored on private property within the City in violation of Section 3-10-8, the Chief of Police shall notify, by certified mail with five days' return receipt, the following persons:

- a. the owner of the property.
- b. the occupant of the property.

2. The notice to abate shall:

- a. describe, to the extent possible, the year, make, model, and color of the vehicle.
- b. describe the location of the vehicle.
- c. state that the vehicle constitutes a nuisance under the provisions of this chapter.
- d. state that the owner of the property shall remove or repair the said junk vehicle within

ten days.

3-11-10 ABATEMENT BY MUNICIPALITY. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the City Clerk who shall pay such expenses on behalf of the municipality.

(Sec. 364.12(3)(h))

3-11-11 COLLECTION OF COST OF ABATEMENT. The Clerk shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer and the costs shall then be collected with, and in the same manner, as general property taxes.

(Code of Iowa, Sec. 364.12(3)(h))

3-11-12 EXCEPTIONS. This chapter shall not apply to the following:

1. A vehicle in an enclosed building.

2. A vehicle on the premises of a business enterprise operated in a district properly zoned therefore, as authorized under the Zoning Ordinance or restricted residence district of this City, when necessary to the operation of said business enterprise.

3. A vehicle in an appropriate storage space or depository maintained in a lawful place and lawful manner by this City.

3-11-13 INTERFERENCE WITH ENFORCEMENT. No person shall interfere in any way with the enforcement provision of this chapter.

TITLE III, COMMUNITY PROTECTION

CHAPTER 12, NATURAL GAS CODE

3-12-1	Purpose	3-12-11	Gas Fired Warm Air Furnaces
3-12-2	Definitions	3-12-12	Flue Liners, Draft Diverters, Barometric Draft Regulators and Draft Hoods
3-12-3	Inspections	3-12-13	Installation of Gas Appliances
3-12-4	Authority to Disconnect	3-12-14	Separate Service Lines and Meters
3-12-5	Authority to Render Gas Service	3-12-15	Liquid Propane and ASME Tanks
3-12-6	Material for Gas Piping	3-12-16	
3-12-7	Appliances - General		
3-12-8	Appliance Connections		
3-12-9	Water Heaters		
3-12-10	Venting Space Heating Equipment		

3-12-1 PURPOSE. There is hereby established a natural gas code for the City of Preston, Iowa. The Gas Superintendent shall be responsible for administration of this code and shall serve as the gas inspector.

3-12-2 DEFINITIONS.

1. "Approved" As to materials, workmanship, and types of construction, means approval by the inspector, as the result of investigation, inspections, and/or tests conducted by him, or by reason of accepted principles or tests by nationally recognized authorities.

2. "Person" shall include firm, corporation, or copartnership. Masculine gender shall include feminine gender, and singular shall include plural.

3. "Shall" as used in this code is mandatory.

4. "Gas Appliance Dealer" means one who maintains an established place of business for the installation, repair, or retail sale of gas appliances.

5. "Minor Repairs" are adjustment of appliances, replacement of parts, repairing leaks, and similar work.

6. "Gas Appliance" means a fixture or apparatus manufactured and designed to use natural gas as a fuel or medium.

7. "Gas Piping" means any run of pipe or fittings that is used to convey natural gas, installed

on any premises or in any building, but shall not include any portion of the service piping.

8. "Gas Piping System" means any arrangement of gas piping supplied by one meter.

9. "House Piping" means that portion of the gas piping contained within the boundaries of the building foundation and any gas piping connected to and extending beyond that portion of the system.

10. "Service Piping" means the piping between the street gas main and the gas meter.

11. "Flue Liner" means the liner to be installed in a masonry chimney used to vent natural gas burning equipment.

12. "Vent Connection" means a pipe designed to convey the products of combustion from a gas appliance to a flue liner.

3-12-3 INSPECTIONS.

1. Upon completion of the installation of any gas piping and/or gas appliance, and prior to the use thereof, the Inspector shall be notified that such piping and/or appliance is ready for inspection.

2. The following inspections shall be made and the Inspector shall either approve that portion of the work as completed, or shall notify the owner and/or contractor wherein the same fails to comply with this code.

a. An inspection shall be made after all gas piping has been installed, and before any such piping has been covered or concealed, or any appliance has been attached thereto.

b. All gas appliances shall be inspected after installation prior to gas being turned on.

3-12-4 AUTHORITY TO DISCONNECT. The gas inspector is hereby authorized to disconnect any gas appliance or gas piping which shall be found not in compliance with this ordinance, or which may be found defective and in such condition as to endanger life or property. Where such disconnection has been made, a notice shall be attached to such appliance or gas piping which shall state the same has been disconnected, together with the reasons therefore, and such notice shall not be removed nor shall the appliance or gas piping be reconnected until authorized by the Inspector.

3-12-5 AUTHORITY TO RENDER GAS SERVICE. It shall be unlawful for any person, firm, or corporation, excepting an authorized City employee, to turn on or reconnect gas service in or on any premises where and when gas service is not at the time being rendered. It shall further be unlawful to turn on or connect gas on or in any premises unless all outlets are properly and securely connected to appliances or capped or plugged with screwed joint fittings.

3-12-6 MATERIAL FOR GAS PIPING.

1. All pipe used for the installation, extension, alteration, and/or repair of any gas piping shall be standard weight wrought iron or steel.
2. All such pipe shall either be new, or shall previously have been used for no other purpose than conveying gas, and shall be clear and free from cutting burrs and defects in structure or threading.
3. Bushings shall not be used in house piping.
4. Welded piping and welded steel fittings are permissible to use.
5. Only ground joint unions may be used.

3-12-7 APPLIANCES - GENERAL. Gas appliances shall bear a nameplate showing the manufacturer's name and the seal of approval of either the American Gas Association or Underwriters Laboratories. Appliances without nameplate data must be approved in writing by the municipal utility prior to being connected.

3-12-8 APPLIANCE CONNECTIONS.

1. Domestic gas ranges, hot plates, refrigerators, and similar equipment shall be connected to the gas piping with rigid pipe, or approved flexible metal connections. A shut-off valve or gas cock shall be installed at the point where the tubing is connected to the rigid piping, which shall be easily accessible.
2. Clothes dryers, and similar equipment may be connected to the rigid piping by approved flexible connections. Where such flexible connections are used, a shut-off valve or gas cock shall be installed at a point where the flexible connections are connected to the rigid pipe.

3-12-9 WATER HEATERS.

1. All gas water heaters shall be vented.
2. No gas water heater shall be installed in a closed system of water piping unless an approved automatic combination temperature pressure relief valve is provided. Gas water heaters now in use may be connected to natural gas if an approval temperature pressure relief valve is now provided. If there is no temperature pressure relief valve now provided, an approved automatic combination temperature pressure relief valve shall be installed before the gas water heater can be connected to natural gas.
3. Either a thermostatically controlled pilot light, so constructed and adjusted that no gas can flow through the main burner unless the pilot light is burning, or some other similar type of safety

device must be used. No automatic gas water heater now in use may be connected to natural gas unless a positive shut-off gas valve is provided.

3-12-10 VENTING SPACE HEATING EQUIPMENT. All space heating equipment shall be vented.

3-12-11 GAS FIRED WARM AIR FURNACES.

1. No gas fired warm air furnace may be used with natural gas unless a thermostatic pilot light constructed for positive shut-off is used. This provision applies to all gas furnaces now in use.

2. All gas fired furnaces shall be listed or approved by the American Gas Association Laboratories.

3-12-12 FLUE LINERS, DRAFT DIVERTERS, BAROMETRIC DRAFT REGULATORS AND DRAFT HOODS.

1. All masonry chimneys used for venting gas burning equipment shall have a suitable flue liner installed.

2. Approved flue liners may be any one of the following:

- a. Vitrified steel pipe.
- b. Type B double-wall ventilated air space type flue pipe material, when the inner pipe is made of a corrosive resistant material.
- c. Stainless steel.
- d. Lap joint vitrified clay pipe.

3. When a flue liner is venting more than one gas fired appliance, it shall be of a size sufficient to vent all appliances connected to it.

4. Packaged chimneys approved by the Gas Superintendent will be acceptable for venting gas equipment.

5. An approved down draft diverter, draft hood or barometric draft control shall be installed on all gas heating installations. An approved draft hood shall be installed on all gas water heaters.

3-12-13 INSTALLATION OF GAS APPLIANCES. All installations of gas appliances shall be governed by the A.G.A. Standard Recommendations and shall be the recommendations adhered to by the gas utility.

3-12-14 SEPARATE SERVICE LINES AND METERS. Each business place and each residence shall be served by a separate service line and metered by a separate meter. There shall be no multiple services from a single meter.

3-12-15 LIQUID PROPANE AND ASME TANKS. The purpose of this ordinance is to establish a procedure for regulating the location and placement of liquid propane and ASME tanks within the city of Preston.

1. Application. This Ordinance applies to any and all liquid propane tanks and any other tanks that are or are intended to be filled on site; these include but are not limited to liquid propane and compressed gas tanks (hereinafter referred to as “LP/ASME TANK”).

2. Permits. No LP/ASME Tank shall hereafter be installed, stored, maintained, erected, constructed or otherwise allowed to remain in the city of Preston without first securing a permit therefore from the City Council.

3. Application Form. The City Clerk shall provide the applicant with the application form which shall require the following information:

a. A scale drawing of the proposed placement of the LP/ASME Tank which shall include;

- (1) Location of the property boundaries;
- (2) Any improvements on said property;
- (3) Any potential sources of ignition;
- (4) Any air intake vents;
- (5) Any window air conditioning units;
- (6) Any central air conditioning units;
- (7) Any existing electrical, gas, water, and sewer lines;
- (8) Any driveways on said property and any roads, alleys, railroad rights of way which abut or are within twenty (20) feet of said property;
- (9) The location of any steel or reinforced concrete posts required herein; and
- (10) Any other information required by the State Fire Marshall and State Fire Code, or any other applicable state or federal rules or regulations.

b. A description of the LP/ASME Tank including its capacity, dimensions, color and type of gas, chemical or liquid to be contained;

c. The name, address, facsimile and telephone number(s) of the supplier of the gas, chemical, liquid or substance to be contained in said tank; and

d. The use of the gas, chemical, liquid, or substance stored in the tank.

4. Time. No permit shall be granted until notice of the application for said permit has been on file with the City Clerk for at least seven (7) days prior to the City Council meeting at which said application is to be considered.

5. Posting. No permit shall be granted until notice of the application has been posted as an action item on regular council agenda.

6. Issuance of Permits. No permit shall issue except:

a. Upon the majority vote of the City Council;

b. The written approval of the State Fire Marshall stating that the placement of said LP/ASME Tank is in compliance with all applicable state codes, rules and regulations; and

c. The payment of a \$40.00 fee to be paid on approval of permit before installation occurs.

7. Protection from Damage. All LP/ASME tanks shall be protected from damage from vehicles in Accordance with the requirements of the State Fire Marshall; however, any LP/ASME tanks which are allowed by the State Fire Marshall within ten (10) feet of any road, public right of way or easement, shall be protected by steel or reinforced concrete posts on the side or sides exposed to any vehicle traffic. Said steel or reinforced concrete posts must be;

a. At least six (6) inches by six (6) inches in diameter;

b. At least forty-eight (48) inches below the surface of the ground;

c. At least forty-eight (48) inches above the surface of the ground;

d. At least forty-eight (48) inches from the LP/ASME Tanks; and

e. No more than thirty-six (36) inches apart measured from the center of each post.

8. City Utilities. No LP/ASME tanks shall be located such that any portion of said tank is above or below any city of Preston utility.

9. Iowa One Call. Prior to the placement of any LP/ASME Tank, Iowa One Call shall be contacted by the applicant and the utilities so marked by Iowa One Call shall be observed by the City inspector at the time the LP/ASME Tank is placed.

10. Enforcement. The Gas Superintendent shall be the City inspector who shall be responsible for the enforcement of this Ordinance.

11. Annual Certification. The applicant or any subsequent owners of users of the LP/ASME tank shall provide the city of Preston on an annual basis, or more frequently if requested by the city of Preston, with a certification by the State Fire Marshall or a registered engineer or a licensed mechanical engineer that said LP/ASME Tank is in a safe condition and safe location and/or written statement from Supplier.

12. Municipal Infraction. Any person, persons, firm, partnership or corporation, whether acting alone or in concert with any other, who violates this Ordinance shall be guilty of a municipal infraction, and shall be penalized as set forth in Title 1. Chapter 3, Section 1-3-2(2) of the Municipal Code of the city of Preston, Iowa.

(Ord. 262, Passed October 23, 2006)

TITLE III, COMMUNITY PROTECTION

CHAPTER 13, BURNING

3-13-1	Definition of Terms	3-13-4	Compliance
3-13-2	Open Burning	3-13-5	Incinerators
3-13-3	Exemptions		

3-13-1 DEFINITION OF TERMS.

1. Backyard Burning. The burning of rubbish originating on the premises by individuals domiciled on the premises.

2. Chimney or Stack. Any flue, conduit, or duct permitting the discharge or passage of air contaminants into the open air, or constructed or arranged for this purpose.

3. Garbage. All solid and semi-solid putrescible and non-putrescible animal and vegetable wastes resulting from the hauling, preparing, cooking, storing, and serving of food or of material intended for use as food, but excluding recognized industrial by-products.

4. Open Burning. Any burning of combustible materials wherein the products of combustion are emitted into the open air without passing through a chimney or stack.

5. Refuse. Garbage, rubbish, and all other putrescible and non-putrescible wastes, except sewage and water-carried trade wastes.

6. Rubbish. All waste materials of non-putrescible nature.

7. Salvage Operations. Any business, industry, or trade engaged wholly or in part in salvaging or reclaiming any project or material, including but not limited to, chemicals, drums, metals, motor vehicles, or shipping containers.

8. Trade Waste. All solid or liquid material or rubbish resulting from building operations, construction, or the conduct of any business, industry, or trade, including but not limited to chemicals, cinders, grease, paint, plastic product, and other forms of liquid or solid waste materials.

3-13-2 OPEN BURNING.

1. No person shall allow, cause, or permit open burning of refuse, including trade wastes, nor shall a person conduct a salvage operation by open burning, except where a variance has been granted by the air pollution control authority of the State of Iowa.

2. No person shall burn garbage except in approved incinerators so maintained and operated as to prevent the emission of objectionable odors or particulate matter, as provided hereafter.

3-13-3 EXEMPTIONS. The conditions below are exempt from these rules and regulations.

1. Cooking of Food. Open fires used only for the cooking of food for human consumption, or for recreational purposes except for the premises of permanent commercial establishments.

2. Premise Fires. Fires for the open burning of leaves, and plant material grown on the premises or deposited thereon by the elements shall be permitted. However, burning of these materials shall be permitted only after sundown and shall be permitted only on the property owner's property. Burning on city owned property including streets, sidewalks and terraces shall not be permitted.

3. Diseased Trees. Burning of diseased trees shall be permitted only at a predetermined site.

4. Disaster Rubbish. The open burning of rubbish produced during community disasters, including dead trees, in cases where the Governor of Iowa has declared an official emergency condition exists.

5. Flare Stacks. Flare stacks for the combustion of waste gases.

6. Training Fires. Fires set for the purpose of bona fide instruction and training of public or industrial employees in the methods of fighting fires.

7. Cleaning and Grubbing Rubbish. The open burning of combustible materials produced in clearing, grubbing, and construction operations, provided that such burning shall be limited to areas located at least one-fourth (1/4) mile from any inhabited building.

(Ord. 227, Passed January 21, 2002)

3-13-4 COMPLIANCE.

1. Nothing in these rules and regulations is intended to permit any practice which is a violation of any statute, ordinance, or regulation.

2. A violation of the rules and regulations issued in this section is a simple misdemeanor and shall be acted upon accordingly.

(Ord. 227, Passed January 21, 2002)

3-13-5 INCINERATORS. Equipment or facilities for enclosed burning of refuse shall have a stack adequate to maintain a draft sufficient for efficient combustion and the stack shall have a screen sufficiently fine to prevent ejection of particles of burning material. Such installations shall not be installed until approved by the City Council. Such equipment and facilities shall be maintained and operated so that no objectionable smoke or odor shall result, in accordance with State law and rules on particulates and smoke density.

TITLE III, COMMUNITY PROTECTION

CHAPTER 14, DISCRIMINATORY HOUSING PRACTICES

3-14-1	Purpose	3-14-3	Exemptions
3-14-2	Discriminatory Practices Defined	3-14-4	Complaints Filed

3-14-1 PURPOSE. The purpose of this ordinance is to provide for the general welfare of the citizens of Preston, Iowa by declaring discriminatory practices in housing to be against public policy, and to provide for proper procedures for the enforcement of this ordinance.

3-14-2 DISCRIMINATORY PRACTICES DEFINED. It shall be unlawful discriminatory housing practice to engage in any of the following acts, if they are based on race, creed, color, age, disability, sex, national origin, religion, or ancestry:

1. Refusing to sell or rent to, deal or negotiate with any person.
2. Discriminating in terms, conditions or privileges, for buying, renting, or any transfer of housing.
3. Discriminating by advertising that housing is available only to persons of a certain race, etc...
4. Denying that housing is available for inspection, sale, or rent when in fact it is so available.
5. For profit, persuading owners to sell or rent housing by telling them that minority groups are moving into the neighborhood.
6. Denying or making different rates, terms or conditions for home loans by commercial lenders, such as banks, savings and loan associations and insurance companies.
7. Making a record of or making available for public knowledge in any way a persons race, etc.
8. Denying to anyone the use of or participation in any real estate services, such as brokers' organizations, multiple listing services or other facilities related to the selling or renting of housing.

3-14-3 EXEMPTIONS. Nothing in this section, except for discrimination based on race, shall be construed to apply to:

1. The sale or rental of single-family houses owned by a private individual owner of three or fewer such single-family houses provided:

- a. A broker is not used.
- b. Discriminatory advertising is not used.
- c. No more than one house in which the owner was not the most recent resident is sold during any two-year period.

2. Rentals of rooms or units in owner-occupied multi-dwellings for two to four families, if discriminatory advertising is not used.

3. Limiting the sale, rental, or occupancy of dwellings which a religious organization owns or operates for other than a commercial purpose to persons of the same religion, if membership in that religion is not restricted on account of race, color or national origin.

4. Limiting to its own members the rental or occupancy of lodgings which a private club owns or operates for other than a commercial purpose.

3-14-4 COMPLAINTS FILED. In order to insure that the rights of all parties will adequately be protected, the following procedures are available:

1. Any person claiming to be aggrieved by a discriminatory or unfair practice within the city may, by himself/herself or through their attorney, make, sign and file a verified written charge of discriminatory practice with the Equal Opportunity Officer of the City of Preston, Iowa.

2. If the local Equal Opportunity Officer is unable to obtain voluntary compliance, the complainant may also send a notarized complaint to HUD within 180 days of the alleged discriminatory act.

3. A person may also take a complaint directly to the U.S. District Court or State or local court within 180 days of the alleged discriminatory act.

4. Information about possible discrimination in housing may also be brought to the attention of the Attorney General.

TITLE III, COMMUNITY PROTECTION

CHAPTER 15, EXCAVATIONS

3-15-1	Purpose	3-15-5	Backfilling and Restoration
3-15-2	Prohibition of Making Excavations or Ditches Without Written Permit	3-15-6	Exceptions
3-15-3	Duty to Give Notice to Iowa One Call	3-15-7	Superintendent of Streets and Alley Shall Supervise the Excavation or Ditch Making
3-15-4	Duty to Saw Through Concrete Paving, Duty to Close Up Digging or Excavation as Quickly as Possible, Duty to Properly Guard the Digging or Excavation at Night by Sufficient Light, and Duty to Back Fill	3-15-8	Liability of Parties and Non- Liability of City

3-15-1 PURPOSE. The purpose of this ordinance is to regulate the making of excavations and ditches within the corporate limits of the City of Preston, Iowa.

3-15-2 PROHIBITION OF MAKING EXCAVATIONS OR DITCHES WITHOUT WRITTEN PERMIT. It shall be unlawful for any person, firm, corporation or association to make any excavations or ditch for water mains, sewer pipes, or any other purpose within the corporate limits of the City of Preston, Iowa, without first obtaining from the Clerk a written permit therefore.

3-15-3 DUTY TO GIVE NOTICE TO IOWA ONE CALL. The person, firm, corporation or association obtaining said permit shall immediately after the issuance thereof, and at least forty-eight (48) hours (not counting weekends and/or legal holidays) prior to making any excavations, call Iowa One Call, stating the street address or block and lot number where such excavation or ditch is to be made, the name, address, and telephone number of the excavator; the name of the property owner; the type and extent of the proposed excavation; whether the discharge of explosives is anticipated; the approximate location of the excavation on the property; and the date and time when the work thereon will be commenced.

(Ord. 233, Passed November 11, 2002)

3-15-4 DUTY TO SAW THROUGH CONCRETE PAVING, DUTY TO CLOSE UP DIGGING OR EXCAVATION AS QUICKLY AS POSSIBLE, DUTY TO PROPERLY GUARD THE DIGGING OR EXCAVATION AT NIGHT BY SUFFICIENT LIGHT, AND DUTY TO BACK FILL. Where excavations or ditches are made through concrete paving of a street or alley, the portion to be removed must be first sawed. The said excavation or ditch shall be closed up as

speedily as possible after being made, shall be properly guarded at night by sufficient light to prevent accidents to the public, and it shall be the duty of the person making said excavation or ditch to backfill with sand or lime and to pack such that the ground is solid when the work is finished. Persons making excavations in City streets shall, in addition to the above requirements, remit to the City \$1.50 per each square foot of trench surface to cover the cost of pavement replacement and future repairs.

3-15-5 BACKFILLING AND RESTORATION Any person excavating in the streets shall be responsible for the backfilling of the excavation in accordance with City specifications and the restoration of the pavement or surfacing to an equivalent condition as existed prior to the excavation. If any excavator fails to backfill or restore the pavement or surfacing properly within forty-eight (48) hours of the completion of the underground work, the City reserves the right to backfill and resurface or install new paving or surfacing and charge the cost thereof to the party excavating. If any backfilling or pavement or surface restoration is not in accordance with City specifications, the Superintendent of Streets is authorized to remove such material as is necessary and to backfill and restore the pavement or surfacing properly.

3-15-6 EXCEPTIONS. Persons making excavations in the City street for the purpose of making a sewer connection shall not be required to pay for backfilling material or the fee for future repairs.

3-15-7 SUPERINTENDENT OF STREETS AND ALLEYS SHALL SUPERVISE THE EXCAVATION OR DITCH MAKING. The excavation or ditch for which a permit has been issued shall be conducted under the supervision of the Superintendent of Streets, who shall be notified when the bituminous paving or concrete paving is to be sawed, when the tamping and filling operation is to be started so that he shall be given an opportunity to inspect the same, and he shall make a final inspection of the closed excavation or ditch.

3-15-8 LIABILITY OF PARTIES AND NON-LIABILITY OF CITY. Any parties having said work done or doing the same shall be liable to any person, firm, corporation or association who have complied with the terms of this ordinance, for all damages caused by reason of digging of said excavation or ditch, and shall hold the City of Preston, Iowa, harmless from all liability by reason thereof.

TITLE III, COMMUNITY PROTECTION

CHAPTER 16, JUNKYARDS

3-16-1	Purpose	3-16-7	License Issuance and Terms
3-16-2	Definitions	3-16-8	Screening Requirements
3-16-3	License Required	3-16-9	General Operating Requirements
3-16-4	License Application	3-16-10	Inspections
3-16-5	Processing of License Application	3-16-11	License Renewal
3-16-6	License Fee	3-16-12	License Suspension or Revocation

3-16-1 PURPOSE. The purpose of this chapter is to protect the health, safety, and welfare of the citizens and safety of property of this City by providing for the licensing and inspection of junkyards and the elimination of the open storage of junk except in authorized places.

3-16-2 DEFINITIONS. Except where otherwise indicated by the context, the following definitions shall apply in the interpretation and enforcement of this chapter:

1. "Person" means any person, firm, partnership, association, corporation, company, or organization of any kind.

2. "Junk" means old or scrap copper, brass; rope, rags; batteries; paper; trash; rubber debris; waste; or junked, dismantled, or wrecked automobiles, or parts of automobiles; or iron, steel, or other old or scrap ferrous or nonferrous material; old bottles or other glass; bones, tinware, plastic, or discarded household goods, or hardware; and other waste or discarded material that might be prepared to be used again in some form; but "junk" shall not include materials or objects accumulated by a person as by-products, waste, or scraps from the operation of the person's own business or materials or objects held and used by a manufacturer as in integral part of its own manufacturing processes.

3. "Junkyard" means a yard, lot, or place, covered or uncovered, outdoors or in an enclosed building, containing junk as defined above, upon which occurs one or more acts of buying, keeping, dismantling, processing, selling, or offering for sale any such junk, in whole units or by parts, for a business or commercial purpose, whether or not the proceeds from such act or acts are to be used for charity, or any place where more than two inoperable motor vehicles, or used parts and materials thereof, when taken together equal the bulk of two motor vehicles, are stored or deposited, and the term includes garbage dumps, sanitary fills, and automobile graveyards.

4. "Junk dealer" means any person who buys, sells, transfers, delivers, or stores junk, including all persons who carry on such business at a junk shop or junkyard or as a peddler, and any person who by advertisement, sign, or otherwise holds himself/herself out as a junk dealer, or dealer

in the articles described in 3-15-2(2) of this chapter, including a person engaged in the activity known as "auto salvage", but junk dealer shall not include businesses engaged in the towing, repairing, or storing of wrecked motor vehicles where sales of such wrecked motor vehicles is only incidental to the collection of repair and storage charges.

5. "Inoperable motor vehicle" means any motor vehicle which lacks (1) current registration or (2) two or more wheels or other component parts the absence of which renders the vehicle totally unfit for legal use on the highways.

6. "Business premises" or "premises" means the area of a junkyard as described in a junk dealer's license or application for license, as provided in this chapter.

3-16-3 LICENSE REQUIRED. It shall be unlawful for any person to act as a junk dealer in the City of Preston, Iowa, whether personally, by agents or employees, singly, or in connection with some other business or enterprise, without first having obtained a license in accordance with the provisions of this chapter.

3-16-4 LICENSE APPLICATION. An applicant for a license under this chapter shall file with the City Clerk a written application signed by the applicant, if an individual, by all partners, if a partnership, or by the President or Chief Officer of a corporation or other organization, together with two (2) copies of such application and a fee as hereinafter prescribed. The application shall include the following:

1. Name, residence address, and the telephone number of each individual owner, partner, or, if a corporation or other organization, each officer and director.

2. Trade names used during the previous five (5) years by the applicant and each person signing the application, and the locations of prior establishments.

3. The trade name and address of the business on behalf of which application is made and its telephone number.

4. Exact address or location of the place where the business is or is proposed to be carried on, and a sketch of the actual premises to be used in connection with the business, showing adjoining roads, property lines, buildings, and uses.

3-16-5 PROCESSING OF LICENSE APPLICATION.

1. Upon receipt of a completed application for license, the City Clerk shall forward one copy to each of the following City officials:

Fire Chief
Chief of Police
County Health Officer

2. Upon receipt of said copy, the Fire Chief shall cause an inspection to be made of the premises described in the application where the activities of the junk dealer are proposed to be conducted to determine whether or not said premises meet the requirements of all City and State fire regulations and whether or not any conditions exist thereon that would constitute a fire hazard or public nuisance.

3. The Chief of Police and the County Health Officer, after examination of the premises, shall submit an inspection report to the City Clerk indicating whether or not the premises inspected are approved. If the premises are disapproved, the Inspector shall set forth in the report the reason(s) for disapproval. If the premises are disapproved and the unlawful conditions reported can be corrected, the Inspector shall so state in the report and grant the applicant a reasonable but specific time to correct the condition. Final action on the application shall then be postponed until receipt of a supplementary report from the Inspector after the specified date.

3-16-6 LICENSE FEE.

1. The application for a junk dealer's license shall be accompanied by an annual license fee of \$25.00 to be paid to the City of Preston.

2. All licenses issued hereunder shall be effective from the date of issuance to and including the thirtieth day of June next succeeding the date of issuance. The license fee set forth above shall be prorated on a quarterly basis from the date of issuance to the time of expiration.

3. If an application for license or renewal of license is denied, the license fee shall be refunded to the applicant.

3-16-7 LICENSE ISSUANCE AND TERMS.

1. After approval of said application by the Fire Chief, junkyards in existence as of July 1, 1987 will be issued a conditional six (6) month license during which steps to meet the requirements of this chapter must be taken by the owner.

2. All licenses issued hereunder shall be numbered serially in the order issued, and they shall set forth the following information:

- a. The name of the licensee.
- b. The street address and an accurate description of the business premises or proposed business premises where junk dealer's activities will be conducted.
- c. The fee paid.
- d. The expiration date.

3. The licensee shall post the license in a conspicuous place on the licensed premises.

4. No license issued hereunder shall be transferable, and a separate license shall be required for each business premises.

3-16-8 SCREENING REQUIREMENTS.

1. Except in those instances described in subsection (2) below, a junkyard as defined in this chapter must be surrounded by a solid opaque fence or wall, of uniform design and color, and not less than six (6') feet high, which substantially screens the area in which junk is stored or deposited. The fence must be kept in good repair and shall not be used for advertising displays or signs. Suitable gates, likewise opaque, are required, which shall be closed and locked after business hours or when the junkyard is unattended. A portion of any gate, not to exceed ten (10') feet in length, may be constructed of a non opaque material to permit observation of the fenced premises. No junk shall be permitted to be stored or deposited outside of the fence, nor may junk be stacked higher than the fence within thirty (30') feet of the fence.

2. Variations from the requirements of this section may be granted as follows:

a. If the perimeter of the junkyard is effectively blocked from public view by natural terrain features or is substantially lower in elevation than the surrounding terrain in a manner which renders thereby the opacity requirements hereof ineffective, the Council may, upon application, allow the substitution of a suitable fence in place of the solid opaque fence required herein.

b. If two or more junkyards, which otherwise meet the standards of this ordinance, abut each other and are located on lots adjoining each other, the fencing requirement of this ordinance shall be waived by the Council for such common boundary so long as the common boundary continues to exist.

c. If the junkyard that is the subject of the application abuts against an opaque fence which meets the fencing requirements, or an opaque structure which is not less than six (6') feet high, the fencing requirement of this section shall be waived by the Council for such common boundary.

3-16-9 GENERAL OPERATING REQUIREMENTS. The following general operating requirements shall apply to all junk dealers in the City limits:

1. The junkyard, and all things kept therein, shall be maintained in a sanitary condition.

2. No water shall be allowed to stand in any place on the premises in such manner as to afford a breeding place for mosquitoes.

3. No garbage or other waste liable to give off a foul odor or attract vermin shall be kept on the premises, nor shall any refuse of any kind be kept on the premises, unless such refuse is junk as defined herein and is in use in the licensed business.

4. No junk shall be allowed to rest upon or protrude over any public street, walkway, or curb or become scattered or blown off the business premises.

5. Junk shall be stored and arranged so as to permit easy access to all such junk for firefighting purposes.

6. No combustible material of any kind not necessary to the licensed business shall be kept on the premises, nor shall the premises be allowed to become a fire hazard.

7. Gasoline and oil shall be removed from any scrapped engines or vehicles on the premises.

8. No noisy processing of junk or other noisy activity shall be carried on in connection with the licensed business on a Sunday, any legal holiday, or at any time between the hours of 7:00 p.m. and 7:00 a.m.

(Amended during 2021 codification)

9. No automobile or part thereof shall be burned for wrecking or salvage purposes in or on premises occupied as a junkyard unless the same be burned in a manner that has been approved by the Fire Chief; and all motor vehicle gasoline and fuel tanks shall be separated and removed from motor vehicles intended for salvage purposed prior to cutting such vehicles.

(Amended during 2021 codification)

10. Each junk dealer shall keep complete, accurate, and legible records of all purchases in the English language. The records shall be kept in a permanent type register that shall be kept on the premises. The records shall be available for inspection by any Sheriff, Deputy Sheriff, Police Officer, or authorized agent of the City for a period of at least six (6) months. The records shall include:

- a. The name and residence of the person from whom the junk was received or purchased.
- b. Reasonably accurate inventory and description of each article.
- c. The value or amount paid for each article.

11. No junk dealer shall purchase or receive any personal property from any minor without first receiving the consent, in writing, of the parent or guardian. Such written consent shall be included in the permanent records as defined in section 9(10).

12. Upon written order of the Chief of Police or the designated representative, each junk dealer shall segregate specific items or categories of items and hold such items until authorized to dispose of the items by the Police Department. The holding period shall not exceed forty-five (45) days.

13. No junk dealer shall conceal, secrete, or destroy for the purpose of concealing, any article purchased or received by the dealer for the purposes of preventing identification thereof by any officer or any person claiming the same. No junk dealer shall sell, melt up, break up, or otherwise dispose of any article the dealer has reason to believe has been stolen, or which is adversely claimed by any person, or which the dealer has been notified not to sell or otherwise dispose of by any

Sheriff, Deputy Sheriff, or Police Officer, without first obtaining a permit in writing from the Chief of Police.

3-16-10 INSPECTIONS.

1. The Fire Chief and County Health Officer, during the period a junk dealer's license is in effect, may inspect all premises licensed hereunder at such intervals as they shall deem reasonable to determine whether or not the premises are being operated and maintained in compliance with all applicable regulations, ordinances, and laws.

2. No person shall prevent, hinder, or obstruct or attempt to prevent, hinder, or obstruct any City Inspector or Police Officer in the performance of their duties set forth in this chapter.

3-16-11 LICENSE RENEWAL.

1. Licenses may be renewed in the same manner and under the same conditions as originally issued hereunder. Applications for renewal of junk dealer's licenses shall be submitted to the City Clerk at least thirty (30) days prior to the expiration of the license then in effect. Applications for renewal of junk dealers' licenses shall be processed in accordance with the provisions of section 5 of this chapter.

2. When renewal of a license is denied, the junk dealer previously licensed under the provisions of this chapter shall have a period of six months immediately after such denial in which to conclude the business and dispose of the junk during which time the junk dealer shall be required to comply with all the terms and conditions of the ordinances of the City, except the licensing requirements of this chapter. If litigation is pending contesting the denial or revocation of a license, the City Council may grant an extension of time during which the junk dealer may operate pending the final outcome of such litigation.

3-16-12 LICENSE SUSPENSION OR REVOCATION. The City Council may suspend or revoke any license issued hereunder for any of the following reasons:

1. The licensee, an agent, or employee has been convicted of a violation of any of the provisions of this chapter.

2. The Fire Chief, the County Health Officer, or the Chief of Police has found that the licensee has failed to comply with one or more of the provisions of this chapter or the licensed premises fail to comply with one or more of the provisions of this chapter or of some other regulation, ordinance, or statute, and the licensee has failed to correct such condition within a reasonable time.

TITLE III, COMMUNITY PROTECTION

CHAPTER 17, PRIVATE WELLS AND WATER SYSTEMS

3-17-1	Title and Purpose	3-17-4	Registration of Pre-Existing Wells
3-17-2	Scope	3-17-5	Permit Process
3-17-3	Permit Required	3-17-6	Penalty Clause

3-17-1 TITLE AND PURPOSE.

1. This Ordinance shall be known, referred to and cited as the “Private Well Ordinance of the City of Preston, Iowa.”

2. The Ordinance is to provide for municipal regulation and permitting of private wells and water systems within the city limits of Preston, Iowa.

3-17-2 SCOPE

1. The provisions of this Chapter shall apply to all private water wells located or to be constructed within the city of Preston, Iowa, including but not limited to new construction and modification of existing wells.

2. Shallow wells or “sand points” shall be considered as private wells, subject to the provisions of this Chapter.

3. The provisions of this Chapter do not apply to monitoring wells used for soil and groundwater investigation.

3-17-3 PERMIT REQUIRED. No person shall construct a private well in the city of Preston, or own or use a well constructed after the effective date of this provision, unless a permit has been issued for the well by the city of Preston. This permit shall be in addition to the permit required by the Jackson County Health Department.

3-17-4 REGISTRATION OF PRE-EXISTING WELLS. Any person who owns property in the city of Preston which has a well, other than a monitoring well, which was constructed prior to the effective date of this Ordinance, shall register said well with the city of Preston.

3-17-5 PERMIT PROCESS.

1. Any person desiring to dig a well within the city of Preston shall apply to the City for a permit prior to applying to the Jackson County Health Department for a permit.

2. Upon receipt of a permit request, the City shall notify the Iowa Department of Resources, Leaking Underground Storage Tank Section, requesting a determination as to whether the proposed well is within an area of concern for documented site contamination from a leaking underground storage tank. If the proposed well site is found to be within such area of concern, the City shall not grant the permit.

3. If the proposed well site is not found to be within an area of concern, the Preston City Council shall determine by resolution whether a permit application shall be forwarded to the Jackson County Health Department for approval.

4. In making the determination, the City Council shall not approve the permit request unless one or more of the following conditions are met:

a. Existing Well. The well or water system was in existence prior to the effective date of this provision has been duly permitted by the Jackson County Health Department.

b. Location. No part of the tract of ground on which a private well or water system is proposed is within 300 feet of a City water main.

c. Undue Hardship. The property on which a private well or water system is proposed is geographically located so as to make connection to the City water main physically or economically unfeasible. Such hardship cannot be caused or magnified by the property owner or applicant.

3-17-6 PENALTY CLAUSE. Anyone violating the provisions of this Chapter is guilty of a municipal infraction and shall, upon conviction, be punished as provision in Section 1-3-1 of the Preston Municipal Code.

(Ord. Passed May 22, 2000)

TITLE III, COMMUNITY PROTECTION

CHAPTER 18, STREET USE AND MAINTENANCE

3-18-1 Placing Debris On
3-18-2 Driveway Culverts

3-18-3 Dumping of Snow

3-18-1 PLACING DEBRIS ON. It is unlawful for any person to throw, deposit or place on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, grass clippings, leaves or other yard waste, or any other debris, or any other substance likely to injure any person, animal or vehicle or to impede drainage or clog drainage ditches.

(Code of Iowa, Sec. 321.369)

3-18-2 DRIVEWAY CULVERTS. The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

3-18-3 DUMPING OF SNOW. It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial dries in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent, and only after first making arrangements for such prompt removal at the owner's cost of the accumulation within a reasonably short time.

(Ord., Passed August 13, 2012)

TITLE III, COMMUNITY PROTECTION

CHAPTER 19, FIREWORKS

3-19-1	Definition	3-19-3	Exceptions
3-19-2	Fireworks Use Regulations	3-19-4	Penalties
3-19-3	Fireworks Sale Regulations		

3-19-1 DEFINITION. The term “fireworks” includes any item or class of items defined in Iowa Code Sec. 727.2 (1).

3-19-2 FIREWORKS USE REGULATIONS. It is unlawful for any person to use or explode any fireworks as defined herein, except for on the following dates:

1. June 24th – July 8th, from 9:00 a.m. until 10:00 p.m. Exception: Discharge hours are extended to 11 p.m. on the July 4th only.

2. December 28th thru January 3rd from 9:00 a.m. until 10:00 p.m. Exception: Discharge hours are extended to 12:30 a.m. on January 1st.

All remaining limitations and exceptions stated in Senate File 489, including but not limited to Iowa Code §§ 100.19 and 727.2(3)-(5), shall remain in full force and effect.

With respect to “display fireworks” as defined in Iowa Code § 727.2(1)(b) the City may, upon application in writing, grant a permit for the display of fireworks by a City agency, fair associations, amusement parks and other organizations or groups of individuals approved by the City authorities when such fireworks display will be handled by a competent operator. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

Personal Injury.....	\$250,000 per person
Property Damage	\$50,000
Total Exposure	\$1,000,000

(Code of Iowa, Sections 727.2.2; 364.2 (6))

3-19-3 FIREWORKS SALE REGULATIONS. The City hereby adopts all standards, rules, regulations, and the like promulgated or that will be promulgated by the State Fire Marshall regarding the sale of fireworks pursuant to Iowa Code §§ 100.1; 100.19; 727.2. The City specifically adopts National Fire Protection Association standard 1123 with respect to the requirements for the handling, storage, transportation, display, and retail sale of fireworks.

All other provisions of the City Code of Ordinances not in conflict with this Section or with the laws

of the State of Iowa remain valid and enforceable.

(Code of Iowa, Sections 727.2; 364.2(6))

3-19-4 EXCEPTIONS. This section does not prohibit the sale by a resident, dealer, manufacturer or jobber of such fireworks as are not prohibited; or the sale of any kind of fireworks if they are to be shipped out of State; or the sale or use of blank cartridges for a show or theatre, or for signal purposes in athletic sports or by railroads or trucks for signal purposes, or by a recognized military organization. This section does not apply to any substance or composition prepared and sold for medicinal or fumigation purposes.

(Code of Iowa, Section 727.2)

3-19-5 PENALTIES. Any person who violates the provisions of the fireworks ordinance shall be guilty of a scheduled simple misdemeanor violation punishable by a \$500 fine in addition to established court costs. Persons who cause injury as a result of reckless discharging of fireworks shall be guilty of a simple misdemeanor charge with appearance before a magistrate required.

(Code of Iowa, Sections 100.19; 727.2)

(Ord. 2017-4, Passed July 24, 2017)

TITLE III, COMMUNITY PROTECTION

CHAPTER 20, ENFORCEMENT OF IMMIGRATION LAWS

3-20-1	Definitions	3-20-8	Complaints – notification-civil Section
3-20-2	Law enforcement agency duties – immigration detainer requests	3-20-9	Denial of state funds
3-20-3	Completion of sentence in federal custody	3-20-10	Reinstatement of eligibility to receive state funds.
3-20-4	Restriction on enforcement of immigration prohibited	3-20-11	Attorney general database
3-20-5	Written policies	3-20-12	Applicability
3-20-6	Discrimination prohibited		
3-20-7	Victim of or witness to a crime – limitation on collection of information		

3-20-1 DEFINITIONS.

1. “Immigration detainer request” means a written federal government request to a local entity to maintain temporary custody of an alien, including a United States department of homeland security form I-247 or a similar or successor form. “Immigration detainer request” includes only written federal government requests that are accompanied by any of the following properly completed forms or similar or successor forms, if such forms or similar or successor forms are signed by an authorized United States immigration and customs enforcement officer:

- a. United States department of homeland security form I-200.
- b. United States department of homeland security form I-205.

2. “Immigration law” means a law of this state or a federal law relating to aliens, immigrants, or immigration, including but not limited to the federal Immigration and Nationality Act, 8 u.s.c. §1101 et seq.

3. "Lawful detention" means the detention of a person by a local entity for the investigation of a public offense. "Lawful detention" excludes a detention if the sole reason for the detention is that a person is a victim of or witness to a public offense or is reporting a public offense.

4. “Local entity” means the governing body of a city or county. “Local entity” means the governing body of a city or county. “Local entity” includes an officer or employee of a local entity or a division, department, or other body that is part of a local entity, including but not limited to a sheriff, police department, city attorney, or county attorney.

5. “Policy” includes a formal, written rule, policy, procedure, regulation, order, ordinance, motion, resolution, or amendment and an informal, unwritten policy.

6. “Public offense” excludes a moving traffic violation under chapter 321.

3-20-2 LAW ENFORCEMENT AGENCY DUTIES – IMMIGRATION DETAINER REQUESTS. A law enforcement agency in this state that has custody of a person subject to an immigration detainer request issued by United States immigration and customs enforcement shall fully comply with any instruction made in the detainer request and in any other legal document provided by a federal agency.

3-20-3 COMPLETION OF SENTENCE IN FEDERAL CUSTODY.

1. The court, in a criminal proceeding in this state in which the sentence requires a defendant who is the subject of an immigration detainer request to be confined in a correctional facility, shall issue an order at the time of sentencing requiring the correctional facility in which the defendant is to be confined and all appropriated government officers to require the defendant to be transferred to serve in federal custody the final portion of the defendant’s sentence, not to exceed a period of seven days, if a facility or officer determines that the change in the place of confinement will facilitate the seamless transfer of the defendant into federal custody. The court in a criminal proceeding in this state shall retain jurisdiction to issue such an order at a later date if the court receives notice from a federal agency that a defendant was the subject of an immigration detainer request at the time of sentencing. The court shall issue such an order as soon as practicable after receiving such notice.

2. In the absence of an order issued under this section, a facility or officer acting under exigent circumstances may perform such a transfer after making a determination that the change in the place of confinement will facilitate the seamless transfer of the defendant into federal custody.

3. A defendant shall be transferred pursuant to this section only if appropriate officers of the federal government consent to the transfer of a defendant into federal custody under the circumstances described in this section.

3-20-4 RESTRICTION ON ENFORCEMENT OF IMMIGRATION PROHIBITED.

1. A local entity shall not adopt or enforce a policy or take any other action under which the local entity prohibits or discourages the enforcement of immigration laws.

2. A local entity shall not prohibit or discourage a person who is a law enforcement officer, corrections officer, county attorney, city attorney, or other official who is employed by or otherwise under the direction or control of the local entity from doing any of the following:

A. Inquiring about the immigration status of a person under a lawful detention or under arrest.

B. Doing any of the following with respect to information relating to the immigration status, lawful or unlawful, of any person under a lawful detention or under arrest, including information regarding the person's place of birth;

(1) Sending the information to or requesting or receiving the information from United States citizen and immigration services, United States immigration and customs enforcement, or another relevant federal agency.

(2) Maintaining the information

(3) Exchanging the information with another local entity or a federal or state governmental entity.

C. Assisting the information with another local entity or a federal or state governmental entity.

D. Permitting a federal immigration officer to enter and conduct enforcement activities at a jail or other detention facility to enforce a federal immigration law.

3-20-5 WRITTEN POLICIES. No later than January 1, 2019, each state or local law enforcement agency subject to this chapter shall do all of the following:

1. Formalize in writing any unwritten, informal policies relating to the enforcement of immigration laws.

2. Update the agency's policies to be consistent with this chapter, to require each officer or other employee of the law enforcement agency to fully comply with this chapter, and to prohibit an office or other employee of the law enforcement agency from preventing law enforcement agency personnel from fully complying with this chapter.

3-20-6 DISCRIMINATION PROHIBITED. A local entity or a person employed by or otherwise under the direction or control of a local entity shall not consider race, skin color, language spoken, or national origin while enforcing immigration laws except to the extent permitted by the Constitution of the United States or the Constitution of the State of Iowa.

3-20-7 VICTIM OF OR WITNESS TO A CRIME – LIMITATION ON COLLECTION OF INFORMATION. A local entity or a person employed by or otherwise under the direction or control of a local entity shall not ask for or collect any information from a victim of or witness to an alleged public offense or from a person reporting an alleged public offense, including the victim's, witness's, or person's national origin, that is not pertinent to the investigation of the alleged public offense.

3-20-8 COMPLAINTS – NOTIFICATION-CIVIL SECTION.

1. Any person, including a federal agency, may file a complaint with the attorney general alleging that a local entity has violated or is violating this chapter if the person offers evidence to support such an allegation. The person shall include with the complaint any evidence the person has in support of the complaint.

2. A local entity for which the attorney general has received a complaint pursuant to this section shall comply with any document requests, including a request for supporting documents, from the attorney general relating to the complaint.

3. A complaint filed pursuant to subsection 1 shall not be valid unless the attorney general determines that a violation of this chapter by a local entity was intentional.

4. If the attorney general determines that a complaint filed pursuant to this section against a local entity is valid, the attorney general, not later than ten days after the date of such determination, shall provide written notification to the local entity by certified mail, with return receipt requested, stating all of the following:

A. A complaint pursuant to this section has been filed and the grounds for the complaint.

B. The attorney general has determined that the complaint is valid.

C. The attorney general is authorized to file a civil action in district court pursuant to subsection 6 to enjoin a violation of this chapter no later than forty days after the date on which the notification is received if the local entity does not come into compliance with the requirements of this chapter.

D. The local entity and any entity that is under the jurisdiction of the local entity will be denied state funds pursuant to section 825.9 for the state fiscal year following the year in which a final judicial determination in a civil action brought under this section is made.

5. No later than thirty days after the date on which a local entity receives written notification under subsection 4, the local entity shall provide the attorney general with all of the following:

A. Copies of all of the local entity's written policies relating to immigration enforcement actions.

B. A copy of each immigration detainer request received by the local entity from a federal agency.

C. A copy of each response sent by the local entity to an immigration detainer request described by paragraph "B".

D. A description of all actions the local entity has taken or will take to correct any

violations of this chapter.

E. If applicable, any evidence that would refute the allegations made in the complaint.

6. No later than forty days after the date on which the notification pursuant to subsection 4 is received, the attorney general shall file a civil action in district court to enjoin any ongoing violation of this chapter by a local entity.

3-20-9 DENIAL OF STATE FUNDS.

1. Notwithstanding any other provision of law to the contrary, a local entity, including any entity under the jurisdiction of the local entity, shall be ineligible to receive any state funds if the local entity intentionally violates this chapter.

2. State funds shall be denied to a local entity pursuant to subsection 1 by all state agencies for each state fiscal year that begins after the date on which a final judicial determination that the local entity has intentionally violated this chapter is made in civil action brought pursuant to section 3-20-8, subsection 6. State funds shall continue to be denied until eligibility to receive state funds is reinstated under section 3-20-10. However, any state funds for the provision of wearable body protective gear used for law enforcement purposes shall not be denied under this section.

3. The department of management shall adopt rules pursuant to chapter 17A to implement this section 3-20-10 uniformly across state agencies from which state funds are distributed to local entities.

3-20-10 REINSTATEMENT OF ELIGIBILITY TO RECEIVE STATE FUNDS.

1. Except as provided by subsection 5, no earlier than ninety days after the date of a final judicial determination that a local entity has intentionally violated the provisions of this chapter, the local entity may petition the district court that heard the civil action brought pursuant to section 3-20-8, subsection 6, to seek a declaratory judgment that the local entity is in full compliance with this chapter.

2. A local entity that petitions the court as described by subsection 1 shall comply with any document requests, including a request for supporting documents, from the attorney general relating to the action.

3. If the court issues a declaratory judgment declaring that the local entity is in full compliance with this chapter the local entity's eligibility to receive state funds is reinstated beginning on the first day of the month following the date on which the declaratory judgment is issued.

4. A local entity shall not petition the court as described in subsection 1 more than twice in one twelve-month period.

5. A local entity may petition the court as described in subsection 1 before the date provided in subsection 1 if the person who was the director or other chief officer of the local entity at the time of the violation of this chapter is subsequently removed from or otherwise leaves office.

6. A party shall not be entitled to recover any attorney fees in a civil action described by subsection 1.

3-20-11 ATTORNEY GENERAL DATABASE. The attorney general shall develop and maintain a searchable database listing each local entity for which a final judicial determination described in section 3-20-9, subsection 2, has been made. The attorney general shall post the database on the attorney general's internet site.

3-20-12 APPLICABILITY. This Act applies to the release of a person from custody in this state on or after the effective date of this Act.

(Amended during 2021 codification)

TITLE III, COMMUNITY PROTECTION

CHAPTER 21, ADULT ENTERTAINMENT

3-21-1	Definitions	3-21-13	Loitering; Lighting Requirements
3-21-2	License Required	3-21-14	Applicability to Existing Businesses
3-21-3	Issuance of License	3-21-15	Conduct Regulations
3-21-4	Fees	3-21-16	Scienter Required to Prove Violation Or Business Licensee Liability
3-21-5	Inspection	3-21-17	Failure of City to Meet Deadline Not to Risk Applicant/Licensee Rights
3-21-6	Expiration and Renewal of License	3-21-18	Nuisance Declared
3-21-7	Suspension	3-21-19	Severability
3-21-8	Revocation		
3-21-9	Hearing; License Denial, Suspension, Revocation; Appeal		
3-21-10	Transfer of License		
3-21-11	Hours of Operation		
3-21-12	Exhibition of Sexually Explicit Films on Premises		

3-21-1 DEFINITIONS. For purposes of this chapter, the words and phrases defined hereunder shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context.

1. ADULT BOOKSTORE OR ADULT VIDEO STORE: A. A commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas"; or "sexual devices" as that term is defined in this section.

A "principal business activity" exists where the commercial establishment:

- a. Has a substantial portion of its displayed merchandise which consists of said items; or
- b. Has a substantial portion of the wholesale value of its displayed merchandise which consists of said items; or
- c. Has a substantial portion of the retail value (defined as the price charged to customers) of its displayed merchandise which consists of said items; or
- d. Derives a substantial portion of its revenues from the sale or rental, for any form of consideration of said items; or

e. Maintains a substantial portion of its interior business space for the display, sale, and/or rental of said items (aisles and walkways used to access said items shall be included in interior business space maintained for the display, sale, or rental of said items); or

f. Maintains at least five hundred (500) square feet of its interior business space for the display, sale, and/or rental of said items (aisles and walkways used to access said items shall be included in "interior business space" maintained for the display, sale, or rental of said items) and limits access to the premises to adults only; or

g. Offers for sale or rental at least two thousand (2,000) of the foregoing items and limits access to the premises to adults only; or

h. Maintains an "adult arcade", which means any place to which the public is permitted or invited wherein coin operated or slug operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are regularly maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or "specified anatomical areas".

2. ADULT CABARET: A nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment that regularly features persons who appear seminude. Appearing live in a state of nudity in a sexually oriented business is prohibited per subsection 4-8-16A of this chapter; no business shall avoid classification as an adult cabaret by offering or featuring nudity.

3. ADULT ENTERTAINMENT ESTABLISHMENT: An "adult bookstore" or "adult video store", an "adult cabaret", an "adult motion picture theater", or a "seminude model studio".

4. ADULT MOTION PICTURE THEATER: A commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas" are regularly shown to more than five (5) persons for any form of consideration.

5. CHARACTERIZED BY: Describing the essential character or quality of an item. As applied in this chapter, no business shall be classified as an adult entertainment establishment by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

6. CITY: Preston, Iowa.

7. EMPLOY, EMPLOYEE, AND EMPLOYMENT: Describe and pertain to any person who performs any function related to an adult entertainment establishment on the premises of the establishment, on a full time, part time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person

exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

8. ESTABLISH OR ESTABLISHMENT: Shall mean and include any of the following:

a. The opening or commencement of any adult entertainment establishment as a new business;

b. The conversion of an existing business, whether or not an adult entertainment establishment, to any adult entertainment establishment; or

c. The addition of any adult entertainment establishment to any other existing adult entertainment establishment.

9. HEARING OFFICER: An attorney, not otherwise employed by the city, who is licensed to practice law in Iowa, and retained to serve as an independent tribunal to conduct hearings under this chapter.

10. INFLUENTIAL INTEREST: Any of the following: a) the actual power to operate the adult entertainment establishment or control the operation, management or policies of the adult entertainment establishment or legal entity which operates the adult entertainment establishment; b) ownership of a financial interest of thirty percent (30%) or more of a business or of any class of voting securities of a business; or c) holding an office (e.g., president, vice president, secretary, treasurer, managing member, managing director, etc.) in a legal entity which operates the adult entertainment establishment.

11. LICENSEE: A person in whose name a license to operate an adult entertainment establishment has been issued, as well as the individual or individuals listed as an applicant on the application for an adult entertainment establishment license. In the case of an "employee", it shall mean the person in whose name the adult entertainment establishment employee license has been issued.

12. NUDITY OR A STATE OF NUDITY: The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

13. OPERATOR: Any person on the premises of an adult entertainment establishment who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated an adult entertainment establishment whether or not that person is an owner, part owner, or licensee of the business.

14. PERSON: Individual, proprietorship, partnership, corporation, association, or other legal

entity.

15. PREMISES: The real property upon which the adult entertainment establishment is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the adult entertainment establishment, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for an adult entertainment establishment license.

16. REGULARLY: The consistent and repeated doing of an act on an ongoing basis.

17. SEMINUDE MODEL STUDIO: A place where persons regularly appear in a state of seminudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. This definition does not apply to any place where persons appearing in a state of seminudity did so in a class operated:

a. By a college, junior college, or university supported entirely or partly by taxation;

b. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

c. In a structure:

(1) Which has no sign visible from the exterior of the structure and no other advertising that indicates a seminude person is available for viewing; and

(2) Where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class.

18. SEMINUDE OR STATE OF SEMINUDITY: The showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

19. SEXUAL DEVICE: Any three-dimensional object designed for stimulation of the male or female human genitals, anus, buttocks, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices commonly known as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

20. SPECIFIED ANATOMICAL AREAS: Means and includes:

a. Less than completely and opaquely covered: human genitals, pubic region; buttock; and female breast below a point immediately above the top of the areola; and

b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

21. SPECIFIED CRIMINAL ACTIVITY: Any of the following specified crimes for which less than five (5) years has elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:

a. Vice offenses (Iowa Code chapter 725);

b. Obscenity offenses (Iowa Code chapter 728);

c. Assault offenses (Iowa Code chapter 708);

d. Sexual abuse offenses (Iowa Code chapter 709);

e. Money laundering offenses (Iowa Code section 706B.2);

f. Controlled substances offenses (Iowa Code chapter 124, Div. IV);

g. Any attempt, solicitation, or conspiracy to commit one of the foregoing offenses; or

h. Any offense committed in another jurisdiction that, had the predicate act(s) been committed in Iowa, would have constituted any of the foregoing offenses.

22. SPECIFIED SEXUAL ACTIVITY: Any of the following:

a. Intercourse, oral copulation, masturbation or sodomy; or

b. Excretory functions as a part of or in connection with any of the activities described in subsection A of this definition.

23. SUBSTANTIAL: At least thirty five percent (35%) of the item(s) so modified.

24. TRANSFER OF OWNERSHIP OR CONTROL: Of an adult entertainment establishment shall mean any of the following:

a. The sale, lease, or sublease of the business;

b. The transfer of securities which constitute an influential interest in the business, whether by sale, exchange, or similar means; or

c. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

25. VIEWING ROOM: The room, booth, or area where a patron of an adult entertainment establishment would ordinarily be positioned while watching a film, videocassette, digital video disc, or other video reproduction.

3-21-2 LICENSE REQUIRED:

1. Business License: It shall be unlawful for any person to operate an adult entertainment establishment in the city without a valid adult entertainment establishment license.

2. Employee License: It shall be unlawful for any person to be an "employee", as defined in section 3-21-2 of this chapter, of an adult entertainment establishment in the city without a valid adult entertainment establishment employee license, except that a person who is a licensee under a valid adult entertainment establishment license shall not be required to also obtain an adult entertainment establishment employee license.

3. Application: An applicant for an adult entertainment establishment license or an adult entertainment establishment employee license shall file in person at the office of the city manager a completed application made on a form provided by the city manager. An adult entertainment establishment may designate an individual with an influential interest in the establishment to file its application for an adult entertainment establishment license in person on behalf of the establishment. The application shall be signed as required by subsection D of this section and shall be notarized. An application shall be considered complete when it contains, for each person required to sign the application, the information and/or items required in this subsection, accompanied by the appropriate licensing fee:

a. The applicant's full legal name and any other names used by the applicant in the preceding five (5) years.

b. Current business address or another mailing address for the applicant.

c. Written proof of age, in the form of a driver's license or a copy of a birth certificate accompanied by a picture identification document issued by a governmental agency.

d. If the application is for an adult entertainment establishment license, the business name, location, legal description, mailing address and phone number of the adult entertainment establishment.

e. If the application is for an adult entertainment establishment license, the name and business address of the statutory agent or other agent authorized to receive service of process.

f. A statement of whether an applicant has been convicted of or has pled guilty or nolo contendere to a "specified criminal activity" as defined in this chapter, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each as well as the dates of conviction and release from confinement, where applicable.

g. A statement of whether any adult entertainment establishment in which an applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):

- (1) Been declared by a court of law to be a nuisance; or
- (2) Been subject to a court order of closure or padlocking.

h. An application for an adult entertainment establishment license shall be accompanied by a legal description of the property where the business is located and a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches ($\pm 6''$). Applicants who are required to comply with the stage, booth, and/or room configuration requirements of this chapter shall submit a diagram indicating that the setup and configuration of the premises meets the requirements of the applicable regulations.

The information provided pursuant to this subsection shall be supplemented in writing by certified mail, return receipt requested, to the city manager within ten (10) working days of a change of circumstances which would render the information originally submitted false or incomplete.

4. Signature: A person who seeks an adult entertainment establishment employee license under this section shall sign the application for a license. If a person who seeks an adult entertainment establishment license under this section is an individual, he shall sign the application for a license as applicant. If a person who seeks an adult entertainment establishment license is other than an individual, each person with an influential interest in the adult entertainment establishment or in a legal entity that controls the adult entertainment establishment shall sign the application for a license as applicant. Each applicant must be qualified under this chapter and each applicant shall be considered a licensee if a license is granted.

5. Information Confidential: The information provided by an applicant in connection with an application for a license under this chapter shall be maintained by the office of the city manager on a confidential basis, and such information may be disclosed only as may be required, and only to the extent required, by court order.

(Ord. 69-08, 10-20-2008)

3-21-3 ISSUANCE OF LICENSE.

1. Business License: Upon the filing of a completed application for an adult entertainment

establishment license, the city manager shall immediately issue a temporary license to the applicant if the completed application is from a preexisting adult entertainment establishment that is lawfully operating in the city and the completed application, on its face, indicates that the applicant is entitled to an annual adult entertainment establishment license. The temporary license shall expire upon the final decision of the city to deny or grant an annual license. Within twenty (20) days of the filing of a completed adult entertainment establishment license application, the city manager shall either issue a license to the applicant or issue a written notice of intent to deny a license to the applicant.

The city manager shall issue a license unless:

- a. An applicant is less than eighteen (18) years of age.
- b. An applicant has failed to provide information required by this chapter for issuance of a license or has falsely answered a question or request for information on the application form.
- c. The license application fee required by this chapter has not been paid.
- d. The "adult entertainment establishment", as defined in section 3-21-1 of this chapter is not in compliance with the interior configuration requirements of this chapter or is not in compliance with locational requirements of this chapter or the locational requirements of any other part of the this code.
- e. Any adult entertainment establishment in which the applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):
 - (1) Been declared by a court of law to be a nuisance; or
 - (2) Been subject to an order of closure or padlocking.
- f. An applicant has been convicted of or pled guilty or nolo contendere to a "specified criminal activity", as defined in section 3-21-2 of this chapter.

2. Employee License: Upon the filing of a completed application for an adult entertainment establishment employee license, the city manager shall immediately issue a temporary license to the applicant if the applicant seeks licensure to work in a licensed adult entertainment establishment and the completed application, on its face, indicates that the applicant is entitled to an annual adult entertainment establishment employee license. The temporary license shall expire upon the final decision of the city to deny or grant an annual license. Within twenty (20) days of the filing of a completed adult entertainment establishment employee license application, the city manager shall either issue a license to the applicant or issue a written notice of intent to deny a license to the applicant. The city manager shall issue a license unless:

- a. The applicant is less than eighteen (18) years of age.

b. The applicant has failed to provide information as required by this chapter for issuance of a license or has falsely answered a question or request for information on the application form.

c. The license application fee required by this chapter has not been paid.

d. Any adult entertainment establishment in which the applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):

(1) Been declared by a court of law to be a nuisance; or

(2) Been subject to an order of closure or padlocking.

e. The applicant has been convicted of or pled guilty or nolo contendere to a "specified criminal activity", as defined in section 3-21-1 of this chapter.

3. License Contents; Posting; Kept on Person: The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and, if the license is for an adult entertainment establishment, the address of the adult entertainment establishment. The adult entertainment establishment license shall be posted in a conspicuous place at or near the entrance to the adult entertainment establishment so that it may be read at any time that the business is occupied by patrons or is open to the public. An adult entertainment establishment employee shall keep the employee's license on his or her person or on the premises where the licensee is then working or performing.

(Ord. 69-08, 10-20-2008)

3-21-4 FEES. The initial license and annual renewal fees for adult entertainment establishment licenses and adult entertainment establishment employee licenses shall be as follows: a) one hundred dollars (\$100.00) for the initial fee for an adult entertainment establishment license and fifty dollars (\$50.00) for annual renewal; b) fifty dollars (\$50.00) for the initial adult entertainment establishment employee license and twenty five dollars (\$25.00) for annual renewal.

3-21-5 INSPECTION. Adult entertainment establishments and adult entertainment establishment employees shall permit the city manager and his or her agents to inspect, from time to time on an occasional basis, the portions of the adult entertainment establishment premises where patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this chapter, during those times when the adult entertainment establishment is occupied by patrons or is open to the public. This section shall be narrowly construed by the city to authorize reasonable inspections of the licensed premises pursuant to this chapter, but not to authorize a harassing or excessive pattern of inspections.

3-21-6 EXPIRATION AND RENEWAL OF LICENSE.

1. Each license shall remain valid for a period of one calendar year from the date of issuance unless otherwise suspended or revoked. Such license may be renewed only by making application and payment of a fee as provided in section 3-21-4 of this chapter.

2. Application for renewal of an annual license should be made at least ninety (90) days before the expiration date of the current annual license, and when made less than ninety (90) days before the expiration date, the expiration of the current license will not be affected.

3-21-7 SUSPENSION.

1. The city manager shall issue a written notice of intent to suspend an adult entertainment establishment license for a period not to exceed thirty (30) days if the adult entertainment establishment licensee has knowingly violated this chapter or has knowingly allowed an employee or any other person to violate this chapter.

2. The city manager shall issue a written notice of intent to suspend an adult entertainment establishment employee license for a period not to exceed thirty (30) days if the employee licensee has knowingly violated this chapter.

3-21-8 REVOCATION.

1. Notice of Violation: The city manager shall issue a written notice of intent to revoke an adult entertainment establishment license or an adult entertainment establishment employee license, as applicable, if the licensee knowingly violates this chapter or has knowingly allowed an employee or any other person to violate this chapter and a suspension of the licensee's license has become effective within the previous twelve (12) month period.

2. Reasons for Revocation: The city manager shall issue a written notice of intent to revoke an adult entertainment establishment license or an adult entertainment establishment employee license, as applicable, if:

a. The licensee has knowingly given false information in the application for the adult entertainment establishment license or the adult entertainment establishment employee license;

b. The licensee has knowingly or recklessly engaged in or allowed possession, use, or sale of controlled substances on the premises of the adult entertainment establishment;

c. The licensee has knowingly or recklessly engaged in or allowed prostitution on the premises of the adult entertainment establishment;

d. The licensee knowingly or recklessly operated the adult entertainment establishment during a period of time when the license was finally suspended or revoked;

e. The licensee has knowingly or recklessly engaged in or allowed any specified sexual

activity or specified criminal activity to occur in or on the premises of the adult entertainment establishment; or

f. The licensee has knowingly or recklessly allowed a person under the age of eighteen (18) years to consume alcohol or appear in a state of seminudity or nudity on the premises of the adult entertainment business.

3. Appeal of Relevant Conviction: The fact that any relevant conviction is being appealed shall have no effect on the revocation of the license; provided, that, if any conviction which serves as a basis of a license revocation is overturned or reversed on appeal, that conviction shall be treated as null and of no effect for revocation purposes.

4. Term of Revocation: When, after the notice and hearing procedure described in this chapter, the revocation becomes effective.

3-21-9 HEARING; LICENSE DENIAL, SUSPENSION, REVOCATION; APPEAL

1. Notice and Request For Hearing, Procedures:

a. When the city manager issues a written notice of intent to deny, suspend, or revoke a license, the city manager shall immediately send such notice, which shall include the specific grounds under this chapter for such action, to the applicant or licensee (respondent) by personal delivery or certified mail. The notice shall be directed to the most current business address or other mailing address on file with the city manager for the respondent. The respondent shall have ten (10) days after the delivery of the written notice to submit, at the office of the city manager, a written request for a hearing. If the respondent does not request a hearing within said ten (10) days, the city manager's written notice shall become a final denial, suspension, or revocation, as the case may be, on the thirtieth day after it is issued, and shall be subject to the provisions of subsection B of this section.

b. If the respondent does make a written request for a hearing within said ten (10) days, then the city manager shall, within ten (10) days after the submission of the request, send a notice to the respondent indicating the date, time, and place of the hearing. The hearing shall be conducted not less than ten (10) days nor more than twenty (20) days after the date that the hearing notice is issued. The city shall provide for the hearing to be transcribed.

c. At the hearing, the respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross examine any of the city's witnesses. The city manager shall also be represented by counsel, and shall bear the burden of proving the grounds for denying, suspending, or revoking the license. The hearing shall take no longer than two (2) days, unless extended at the request of the respondent to meet the requirements of due process and proper administration of justice. The hearing officer shall issue a final written decision, including specific reasons for the decision pursuant to this chapter, to the respondent within five (5) days after the hearing.

d. If the decision is to deny, suspend, or revoke the license, the decision shall advise the respondent of the right to appeal such decision to a court of competent jurisdiction, and the decision shall not become effective until the thirtieth day after it is rendered. If the hearing officer's decision finds that no grounds exist for denial, suspension, or revocation of the license, the hearing officer shall, contemporaneously with the issuance of the decision, order the city to immediately withdraw the intent to deny, suspend, or revoke the license and to notify the respondent in writing by certified mail of such action. If the respondent is not yet licensed, the city manager shall contemporaneously therewith issue the license to the applicant.

2. Court Action to Challenge Decision: If any court action challenging a licensing decision is initiated, the city shall prepare and transmit to the court a transcript of the hearing within thirty (30) days after receiving written notice of the filing of the court action. The city shall consent to expedited briefing and/or disposition of the action, shall comply with any expedited schedule set by the court, and shall facilitate prompt judicial review of the proceedings. The following shall apply to any adult entertainment establishment that is lawfully operating as an adult entertainment establishment, or any adult entertainment establishment employee that is lawfully employed as an adult entertainment establishment employee, on the date on which the completed business or employee application, as applicable, is filed with the city manager. Upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin the city's enforcement of any denial, suspension, or revocation of a temporary license or annual license, the city manager shall immediately issue the respondent a provisional license. The provisional license shall allow the respondent to continue operation of the adult entertainment establishment or to continue employment as an adult entertainment establishment employee and will expire upon the court's entry of a judgment on the respondent's appeal or other action to restrain or otherwise enjoin the city's enforcement.

(Ord. 69-08, 10-20-2008)

3-21-10 TRANSFER OF LICENSE. A licensee shall not transfer his or her license to another, nor shall a licensee operate an adult entertainment establishment under the authority of a license at any place other than the address designated in the adult entertainment establishment license application.

(Ord. 69-08, 10-20-2008)

3-21-11 HOURS OF OPERATION. No adult entertainment establishment shall be or remain open for business between two o'clock (2:00) A.M. and eight o'clock (8:00) A.M. on any day.

(Ord. 69-08, 10-20-2008)

3-21-12 EXHIBITION OF SEXUALLY EXPLICIT FILMS ON PREMISES.

1. Requirements: A person who operates or causes to be operated an adult entertainment establishment which exhibits in a booth or viewing room on the premises, through any mechanical or electronic image producing device, a film, videocassette, digital video disc, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements:

a. Each application for an adult entertainment establishment license shall contain a diagram of the premises showing the location of all operator's stations, booths or viewing rooms, overhead lighting fixtures, and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain equipment for displaying films, videocassettes, digital video discs, or other video reproductions. The diagram shall also designate the place at which the license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches ($\pm 6''$). The city manager may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

b. It shall be the duty of the operator, and of any employees present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.

c. The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot-candles as measured at the floor level. It shall be the duty of the operator, and of any employees present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.

d. It shall be the duty of the operator, and of any employees present on the premises, to ensure that no specified sexual activity occurs in or on the licensed premises.

e. It shall be the duty of the operator to post conspicuous signs in well lighted entry areas of the business stating all of the following:

(1) That the occupancy of viewing rooms less than one hundred fifty (150) square feet is limited to one person.

(2) That specified sexual activity on the premises is prohibited.

(3) That the making of openings between viewing rooms is prohibited.

(4) That violators will be required to leave the premises.

(5) That violations of these regulations are unlawful.

f. It shall be the duty of the operator to enforce the regulations articulated in subsections A5a through A5d of this section.

g. The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed thirty-two (32) square feet of floor area. If the premises has two (2) or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one of the operator's stations. The view required in this subsection must be by direct line of sight from the operator's station. It is the duty of the operator to ensure that at least one employee is on duty and situated in each operator's station at all times that any patron is on the premises. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this subsection remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.

2. Failure to Fulfill Duties: It shall be unlawful for a person having a duty under subsection 1 of this section to knowingly fail to fulfill that duty.

3. Entering Occupied Viewing Room: It shall be unlawful for any person to knowingly enter a viewing room less than one hundred fifty (150) square feet in area that is occupied by any other person.

4. Make Opening Between Viewing Rooms: It shall be unlawful for any person to knowingly make any hole or opening between viewing rooms.

5. Allowing Opening To Remain: It shall be unlawful for an operator to knowingly allow to persist any hole or similar opening in the wall of any viewing room.

3-21-13 LOITERING; LIGHTING REQUIREMENTS.

1. Loitering Prohibited; Monitoring Premises: It shall be the duty of the operator of an adult entertainment establishment to: 1) ensure that at least two (2) conspicuous signs stating that no loitering is permitted on the premises are posted on the premises; 2) designate one or more employees to monitor the activities of persons on the premises by visually inspecting the premises at least once every ninety (90) minutes or inspecting the premises by use of video cameras and monitors; and 3) provide lighting to the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. Said lighting shall be of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one (1.0) foot-candle as measured at the floor level. If used, video cameras and monitors shall operate continuously at all times that the premises are open for business. The monitors shall be installed within an operator's station.

2. Lighting Requirements: It shall be the duty of the operator of an adult entertainment

establishment to ensure that the interior premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than five (5.0) foot-candles as measured at the floor level and the illumination must be maintained at all times that any customer is present in or on the premises.

3. Failure to Fulfill Duty: It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

4. Barrier In Parking Lot: No adult entertainment establishment shall erect a fence, wall, or other barrier that prevents any portion of the parking lot(s) for the establishment from being visible from a public right of way.

(Ord. 69-08, 10-20-2008)

3-21-14 APPLICABILITY TO EXISTING BUSINESSES. All preexisting adult entertainment establishments lawfully operating in the city in compliance with all state and local laws prior to the effective date hereof, and all adult entertainment establishment employees working in the city prior to the effective date hereof, are hereby granted a de facto temporary license to continue operation or employment for a period of ninety (90) days following the effective date hereof. By the end of said ninety (90) days, all adult entertainment establishments and adult entertainment establishment employees must conform to and abide by the requirements of this chapter.

3-21-15 CONDUCT REGULATIONS.

1. Nudity; Sexual Activity: No patron, employee, or any other person shall knowingly or intentionally, in an adult entertainment establishment, appear in a state of nudity or engage in a specified sexual activity.

2. Seminudity: No person shall knowingly or intentionally, in an adult entertainment establishment, appear in a seminude condition unless the person is an employee who, while seminude, remains at least six feet (6') from all patrons and on a stage at least eighteen inches (18") from the floor in a room of at least six hundred (600) square feet.

3. View from Operator Stations: The interior of the premises of any adult entertainment establishment which regularly features persons who appear seminude shall be configured in such a manner that there is an unobstructed view, by a direct line of sight from a fixed operator's station, of every area of the interior premises, excluding restrooms, to which any patron is permitted access for any purpose. If the premises has two (2) or more operator's stations, then such view shall be from at least one of the operator's stations. An operator's station shall not exceed thirty two (32) square feet of floor area. It is the duty of the operator to ensure that at least one employee is on duty and situated in each operator's station at all times that any patron is on the premises.

4. Touching of Customers: No employee who regularly appears seminude in an adult entertainment establishment shall knowingly or intentionally touch a customer or the clothing of a customer while on the premises of an adult entertainment establishment.

5. Alcoholic Beverages: No person shall sell, use, or consume alcoholic beverages on the premises of an adult entertainment establishment.

6. Minors: No person shall knowingly or recklessly allow a person under the age of eighteen (18) years to be or remain on the premises of an adult entertainment establishment.

7. Compliance Required: No operator or licensee of an adult entertainment establishment shall knowingly violate or fail to comply with the regulations in this section or knowingly allow an employee or any other person to violate the regulations in this section.

8. Regulations Posted: A sign in a form to be prescribed by the city manager, and summarizing the provisions of subsections A, B, C, D, E and F of this section shall be posted near the entrance of the adult entertainment establishment in such a manner as to be clearly visible to patrons upon entry. No person shall cover, obstruct, or obscure said sign.

9. Separate Restrooms: An adult entertainment establishment shall provide separate male and female restrooms for and to be used by employees which shall be separate from restrooms provided for and used by nonemployees. This requirement shall not apply to an adult entertainment establishment that neither has live entertainment nor provides prepared food or allows beverages (including alcoholic beverages) other than sealed nonalcoholic beverages for individual retail sales.

(Ord. 69-08, 10-20-2008)

3-21-16 SCIENTER REQUIRED TO PROVE VIOLATION OR BUSINESS LICENSEE LIABILITY. This chapter does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of this chapter. Notwithstanding anything to the contrary, for the purposes of this chapter, an act by an employee that constitutes grounds for suspension or revocation of that employee's license shall be imputed to the adult entertainment establishment licensee for purposes of finding a violation of this chapter, or for purposes of license denial, suspension, or revocation, only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.

3-21-17 FAILURE OF CITY TO MEET DEADLINE NOT TO RISK APPLICANT/LICENSEE RIGHTS. In the event that a city official is required to act or to do a thing pursuant to this chapter within a prescribed time, and fails to act or to do such thing within the time prescribed, said failure shall not prevent the exercise of constitutional rights of an applicant or licensee. If the act required of the city official under this chapter, and not completed in the time prescribed, includes approval of condition(s) necessary for approval by the city of an applicant or licensee's application for an adult entertainment establishment license or an adult entertainment establishment employee's license (including a renewal), the license shall be deemed granted and the business or employee allowed to commence operations or employment the day after the deadline for the city's action has passed.

3-21-18 NUISANCE DECLARED. An adult entertainment establishment established, operated, or maintained in violation of any of the provisions of this chapter shall be, and is, declared to be a public nuisance. The city may, in addition to, or in lieu of any remedy set forth in this chapter, commence an action to enjoin, remove, or abate such nuisance in the manner provided by law.

3-21-19 SEVERABILITY. This chapter and each section and provision of said chapter hereunder, are hereby declared to be independent divisions and subdivisions and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of said chapter, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid. Should any procedural aspect of this chapter be invalidated, such invalidation shall not affect the enforceability of the substantive aspects of this chapter.

TITLE IV, MENTAL AND PHYSICAL HEALTH

CHAPTER 1, ANIMAL CONTROL

4-1-1	Definitions	4-1-5	Impounding
4-1-2	Immunization	4-1-6	Dangerous Animals
4-1-3	At Large Prohibited	4-1-7	Keeping a Vicious Dog or Cat
4-1-4	Animal Nuisances	4-1-8	Animal Waste Removal

4-1-1 DEFINITIONS. For use in this chapter the following terms are defined as follows:

1. The term "dogs" shall mean both male and female animals of the canine species whether altered or not.

2. The term "at large" shall mean any licensed or unlicensed animal found off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, housed in a veterinary hospital or kennel, on a leash or "at heel" beside a competent person and obedient to that person's command.

3. The term "owner" shall mean any person or persons, firm, association or corporation owning, keeping, sheltering or harboring an animal.

4-1-2 IMMUNIZATION. All dogs six (6) months or older shall be vaccinated against rabies. Before issuance of the license the owner shall furnish a veterinarian's certificate showing that the dog for which the license is sought has been vaccinated, and that the vaccination does not expire within six (6) months from the effective date of the dog license. It shall be a violation of this Ordinance for any dog to not be vaccinated against rabies. A tag showing evidence of proper vaccination shall be worn by every dog when not confined.

(Code of Iowa, Sec. 351.33)

4-1-3 AT LARGE PROHIBITED. No owner or person having custody of an animal shall permit such animal to run at large.

(Code of Iowa, Sec. 351.41)

4-1-4 ANIMAL NUISANCES. It shall be unlawful for any person to permit an animal under such person's control or within such person's custody to commit a nuisance. An animal shall be considered a nuisance if it:

1. Damages, soils, defiles or defecates on private property other than the owner's or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the owner.

2. Causes unsanitary, dangerous or offensive conditions.

3. Causes a disturbance by excessive barking or other noisemaking or chases vehicles, or molests, attacks or interferes with persons or other domestic animals on public property.

(Sec. 657.1)

4-1-5 IMPOUNDING. Any unlicensed or unvaccinated dog found at large or any licensed dog found at large in violation of Sections 4-1-3 and 4-1-4 of this chapter shall be seized and impounded at the Jackson County Humane Society. Owners wishing to recover their impounded animals will be required to contact the Humane Society as to fees and procedures.

4-1-6 DANGEROUS ANIMALS.

1. Dangerous Animals Prohibited. No person shall keep, shelter, or harbor for any purpose within the City limits, a dangerous animal.

2. Definitions. A dangerous animal is:

a. Any animal which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon, or causing disease among human beings or domestic animals, and having known tendencies as a species to do so.

b. The following are animals which shall be deemed to be dangerous animals per se:

- (1) Lions, tigers, jaguars, leopards, cougars, lynx, and bobcats;
- (2) Wolves, coyotes, and foxes;
- (3) Badgers, wolverines, weasels, skunks and mink;
- (4) Raccoons;
- (5) Bears;
- (6) Monkeys, chimpanzees, and apes;
- (7) Alligators and crocodiles;
- (8) Scorpions; gila monsters;
- (9) Snakes that are venomous or constrictors;

(Amended during 2013 codification)

(Amended during 2021 codification)

c. Any animals declared to be dangerous by the Police Department.

(Amended during 2021 codification)

3. Dangerous Animals Exceptions. The keeping of dangerous animals shall not be prohibited in the following circumstances: The keeping of dangerous animals in a public zoo, bona fide educational or medical institution, humane society, or museum where they are kept as live specimens for the public to view, or for the purpose of instruction, research or study, and has obtained the written approval of the City Council.

4-1-7 KEEPING A VICIOUS DOG OR CAT. It shall be unlawful for any person or persons to harbor or keep a vicious dog or cat within the City. A vicious cat or dog is deemed so when it shall have attacked or bitten any person (without provocation), or when the propensity to attack or bite persons shall exist and such propensity is known or ought reasonably be known to the owner thereof.

4-1-8 ANIMAL WASTE REMOVAL. It shall be unlawful for an owner or person in charge of a dog or other animal to fail to clean up and/or remove, as soon as possible, any excrement or droppings deposited by said dog or other animal on any public property, public right of way, or property of another. The provisions of this section do not apply to dogs used to guide the visually impaired, or other dogs used to aid persons with disabilities while such dogs are acting in this capacity.

(Ord. 260, Passed October 23, 2006)

TITLE V, HUMAN DEVELOPMENT - EDUCATION AND CULTURE

CHAPTER 1, LIBRARY SERVICES

5-1-1	Public Library	5-1-6	Power to Contract with Others for the Use of the Library
5-1-2	Library Trustees		
5-1-3	Qualifications of Trustees	5-1-7	Non-Resident Use of the Library
5-1-4	Organization of the Board	5-1-8	Library Accounts
5-1-5	Powers and Duties	5-1-9	Annual Report

5-1-1 PUBLIC LIBRARY. There is hereby established a free public library for the City, to be known as the Preston Public Library.

5-1-2 LIBRARY TRUSTEES. The board of trustees of the Preston Public Library, hereinafter referred to as the board, consists of seven (7) members. All board members shall be appointed by the City Council. Non-resident members shall be appointed by the Mayor and Board of Supervisors. (Code of Iowa, Sec. 392.5)

5-1-3 QUALIFICATIONS OF TRUSTEES. All of the members of the board except the non-resident members shall be bona fide citizens and residents of the City and all shall be over the age of eighteen (18).

(Amended during 2021 codification)

5-1-4 ORGANIZATION OF THE BOARD.

1. Terms of office. All appointments to the board shall be for six (6) years, except to fill vacancies. Each term shall commence on July first. Appointments shall be made every two (2) years of one-third the total number as near as possible, to stagger the terms. No board member shall serve more than two (2) consecutive terms.

2. Vacancies. The position of any trustee shall be declared vacant if said trustee moves permanently from the City or if said trustee is absent from six (6) consecutive regular meetings of the board, except in the case of sickness or temporary absence from the City. Vacancies in the board shall be filled by the City Council, and the new trustee shall fill out the unexpired term for which the appointment is made.

3. Compensation. Trustees shall receive no compensation for their services.

5-1-5 POWERS AND DUTIES. The board shall have and exercise the following powers and duties:

1. To meet and elect from its members a president, a secretary, and such other officers as it

deems necessary.

2. To have charge, control and supervision of the public library, its appurtenances, fixtures and rooms containing the same.

3. To direct and control all the affairs of the library.

4. To employ a librarian, and authorize the librarian to employ such assistants and employees as may be necessary for the proper management of the library, and fix their compensation; provided, however, that prior to such employment, the compensation of the librarian, assistants and employees shall have been fixed and approved by a majority of the members of the board voting in favor thereof.

5. To remove by a two-thirds vote of the board the librarian and provide procedures for the removal of assistants or employees for misdemeanor, incompetency or inattention to duty, subject, however, to the provisions of Chapter 35C, Code of Iowa.

6. To select, or authorize the librarian to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other library materials, furniture, fixtures, stationery and supplies for the library within budgetary limits set by the board.

7. To authorize the use of the library by non-residents of the City and to fix charges therefore.

8. To make and adopt, amend, modify or repeal rules and regulations, not inconsistent with Ordinances and the law, for the care, use, government and management of the library and the business of the board, fixing and enforcing penalties for violations.

9. To have exclusive control of the expenditure of all funds allocated for library purposes by the City Council, and of all monies available by gift or otherwise for the erection of library buildings, and of all other monies belonging to the library including fines and rentals collected, under the rules of the board.

10. To accept gifts of real property, personal property, or mixed property, and devises and bequests, including trust funds; to take the title to said property in the name of the library; to execute deeds and bills of sale for the conveyance of said property; and to expend the funds received by them from such gifts, for the improvement of the library.

(Code of Iowa, Sec. 392.5)

11. To keep a record of its proceedings.

12. To enforce the performance of conditions of gifts, donations, devises and bequests accepted by the City. The board shall enforce performance by taking action against the City Council.

13. To have authority to make agreements with the local County historical associations, where such exists, and to set apart the necessary room and to care for such articles as may come into the possession of the association. The trustees are further authorized to purchase necessary receptacles and materials for the preservation and protection of such articles as are in their judgment of a historical and educational nature and pay for the same out of funds allocated for library purposes.

(Amended during 2013 codification)

(Ord. 2018-2, Passed March 12, 2018)

5-1-6 POWER TO CONTRACT WITH OTHERS FOR THE USE OF THE LIBRARY.

1. Contracting. The board may contract with any other boards of trustees of free public libraries, any other City, school corporation, private or semi-private organization, institution of higher learning, township, or County, or with the trustees of any County library district for the use of the library by their respective residents.

(Code of Iowa, Sec. 336.18(1))

2. Termination. Such a contract may be terminated at any time by mutual consent of the contracting parties. It also may be terminated by a majority vote of the electors represented by either of the contracting parties. Such a termination proposition shall be submitted to the electors by the governing body of a contracting party on a written petition of not less than five (5) percent in number of electors who voted for governor in the territory of the party at the last general election. The petition must be presented to the governing body not less than forty (40) days before the election. The proposition may be submitted at any election provided by law that is held in the territory of the party who is seeking to terminate the contract.

(Sec. 336.18(2)(a and b))

5-1-7 NON-RESIDENT USE OF THE LIBRARY. The board may authorize the use of the library by non-residents in any one or more of the following ways:

1. By lending the books or other materials of the library to non-residents on the same terms and conditions as to residents of the City, or upon payment of a special non-resident library fee.

2. By establishing depositories of library books or other materials to be loaned to non-residents.

5-1-8 LIBRARY ACCOUNTS. All money appropriated by the City Council from the general fund for the operation and maintenance of the library shall be set aside in an account for the library. Expenditures shall be paid for only on orders of the board, signed by its president and secretary. The warrant writing officer is the City Clerk.

5-1-9 ANNUAL REPORT. The board shall make a report to the City Council immediately after the close of the municipal fiscal year. This report shall contain statements of the condition of the library, the number of books added thereto, the number circulated, other library services and

statistics, the amount of funds collected, and the amount of money expended in the maintenance of the library during the year, together with such further information required by the City Council.

(Amended during 2021 codification)

Editor's Note: The Council may retain the power to hire, discharge, set salaries, expend funds unless the library board was in existence prior to July 1, 1972. (See Sections 5-1-5(4), 5-1-5(5), 5-1-5(9) and 5-1-8.) Date of Preston original library ordinance is August 13, 1973.

(ECIA Model Code Amended in 2020)

(Amended during 2021 codification)

Any proposal to alter the composition, manner of selection, or charge of a library board, or to replace it with an alternate form of administrative agency, is subject to the approval of the voters of the City.

(Code of Iowa, Sec. 392.5)

TITLE VI, PHYSICAL ENVIRONMENT

CHAPTER 1, MOBILE HOME REGULATION

6-1-1	Definitions	6-1-4	Traffic Code Applicable
6-1-2	Location of Mobile Homes	6-1-5	Building Requirements
6-1-3	Emergency and Temporary Parking	6-1-6	Permanent Occupancy
		6-1-7	Mobile Home Requirements

6-1-1 DEFINITIONS. For use in this chapter the following terms are defined as follows:

1. “Factory-built structure” means any structure which is, wholly or in substantial part, made, fabricated, formed, or assembled in manufacturing facilities for installation, or assembly and installation, on a building site. “Factory-built structure” includes the terms “mobile home,” “manufactured home”, and “modular home.”

(Code of Iowa, Sec. 103A.3(8)
(ECIA Model Code Amended in 2010)

2. “Manufactured home” means a factory-built structure built under authority of 42 U.S.C. Section 5403, that is required by federal law to display a seal from the United States Department of Housing and Urban Development, and was constructed on or after June 15, 1976.

(Code of Iowa, Sec. 435.1(3)
(ECIA Model Code Amended in 2010)

3. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall also include any such vehicle with motive power not registered as a motor vehicle in Iowa. Mobile homes were constructed before June 15, 1976.

(Code of Iowa, Sec. 435.1(5))

4. “Mobile home park” means a site, lot, field, or tract of land upon which three or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

(Code of Iowa, Sec. 435.1(6))

5. “Modular home” means a factory-built structure which is manufactured to be used as a place of human habitation, is constructed to comply with the Iowa State Building Code for modular factory-built structures.

(Code of Iowa, Sec. 435.1(7)
(ECIA Model Code Amended in 2010)

6-1-2 LOCATION OF MOBILE HOMES. All mobile homes shall be placed or parked in a mobile home park unless permitted otherwise by State law. This section shall not apply to mobile homes parked or placed upon private property as part of a dealer's or a manufacturer's stock not used as a place for human habitation.

6-1-3 EMERGENCY AND TEMPORARY PARKING. Emergency or temporary parking of mobile homes upon the streets, alleys, or highways, or any other public or private place for a period not in excess of seven days shall not constitute a violation of 6-1-2, but such parking shall be subject to any prohibitions or regulations contained in other Ordinances of this City.

6-1-4 TRAFFIC CODE APPLICABLE. The owner of a mobile home park may elect to have City traffic provisions of the City Code apply to real property in the mobile home park and any person located on the real property. The owner of a mobile home park may waive this right by filing a waiver with the County Recorder.

6-1-5 BUILDING REQUIREMENTS. All mobile homes, modular homes and factory built homes as defined in the Iowa Code located outside a mobile home park shall comply with all Ordinances relating to residences or homes in the community and shall be affixed to a permanent perimeter foundation unless it is incompatible with the structural design of the home. Any home located outside a mobile home park on the date this ordinance takes effect shall be exempt from the permanent foundation requirement. (The effective date of this Ordinance is November 11, 2013).

(Code of Iowa, Sec. 435.26)

6-1-6 PERMANENT OCCUPANCY. A mobile home shall not be used as a permanent dwelling nor for indefinite periods of time except in a mobile home park unless such mobile home was a preexisting use on March 22, 1973. Any mobile home removed from property not within a mobile home park must be replaced within thirty (30) days of such removal for occupancy use to continue. Any manufactured or modular home replacing the mobile home must meet the construction standards established under the authority of 42 USC, Section 5403, which has been adopted by the State of Iowa Building Code.

6-1-7 MOBILE HOME PARK REQUIREMENTS. Mobile home or trailer parks shall be designed and maintained in accordance with the following requirements:

1. Mobile home or trailer park minimum requirements
 - a. Park area - eight (8) acres
 - b. Front yard setback from existing streets or property lines- fifty (50) feet
 - c. Side yard setback from existing streets or property lines – thirty-five (35) feet
 - d. Rear yard setback from existing streets or property lines – thirty-five (35) feet
 - e. Sanitary sewer facilities - connection to the municipal sanitary sewer system
 - f. Streets - Each mobile home/trailer lot shall have access to a common street.

All streets within the park shall be of the following minimum width:

One-way, no parking	11 feet
One-way, one side parking	18 feet
One-way, both sides parking	24 feet
Two-way, no parking	24 feet
Two-way, one side parking	27 feet
Two-way, both sides parking	34 feet

All such streets shall be hard surface (concrete or asphaltic concrete) construction maintained in good condition and adequately lighted.

2. Mobile home lots minimum requirements
 - a. Lot area - fifty (50) by eighty (80) feet with four thousand (4000) square feet
 - b. One off-street vehicle parking space for each lot
 - c. One off-street vehicle parking space for each two lots (guests)
 - d. Front yard setback from lot line of fifteen (15) feet for mobile home/trailer placement
 - e. Side yard setbacks from lot lines of five (5) feet with a minimum of twenty (20) feet between two homes
 - f. Rear yard setback of ten (10) feet

3. Sidewalks. A park shall install and maintain concrete sidewalks from the main entrance of each mobile home/trailer to the street.

4. Landscaping. All areas within the park not used for access, parking, circulation, buildings and service shall be completely and permanently landscaped and maintained in good condition. A landscaped area ten feet wide shall be established and maintained along the exterior borders of the park where such border abuts a residential or commercial use area.

5. Mobile home/trailer slab. Each lot shall be equipped with a four (4) inch concrete slab of sufficient size to support the jack stand and wheel assemblies of a mobile home or trailer.

6. Recreation Area. Each mobile home park shall provide an adequate site or sites for recreational use by its residents. The minimum area for a recreation site shall be an aggregation of at least one hundred (100) square feet for each mobile home lot. The site shall be equipped with facilities meeting the standards of the National Consumer Product Safety Commission.

7. Length of occupancy. No mobile home or trailer shall remain in a mobile home/trailer park for more than fifteen (15) days without connection to the permanent sanitary sewer system of the park.

TITLE VI, PHYSICAL ENVIRONMENT

CHAPTER 2, UTILITIES - SANITARY SYSTEM

6-2-1	Definitions	6-2-5	Use of the Public Sewers
6-2-2	Use of Public Sewers Required	6-2-6	Protection from Damage
6-2-3	Private Sewage Disposal	6-2-7	Powers and Authority to Inspectors
6-2-4	Building Sewers and Connections	6-2-8	Penalties

6-2-1 DEFINITIONS. Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

1. "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 C, expressed in milligrams per liter or parts per million.

2. "Building Drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5') feet (1.5 meters) outside the inner face of the building wall.

(IAC 567-69.3(1))

3. "Building Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.

(IAC 567-69.3(1))

4. "Combined Sewer" shall mean a sewer receiving both surface runoff and sewage.

5. "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sales of produce.

6. "Industrial Wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

7. "Natural Outlet" shall mean any outlet into watercourse, pond, ditch, or other body of surface or groundwater.

8. "Person" shall mean any individual, firm, company, association, society, corporation, or group.

9. "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams

per liter of solution.

10. "Properly Shredded Garbage" shall mean the waste from the preparation, cooking, dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.

11. "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

12. "Sanitary Sewer" shall mean a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

13. "Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwaters as may be present.

14. "Sewage Treatment Plant" shall mean any arrangement of devices and structures used for treating sewage.

15. "Sewage Works" shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

16. "Sewer" shall mean a pipe or conduit for carrying sewage.

17. "Slug" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation.

18. "Storm Drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.

19. "Superintendent" shall mean the Superintendent of Public Utilities of the City of Preston or the Superintendent's authorized deputy, agent, or representative.

20. "Suspended Solids" shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

21. "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

6-2-2 USE OF PUBLIC SEWERS REQUIRED.

1. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of said City, any human or animal excrement, garbage, or other objectionable waste.

2. It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of said City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Ordinance.

(Sec. 364.12(3)(f))

3. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

4. The owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the City, is hereby required at such owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Ordinance, provided that said public sewer is within one hundred fifty (150') feet of the property line. Billing for sanitary sewer service shall begin the date of official notice to connect to the public sewer.

(Code of Iowa, Sec. 364.12(3)(f))

(IAC 567-69.3(3))

6-2-3 PRIVATE SEWAGE DISPOSAL.

1. Where a public sanitary or combined sewer is not available under the provision of Section 6-2-2(4), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

2. Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the Superintendent. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Superintendent. A permit and inspection fee of \$25.00 dollars shall be paid to the City at the time the application is filed.

3. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. The Superintendent shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 72 hours of the receipt of notice by the Superintendent.

4. The type, capacities, location, and layout of a private sewage disposal system shall

comply with all recommendations of the Department of Natural Resources of the State of Iowa and the County Health Department. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 15,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

5. At such times as a public sewer becomes available to a property served by a private sewage disposal system, as provided in 6-2-2(4), a direct connection shall be made to the public sewer in compliance with this Ordinance, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

(Sec. 364.12(3)(f))

6. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.

7. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the County Health Officer.

8. When a public sewer becomes available, the building sewer shall be connected at the building owner's expense, to said sewer within sixty (60) days and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.

(Sec. 364.12(3)(f))

6-2-4 BUILDING SEWERS AND CONNECTIONS.

1. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

2. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or the owner's agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee of \$200.00 dollars for a residential or commercial building sewer permit and \$200.00 dollars for an industrial building sewer permit shall be paid to the City at the time the application is filed.

(Ord., Passed April 11, 2011)

Before a permit may be issued for excavating for plumbing in any public street, way or alley, the person applying for such permit shall have executed unto the City of Preston and deposited with the City Clerk a corporate surety in the sum of five thousand dollars (\$5,000.00) conditioned that the applicant will perform faithfully all work with due care and skill, and in accordance with the laws, rules and regulations established under the authority of any Ordinances of the City of Preston pertaining to plumbing. This bond shall state that the person will indemnify and save harmless the City of Preston and the owner of the premises against all damages, costs, expenses, outlay and

claims of every nature and kind arising out of unskillfulness or negligence on the applicant's part in connection with plumbing or excavating for plumbing as prescribed in this Ordinance. Such bond shall remain in force and must be executed for a period of two (2) years except that on such expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration.

3. All cost and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

4. Old building sewers may be used in connection with new building sewers only when they are found, upon examination and testing by the Superintendent, to meet all requirements of this Ordinance. The Superintendent may require that the old sewer be excavated for the purpose of facilitating inspection. No old cesspool or septic tank shall be connected to any portion of a building sewer that is also connected to the public sewer. Cesspools and septic tanks shall be located, and drained in a manner approved by the Superintendent and removed or filled with sand, crushed rock or any other solid material approved by the Superintendent, except as exempted by the Superintendent.

5. The building sewer shall be constructed in accordance with applicable portions of the last published (State Plumbing Code of Iowa), applicable specifications of the American Society for Testing and Materials (ASTM) and applicable portions of the Water Pollution Control Federation (WPCF) Manual of Practice No. 9."

a. Each connection to the public sewer shall be made to the fittings designated for that property. If a fitting in the public sewer is not available for the designated property, the connection shall then be made under the direct supervision of the Superintendent. Connections to the public sewer not made to an existing wye or tee shall be made by a hole cutter or careful chisel cutting. The connection shall be rendered water and gas tight, by use of rubber gaskets. The building sewer shall not protrude into the public sewer.

b. All building sewers shall be constructed of the following materials conforming to the indicated standards:

Vitrified Clay Pipe VCP

(1) Pipe and Fittings - ASTM C-700 "Standard Specification or Vitrified Clay Pipe, Extra Strength, Standard Strength and Perforated."

(2) Coupling and Joints - ASTM C-425 "Standard Specification for Compression Joints for Vitrified Clay Pipe and Fittings".

Extra Heavy Cast Iron Soil Pipe

(1) Pipe and Fittings - ASTM A-74 "Standard Specification for Cast Iron Soil Pipe and Fittings."

(2) Joints - ASTM C-564 "Standard Specification for Rubber Gaskets for Cast Iron Soil Pipe and Fittings."

Polyvinyl Chloride (PVC)

Polyvinyl Chloride (PVC) and joints shall be installed according to the manufacturers' recommendations and shall conform to:

(1) Pipe - A.S.T.M. D-3034, "Type P.S.M. Poly (PVC) and Fittings."

Minimum wall thickness:

4" - 0.125"

6" - 0.180"

8" - 0.240"

10" - 0.300"

(2) Joints - A.S.T.M. D-1869, A.S.T.M. D-1312, "Flexible Elastomeric Seals."

c. No building sewer for residential or commercial buildings shall be less than four inches in diameter. No building sewer for industries or multiple dwellings shall be less than six inches in diameter.

d. Unless otherwise authorized, all building sewers shall have a grade of not less than one - eighth (1/8) inch per foot. A grade of one-fourth (1/4) inch per foot shall be used wherever practical.

e. All excavation shall be open trench work unless authorized by the Superintendent. The foundation in the trench shall be formed to prevent any subsequent settlement of the pipes. If the foundation is good firm earth, the earth shall be pared or molded to give a full support to the lower quadrant of each pipe. Bell holes shall be dug. Where the floor of the trench is of hard or rocky material, the trench shall be excavated to four inches below the pipe and brought back to the proper grade with gravel, coarse sand or similar material so as to provide a firm foundation and uniform support for the building sewer line. Backfilling shall be placed in layers and solidly tamped or packed up to two (2') feet above the pipe. Back-filling shall not be done until final inspection is made by the Superintendent. Building sewers shall be laid straight at uniform grade between connections or fittings.

f. Cleanouts shall be provided for each change in direction or grade if the change exceeds 45 degrees and at least every 100 feet.

6. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth shall be sufficient to afford protection from frost. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the said Superintendent. Pipe laying and backfill shall be performed in accordance with A.S.T.M. Specification (Designation C12). No backfill shall be placed until the work has been inspected by the Superintendent or the Superintendent's representative. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

7. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

8. The connection of the building sewer into the public sewer shall conform to the requirements of the Plumbing Code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

9. Each and every part of the building sewer shall be inspected and approved by the Superintendent before being concealed or back-filled. The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or the Superintendent's representative.

10. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

11. The City shall, in no event, be held responsible for claims made against it by reason of the breaking of any mains or service pipes, or by reason of any other interruption of the service caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruption.

12. The premises receiving sanitary sewer service, shall at all reasonable hours, be subject to inspection by duly authorized personnel of the City.

13. The Owner of the property served by a building sewer shall be responsible for the operation, maintenance, repair, blockage, surface replacement, and any damage resulting from operation, maintenance repair and blockage of said building sewer, from the point of connection with the building drain to the Public Sewer.

6-2-5 USE OF THE PUBLIC SEWERS.

1. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Applications may be cancelled and/or sewer service discontinued by the City for any violation of any rule, regulation or condition of service, and especially for any of the following reasons:

a. Misrepresented in the application as to the property or fixtures to be serviced by the sanitary sewer system.

b. Non-payment of bills.

c. Improper or imperfect service pipes and fixtures, or failure to keep same in suitable state of repair.

2. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

3. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

a. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

b. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/l as CN in the wastes as discharged to the public sewer.

c. Any waters or wastes having a ph lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

d. Solid or viscous substances in quantities of such size capable of causing obstruction to the flow of sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

e. Any water or wastes having (1) a 5-day bio-chemical oxygen demand greater than 300 parts per million by weight, or (2) containing more than 350 parts per million by weight, or

suspended solids, or (3) having an average daily flow greater than 2 percent of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide at the owner's expense, such preliminary treatment as may be necessary to (1) reduce the biochemical oxygen demand to 300 parts per million by weight, or (2) reduce the suspended solids to 350 parts per million by weight, or (3) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

4. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

a. Any liquid or vapor having a temperature higher than one hundred fifty (150) F (65 C).

b. Any water or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150 F) (0 and 65 C).

c. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent.

d. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

e. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.

f. Any waters or wastes containing phenols or other taste-or-odor-producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary after treatment of the composite sewage, to meet with requirements of the State, Federal, or other public agencies with jurisdiction for such discharge to the receiving waters.

g. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.

h. Any waters or wastes having a pH in excess of 9.5.

i. Materials which exert or cause:

(1) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

(2) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

(3) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(4) Unusual volume of flow or concentration of waters constituting "slugs" as defined herein.

j. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

5. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in 6-2-5(4), and which in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

a. Reject the wastes,

b. Require pretreatment to an acceptable condition for discharge to the public sewers.

c. Require control over the quantities and rates of discharge, and/or

d. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provision of 6-2-5(10) of this article.

If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable codes, Ordinances, and laws.

6. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

7. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

8. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

9. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24 hour composite of all outfalls where pH's are determined from periodic grab samples).

10. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment, therefore, by the industrial concern.

6-2-6 PROTECTION FROM DAMAGE. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

(Code of Iowa, Sec. 716.1)

6-2-7 POWERS AND AUTHORITY TO INSPECTORS.

1. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Ordinance. The Superintendent or the Superintendent's representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

2. While performing the necessary work on private properties referred to in 6-2-7(1), the Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by the City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 6-2-5(8).

3. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

6-2-8 PENALTIES.

1. Any person found to be violating any provision of this Ordinance except Section 6-2-6 shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

2. Any person violating any of the provisions of this Ordinance is liable to the City for any expense, loss, or damage occasioned the City by reason of such violations.

Footnote: See 384.38(3) concerning establishing districts and connection fees (H.F. 2343, 1994 legislative session).

TITLE VI, PHYSICAL ENVIRONMENT

CHAPTER 3, UTILITIES - WATER SYSTEM

6-3-1	Enforcement	6-3-21	Tampering with Curb Valve and Hydrants
6-3-2	Definition of Terms\	6-3-22	Service Pipes not to be Laid Across Private Property
6-3-3	Service Connections	6-3-23	Separate Connections
6-3-4	Adoption of State Plumbing Code	6-3-24	Service Cut Off
6-3-5	License Required	6-3-25	Breaks in Service of Fixtures
6-3-6	Mandatory Connections	6-3-26	Abandoned Service Pipes
6-3-7	Permit	6-3-27	Rights to Shut Off Water
6-3-8	Fee for Permit	6-3-28	Responsibility in Turning on Water
6-3-9	Water Supply Control	6-3-29	Discontinue Use of Water
6-3-10	Making the Connection	6-3-30	Water Meters
6-3-11	Excavations	6-3-31	Unnecessary Waste
6-3-12	Inspection and Approval	6-3-32	Owners to Protect Meters
6-3-13	Completion by the City	6-3-33	Other Supply Than City Water
6-3-14	Meter Accuracy and Test	6-3-34	Inspection of Meters, Pipes and Fixtures
6-3-15	Discontinuing Service	6-3-35	Fire Hydrants Not to be Used
6-3-16	Service Interruption	6-3-36	Water Works Property
6-3-17	Temporary Service		
6-3-18	Easement		
6-3-19	Customer Liability		
6-3-20	Water Fund Established		

6-3-1 ENFORCEMENT.

1. The purposes of this ordinance are to prescribe the procedure to be followed in making private connections with the municipal water system, to establish regulations governing the connections thereto and prescribing rates for services therefrom.

(ECIA Model Code Amended in 2017)

2. The Superintendent of public utilities shall supervise the installation of water service pipes and their connections to the water main and enforce all regulations pertaining to water services in this City in accordance with this chapter. This chapter shall apply to all replacements of existing service pipes as well as to new ones. The City Council shall make such rules, not in conflict with the provisions of this chapter, as needed for the detailed operation of the waterworks. In the event of an emergency the Superintendent may make temporary rules for the protection of the system until due consideration by the City Council may be had.

(Sec. 372.13(4))

6-3-2 DEFINITION OF TERMS.

1. In this ordinance the words Water Works of City shall mean the City of Preston acting through its qualified officers or employees.

2. A water main shall be defined as any pipe laid by the City of Preston or agents thereof in streets, alleys or other grounds, which shall be a portion of the water distribution system of the City and which shall be intended to be tapped in the prescribed way for water service pipes to the consumer.

3. A service pipe shall be defined as that water pipe line laid from a water main into the premises to be served with water. The service pipe shall include the corporation cock, lead-in pipe, curb stop box, and shut off, and all valves and pipes inside the building through which water passes before it reaches the water meter. A service line includes any line or pipe that leaves the water main regardless of the number of structures or properties the service line may ultimately serve.

4. A consumer shall be any person using water furnished by the City of Preston, Iowa.
(ECIA Model Code Amended in 2017)

6-3-3 SERVICE CONNECTIONS.

1. The laying of all service connections and pipes, installation of any water service, setting of water service fixtures in streets, public grounds and in premises to be served by the City water, shall be made by a plumber licensed by the State of Iowa.

2. A residential, commercial or industrial property located within the City on a street, alley or right-of-way must connect to the City water system, provided the water main is located within 300 feet of the property line.

3. When the consumer tears down any structure that was connected to City water service, the consumer is responsible to disconnect the water service at the water main.

4. When an existing water service is abandoned or a service is renewed with a new tap in the main, all abandoned connections with the water main shall be turned off at the corporation stop and made absolutely watertight.

5. The installation of any water service line or pipe and any connection with the water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions, of this Code or the International Plumbing Code which is hereby adopted by this reference.

6. No more than one house, building or premises shall be supplied from one tap, unless special written permission is obtained from the Public Works Director and provision is made so that each house, building or premises may be shut off independently of the other.

7. All costs and expenses incident to the installation, connection, disconnection or maintenance of the water service line from the main to the building served shall be borne by the property owner.

(ECIA Model Code Amended in 2017)

6-3-4 ADOPTION OF STATE PLUMBING CODE. The installation of any water-service pipe and any connection with the municipal water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions, of the State Plumbing Code as amended and as published by the Iowa Department of Public Health, which is hereby adopted. An official copy of the State Plumbing Code as adopted and a certified copy of this Ordinance are on file in the office of the City Clerk for public inspection.

6-3-5 LICENSE REQUIRED. All installation of water service pipes and connections to the municipal water system shall be made by a plumber licensed by this City. The Superintendent shall have the power to suspend the license of any plumber for violation of any of the provisions of this Ordinance. A suspension, unless revoked, shall continue until the next regular meeting of the City Council. The Superintendent shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension, and the time and place of the City Council meeting at which the plumber will be granted a hearing. At this City Council meeting the Superintendent shall make a written report to the City Council stating the Superintendent's reasons for the suspension, and the City Council, after fair hearing, shall revoke the suspension or take any further action that is necessary and proper.

6-3-6 MANDATORY CONNECTIONS. All residences and business establishments within the City limits intended or used for human habitation, occupancy or use shall be connected to the public water supply if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source.

6-3-7 PERMIT. Before any person, firm, corporation or other association shall make a connection with the public water system, a written permit must be obtained from the Superintendent. The application for the permit shall be filed with the Superintendent on blanks furnished by the Superintendent. The application shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. No different or additional uses shall be allowed except by written permission of the Superintendent. The Superintendent shall issue the permit, bearing the Superintendent's signature and stating the time of issuance, if the proposed work meets all the requirements of this Ordinance and if all fees required under this Ordinance have been paid. Work under any permit must be begun within six (6) months after it is issued. The Superintendent may at any time revoke the permit for any violation of this Ordinance and require that the work be stopped. The owner or plumber may appeal such action in the manner provided in Section 6-3-3 of this Ordinance.

(Code of Iowa, Sec. 372.13(4))

6-3-8 FEE FOR PERMIT.

1. There shall be two (2) classes of water permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial water. In either case, the owner or the owner's agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee of \$200.00 dollars for a residential or commercial water permit and \$200.00 dollars for an industrial water permit shall be paid to the City at the time the application is filed.

(Ord., Passed April 11, 2011)

2. The City reserves the right to render services in connection with furnishing water, such as installing and maintaining water service connection, repairing leaks, etc., at prices and terms to be determined, charges will be made at the actual cost of labor and material, plus ten percent (10%) for overhead expenses.

(ECIA Model Code Amended in 2017)

6-3-9 WATER SUPPLY CONTROL. The plumber who makes the connection to the municipal water system shall install a main shut-off valve of the inverted key type on the water-service pipe near the curb with a suitable lock of a pattern approved by the Superintendent. The shut-off valve shall be covered with a heavy metal cover having the letter "W" marked thereon, visible and even with the pavement or ground.

The plumber also shall install a shut-off valve and waste cock on every service pipe inside the building near the entrance of the water-service pipe into the building; this must be located so that the water can be shut off conveniently and the pipes drained. Where one service pipe is installed to supply more than one customer, there shall be separate shut-off valves inside the building for each customer so that service to one customer can be shut off without interfering with service to the others.

6-3-10 MAKING THE CONNECTION. Any connection with the municipal water system must be made under the direct supervision of the Superintendent or the Superintendent's authorized assistant. All taps in the water main must be at least (12) inches apart and on the side and near the top and not in any case within 18 inches of the hub.

(Code of Iowa, Sec. 372.13(4))

1. Service Pipe.

a. No water service pipe or tap for any building shall be less than three-quarter (3/4) inches in diameter. All pipe up to and including one and one-half (1½) inch inside diameter shall be "Type K." All pipe over one and one-half (1½) inches must be "Type K" heavy type copper, cast iron or PVC grade water pipe approved by the Public Works Director. Pipe must be laid to such a depth as to prevent rupture from settling or freezing. PVC pipe must be installed with tracer wire.

b. All water service pipes and their connections to the water system must be inspected and approved by the Public Works Director, before they are covered, and the Director shall keep a record of such approvals. If the Director refuses to approve the work, the plumber or property owner must proceed immediately to correct the work. Every person who uses or intends to use the municipal water system shall permit the Public Works Director or his/her designee to enter the premises to inspect or make necessary alterations or repairs at all reasonable hours and upon proof of authority.

2. No Connection Between Different Services. When there are two or more buildings on premises, the piping from each service must be kept separate, and no connection made from one to the other.

3. Depth of Service Pipe. Service pipe must be laid at least five and one-half (5 ½) feet below the surface of the ground. When pipes are laid in streets or ground subject to fixed grades where the surface of the ground is higher than the established grades, they shall be laid so that they will be at least five and one-half (5 ½) feet below the established grade.

4. Maintenance of Service Pipes. All service pipes and fixtures from the street water main to the premises, including the corporation cocks at the mains (except corporation cocks put in during the initial water installation period) shall be installed and maintained at the expense of the owners, and any leaks or other defects in the same shall be promptly repaired by the owner. If not promptly repaired, the water shall be turned off until such repairs have been made, and the expense incurred thereby shall be charged against such owner, and must be paid before water shall be turned on again. If such repair is not made within three (3) days of written notification by the City, the property owner shall be charged the sum of Fifteen dollars (\$15.00) per day for each day after said three (3) day period of grace, during which the said water wastage shall continue.

(Code of Iowa, Sec. 372.13(4))

(ECIA Model Code Amended in 2017)

6-3-11 EXCAVATIONS. Excavations to do work under this Ordinance shall be dug so as to occasion the least possible inconvenience to the public and to provide for the passage of water along the gutter. All such excavations shall have proper barricades at all times, and warning lights placed from one-half hour before sunset to one-half hour after sunrise. In refilling the excavation the earth must be laid in layers and each layer tamped thoroughly to prevent settlement, and this work, and any street, sidewalk, pavement or other public property that is affected, must be restored to as good a condition as it was previous to the excavation. The plumber must maintain the affected area in good repair to the satisfaction of the City Council for three months after refilling. All water service pipes must be laid so as to prevent rupture by settlement or freezing. No excavation shall be made within six (6') feet of any laid water or sewer pipe while the ground is frozen, and no water or sewer pipe shall be exposed to frost, except by special written permission of the Superintendent.

6-3-12 INSPECTION AND APPROVAL. All water-service pipes and their connections to the municipal water system must be inspected and approved in writing by the Superintendent before they are covered, and the Superintendent shall keep a record of such approvals. If the

Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work so that it will meet with the Superintendent's approval. Every person who uses or intends to use the municipal water system shall permit the Superintendent or the Superintendent's authorized assistants to enter the premises to inspect and make necessary alterations or repairs at all reasonable hours and on proof of authority.

(Code of Iowa, Sec. 372.13(4))

6-3-13 COMPLETION BY THE CITY. Should any excavation be left open or partly refilled for twenty-four (24) hours after the water-service pipe is installed and connected with the municipal water system, or should the work be improperly done, the Superintendent shall have the right to finish or correct the work, and the City Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before the plumber can receive another permit, and the plumber's bond required by the Plumbing Ordinance shall be security for the assessment. If the property owner is assessed, such assessment shall be collected with and in the same manner as general property taxes.

(Code of Iowa, Sec. 364.12(3)(h))

6-3-14 METER ACCURACY AND TEST. All water shall be supplied through meters that accurately measure the amount of water supplied to any building. The Superintendent or the Superintendent's assistant shall make a test of the accuracy of any water meter at any time when requested in writing and accompanied by a twenty-five dollar (\$25.00) deposit. If it is found that such meter overruns to the extent of three percent (3%) or more, the cost of the tests shall be paid by the City and a refund shall be made to the customer for overcharges collected since the last known date of accuracy but not for longer than six (6) months. If the meter is found to be accurate or slow less than three percent (3%) fast, the patron shall pay the reasonable costs of the tests.

Compulsory Check. Every meter shall be removed from service at least once each ten (10) years and thoroughly tested for accuracy. Any meter found inaccurate beyond a tolerance of three percent (3%) shall not be returned to service until properly adjusted.

Footnote: See 384.38(3) concerning establishing districts and connection fees (H.F. 2343, 1994 legislative session).

6-3-15 DISCONTINUING SERVICE. Any customer desiring to discontinue the water service to his/her premise for any reason must give notice to the City Clerk. Water service may be discontinued by the municipality for the violation of any of the following rules or conditions of service:

1. Misrepresentation of intended water use and fixtures needed for connection.
2. Failure to report additions to property which would increase water flow.
3. Resale or free dispensing of water.
4. Waste or misuse of water due to improper or poorly maintained pipes and/or fixtures.
5. Tampering with a water meter, meter seals, service, valves, or permitting tampering by others.
6. Connection, cross-connection, or permitting same, of municipal water supply to a separate

water supply.

7. Nonpayment of bills. If a disconnection results, reconnection to the customer would require the \$100.00 connection fee.

6-3-16 SERVICE INTERRUPTION. The municipality shall make any and all reasonable efforts to minimize service interruptions of any type. Customers with boilers and/or pressure vessels with connection to municipal water must have a check valve on the water supply line and a vacuum valve on the steam line to prevent collapse in case the water supply from the municipality is discontinued for any reason.

6-3-17 TEMPORARY SERVICE. The municipality may furnish water for site or building construction purposes if such usage is acceptable to the water superintendent. Such service may be provided for a cost of twenty fee (\$25.00) per fill and payment of \$2.75 per estimated one thousand gallons used.

(Amended during 2021 codification)

6-3-18 EASEMENT. Each customer shall grant or convey, or shall cause to be granted or conveyed to the municipality, a permanent easement for access to property controlled by the customer if such easement is necessary to furnish service to the customer.

6-3-19 CUSTOMER LIABILITY. The owner, and occupant of the premises if different than the owner, shall be jointly and severably liable for the water service provided to said premise and for the water meter which is provided to them by the City of Preston. It is the before mention's responsibility to install a water meter to their water service in a location that will prohibit freezing of or damage to the water meter. Any damage costs that occur to the water meter due to improper installation, freezing, etc., will be assessed to the owner, and/or the occupant of the premises. Damage costs will include any replacement parts and labor charges if repair work takes place before or after the City of Preston's usual business hours.

6-3-20 WATER FUND ESTABLISHED. All revenues and monies derived from the operation of the water system shall be paid to, and held by the city separate and apart from all other funds of the city.

6-3-21 TAMPERING WITH CURB VALVE AND HYDRANTS. It is unlawful for any person except the Superintendent of Public Works to turn water on at the curb valve, and no person, unless specifically authorized by the City, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever. In addition to the Superintendent, Fire Department personnel are authorized to turn water on at the curb valve for purposes of training or emergency.

6-3-22 SERVICE PIPES NOT TO BE LAID ACROSS PRIVATE PROPERTY. No consumer shall be permitted to conduct water pipes across lots or buildings to adjoining premises, but all service pipes shall be laid on streets, alleys, or public grounds to the premises to be served, and entered the building nearest the main.

(ECIA Model Code Amended in 2017)

6-3-23 SEPARATE CONNECTIONS. There shall be separate service pipes laid from the main to each dwelling or unit being served. Such service pipe shall be laid in a straight line at right angles to the water main, and connections made within two lines drawn parallel to the sides of the building to be served and not more than ten feet outside of these sides. In all cases each building served must have an independent service shut off. Apartment buildings may have one (1) service line into the apartment building; however, the line must be split once in the building for each apartment. The owner of the apartment building must provide the City with access to the water line shutoff twenty-four (24) hours a day.

(ECIA Model Code Amended in 2017)

6-3-24 SERVICE CUT OFF.

1. A curb stop and shut off for controlling the supply of water to consumers shall be placed on every service. When connections are made in streets or alleys the stop box shall be placed less than twelve (12) inches inside the sidewalk or sidewalk line on City property; and when made in alleys, it shall be placed within the area located twelve (12) inches outside of the lot lines. The cover of said stop box shall be maintained at the same height as the sidewalk or the surrounding ground. Where area walls or curb lines prevent the location of the stop box and shut off at the point indicated, they shall be placed immediately within the area wall or curb line. All stop boxes must be set on a line drawn at right angles to the main through the service corporation or connection in the main.

2. Every service pipe must also have a stop and waste placed in the building within two (2) feet of the point where the pipe enters the building. Said stop must have a handle or wrench attached to turn the same, and be kept in working order at all times so that the water supply may be shut off by the occupant of the premises.

3. The outside shut off and stop box shall be under the sole control of the City and no one except an employee or person specially authorized by the City Council shall open the cover of such box, or turn on or off the water. Provided, however, that approved plumbers may turn off or on the water for testing plumbing or making repairs, but whenever so used to shut off must be left closed if found closed, and open if found open, by the plumber who uses it.

4. The stop box in every service must be kept flush with the surrounding ground or surface, and must be visible from the sidewalk. The curb box and shut off must be kept in good condition and ready for use at all times by the owner. Should the owner neglect to maintain such box and shut off in proper condition to be used, and if the stop box is found to be filled up, or the stop box or shut off found to be out of repair at any time, the City shall have the right to clean or repair the same when needed without giving notice, and charge the cost thereof to the owner, and if payment is refused, the payment thereof may be enforced in the same manner as that provided in the case of delinquent water bills.

5. There shall be installed a shut-off valve on every service pipe inside the building, as close

to the entrance of the pipe, within the building, as possible and so located that the water can be shut off conveniently. Where one service pipe supplies more than one customer within the building, there shall be separate valves for each customer so that service may be shut off for one without interfering with service to the others. The interior valves shall be placed on the customer side of the meter within one (1) foot of the meter. This will be required for all new construction and plumbing service upgrades.

(ECIA Model Code Amended in 2017)

6-3-25 BREAKS IN SERVICE OF FIXTURES. The City shall not be held responsible by reason of the breaking of any service pipe or water coil, or for failure in the supply of water.

(ECIA Model Code Amended in 2017)

6-3-26 ABANDONED SERVICE PIPES. If a service pipe or connection, which is not being used, is found to be leaking, the City may without notice, repair or turn off the same, and charge the expense thereof to the owner of the property last served by this connection.

(ECIA Model Code Amended in 2017)

6-3-27 RIGHT TO SHUT OFF WATER.

1. The City reserves the right to at any time, when necessary, without notice, to shut the water off its mains for the purpose of making repairs or extensions or for other purposes, and no claims shall be made against the City by reason of the breakage of any service pipe or service cock or from any other damage that may result from shutting off water for repairing, laying, or relaying mains, hydrants or other connections. The City may give notice of shutting off water if conditions are such that it is possible to do so.

2. When water is shut off for making repairs in premises having water heating coils in heaters, consumers should turn off the water at the basement shut off and open a faucet in the hot water pipe and leave it open until water is turned on, in order to protect piping and fixtures from excessive pressures from hot water or steam.

(ECIA Model Code Amended in 2017)

6-3-28 RESPONSIBILITY IN TURNING ON WATER. In turning on water the city shall not be responsible for any damage that may occur by reason of improper fixtures, open or improper connections, or from any other cause.

(ECIA Model Code Amended in 2017)

6-3-29 DISCONTINUE USE OF WATER. Owners or consumers desiring to discontinue the use of water shall give notice thereof in writing to the City who shall then cause the water to be turned off and the meter removed. A service charge of Twenty-five Dollars (\$25.00) shall be made to shut off and reconnect the service. Water rents or charges for services shall be made until notice is given. When water service is discontinued, all water rentals for such service shall become due and payable. No service will be reconnected or turned back on until all past due fees and charges are paid in full. If for any reason, a meter is removed from a house temporarily because of an owner's

absence or danger of the meter freezing, a charge of Twenty-five Dollars (\$25.00) shall be made to cover the cost of removing and reconnecting the meter.

(ECIA Model Code Amended in 2017)

6-3-30 WATER METERS.

1. The City shall provide one (1) water meter per service line. All water meters furnished to the customers shall be metered. All meters shall be set and installed by a plumber licensed through the State of Iowa, at the owner's expense, at a suitable location in the piping system for same. Meters shall be placed on service pipe not to exceed two (2) feet from the location in the wall or floor where such pipe enters the premises. All meters shall be fitted with an outside reader.

In the event a meter larger than that required for a single-family residence is needed, the full cost of such larger meter shall be paid by the customer requesting or needing such larger meter. The cost of the meter shall be paid to the City, by the property owner or customer, prior to the installation of the meter.

2. The piping system shall be so constructed and the meters placed so that all water supplied by the City to be used in or about the premises shall pass through the water meter, and the owner of the premises shall be responsible for compliance with this provision of this Ordinance, and he or she shall be liable for the payment for water used in violation of this Ordinance. The first offense for violating this provision will be a fine of up to Five Hundred Dollars (\$500.00). For each subsequent offense, a civil penalty of up to Seven Hundred Fifty Dollars (\$750.00) shall be imposed. The amount of such water used shall be determined by the City, but in every case where City water is used in violation hereof, the water bill shall be increased not less than one and a half (1½) times the average monthly usage.

3. There shall be a stop and waste between the meter and the wall, and a suitable place provided for the meter so as to keep it safe and clean and readily accessible at all times to the meter reader and inspectors of the City. All valves and fittings necessary to comply with these requirements and to provide connection to the meter, except a coupling or flange at each end of the meter, shall be provided by the owner of the premises to be served. In case that two or more meters are desired for measuring water to two different tenants in the same building from one service connection, they shall be so placed that neither of the meters shall measure water which has passed through another one.

4. All newly installed meters or meters replaced after the effective date of these Ordinances must be installed on the exterior of the building serviced, or be fitted with an outside reader, and be accessible for reading without entering the premises.

(ECIA Model Code Amended in 2017)

6-3-31 UNNECESSARY WASTE. The City reserves the right to prohibit the use of water for yard sprinklers or large consumers of water, when in the judgment of the City, the public welfare requires such action. The City shall adopt a resolution setting forth the basis for the moratorium and

the length of time the moratorium will be in effect. Violation of the City prohibition will be a simple misdemeanor enforceable by municipal infraction or criminal citation.

(ECIA Model Code Amended in 2017)

6-3-32 OWNERS TO PROTECT METERS.

1. The owners or occupants of premises where a meter is installed shall be held responsible for its care and protection from freezing or hot water and from other injury or interference from any person or persons. In case of any injury to the meter, or in case of its stoppage or imperfect working, he or she shall give immediate notice to the City. In all cases where water meters are broken or damaged by negligence of owners or occupants of the premises, or by freezing, hot water, or other injuries except ordinary wear the necessary repairs to the meter shall be made by the City and the cost of such repairs shall be paid for by such owner or occupant, and in case payment thereof is neglected or refused, the cost of such repairs shall be added to the consumer's water bill and payment thereof enforced as provided for delinquent water bills. Damaged meters may be repaired by the City without first giving notice thereof to the owners of the premises where such meter is located.

2. No one shall in any way interfere with the proper registration of water meters, and no one except as authorized by the City shall break a seal of a meter, provided, however, that the City may grant written permission to approved plumbers in cases of emergency to break a water meter seal. The owner of the property may be charged a civil penalty of up to Five Hundred Dollars (\$500.00) for the first offense and up to a Seven Hundred Fifty Dollar (\$750.00) civil penalty for each subsequent violation of this section.

3. Wherever a water meter is installed on a water service in the premises that are to be remodeled, removed or destroyed, or where the service is discontinued so that the water meter is no longer needed, the owner of such meter, and free access to such meter shall be provided at least twenty-four hours after such notice is given so that the meter may be removed. The owner of the premises shall be held responsible for the meter until such written notice is given. If the meter is covered or lost, he or she shall be required to pay to the City a sum equal to the fair, reasonable market value thereof. The replacement cost thereof is presumed to be its fair reasonable market value.

(ECIA Model Code Amended in 2017)

6-3-33 OTHER SUPPLY THAN CITY WATER. On premises where water is supplied from two (2) sources, the City water being one of them, the piping system the City water must be entirely separated from that of the other source.

(ECIA Model Code Amended in 2017)

6-3-34 INSPECTION OF METERS, PIPES AND FIXTURES. The City shall be permitted at all reasonable hours to enter the premises or buildings of consumers for the purpose of reading meters and to examine the water pipes and fixtures and the manner in which water is used. The City reserves the right to set or remove a meter whenever it is deemed advisable to do so. Refusal on the

part of the owner, consumer or occupant of any premises served with City water to permit an employee of the City to enter such premises at any reasonable hour for reading the water meter or inspecting water pipes and fixtures shall be sufficient cause to forthwith discontinue the water service at such premises.

(ECIA Model Code Amended in 2017)

6-3-35 FIRE HYDRANTS NOT TO BE USED. No person, save and except members of the Fire Department of the City of Preston, Iowa, or employees of the City acting in regular performance of their duties, shall open any hydrant belonging to the City at any time without a permit in writing signed by an authorized City Official.

(ECIA Model Code Amended in 2017)

6-3-36 WATER WORKS PROPERTY. It shall be unlawful to break, injure, mar, or deface, interfere with or disturb any building, machinery apparatus, fixtures attachments or appurtenance of the water works, or any hydrant, stop cock box, or commit any act tending to obstruct or impair the intended use of any of the above mentioned property, without permission of the City Council or excepting cases herein otherwise provided by Ordinance.

(ECIA Model Code Amended in 2017)

TITLE VI, PHYSICAL ENVIRONMENT

CHAPTER 4, UTILITIES - REFUSE COLLECTION

6-4-1	Definitions	6-4-8	Refuse Other Than Garbage
6-4-2	Duty to Provide Containers	6-4-9	Sanitary Landfill
6-4-3	Administration	6-4-10	Separation of Yard Wastes Required
6-4-4	Storage	6-4-11	Yard Waste Collection Rates
6-4-5	Collections	6-4-12	Storm Damage
6-4-6	Necessity of Permits	6-4-13	Anti-Scavenging
6-4-7	Burning of Refuse		

6-4-1 DEFINITIONS. For use in this chapter, the following terms are defined as follows:

1. "Refuse". Includes all garbage, rubbish, ashes, or other substances offensive to sight or smell, dangerous to the public health or detrimental to the best interests of the community except dead animals not killed for food.

2. "Garbage". Includes all animal, fruit, vegetable, and other refuse resulting from the preparation of food and drink.

3. "Rubbish". Includes all other refuse not falling within the term "garbage" except those objects too large to be placed in cans.

4. "Container". Means a container for the storage of garbage or rubbish which is:

- a. Provided with a handle and tight fitting cover.
- b. Substantially made of galvanized iron or other non-rusting material.
- c. Water-tight.

d. Of a size not to exceed thirty (30) gallons in volume or fifty (50) pounds in total weight.

6-4-2 DUTY TO PROVIDE CONTAINERS. Each person shall provide cans or approved containers for the storage of garbage and rubbish accumulating on the premises owned or occupied by such owner. Such cans or containers shall be kept covered and reasonably clean at all times. They shall be in a position readily accessible to the collector. It shall be the duty of the owner of each household residing in a building arranged for more than one family unit to provide proper cans for garbage and rubbish.

6-4-3 ADMINISTRATION. Administration of this chapter shall be by the Superintendent of refuse, or such employee designated by the Superintendent.

(Code of Iowa, Sec. 372.13(4))

6-4-4 STORAGE. All garbage must be drained and that accumulated from dwellings must be wrapped in paper and placed in a can. All rubbish shall be placed in a can except as otherwise provided.

6-4-5 COLLECTIONS. All garbage and rubbish shall be taken from dwellings at least once each week and from public establishments as frequently as the City Council may require. All cans for garbage and rubbish shall be kept as provided in the rules and regulations for collection of refuse.

6-4-6 NECESSITY OF PERMIT. No person shall collect garbage or rubbish except such person's unless otherwise by contract or permit approved by the Superintendent of refuse and issued by the Clerk. In the event any business, firm, or corporation may elect to dispose of refuse or waste matter as may accumulate on any premises, property, or location, the same may be done provided that such disposal and transporting of any refuse or waste matter complies with the provisions of this chapter, is approved by the City and a permit issued by the Clerk.

6-4-7 BURNING OF REFUSE.

1. It shall be unlawful for any person to burn or incinerate any garbage, rubbish, or refuse within the City except by permission of the City Council.

2. This section shall not apply to any incinerator operated under a license granted by the City or any burning conducted under the direction of the fire department for training purposes.

3. This section shall not apply to outdoor cooking appliances used for residential recreational purposes using commonly acceptable fuels.

6-4-8 REFUSE OTHER THAN GARBAGE. Each person shall dispose of all refuse other than garbage and rubbish accumulation on the premises such person owns or occupies before it becomes a nuisance. If it does become a nuisance, it shall be subject to provisions of Title III, Chapter 2 of this Code.

6-4-9 SANITARY LANDFILL. The City Council by resolution may designate a sanitary landfill and establish reasonable rules and regulations necessary to control its use by the public and make charge for the use thereof.

6-4-10 SEPARATION OF YARD WASTES REQUIRED.

1. All yard waste shall be separated by the owner or occupant from all other garbage and refuse accumulated on the premises and shall be composted on the premises or placed in bags, containers, or packages and set out for collection by the City of Preston (grass clippings and leaves must be separated). Such yard waste shall be containerized or bundled in such a manner as to prevent loose debris and shall not exceed the thirty (30) gallon volume or fifty (50) pound weight limitation.

2. All leaves must be bagged in recyclable bags (no plastic bags allowed) to curb side and will be picked up in timely manner between the dates of September 15th and November 15th. No burning of leaves during these dates (September 15-November 15). Outside of these dates normal yard waste regulation will apply as stated above in section 6-4-10 (1).

(Ord., Passed October 22, 2012)

(Amended during 2021 codification)

3. Tree limbs less than 4” in diameter and brush shall be securely tied in bundles not larger than 48” long and 18” in diameter when not placed in storage containers.

4. The city of Preston shall continue to trim or maintain trees that are already located on city right of way/terrace. The City will also remain trimming trees around power lines according with Iowa Utilities Board Code. In selecting a location to plant your tree(s), the city will not allow them to interfere with overhead or underground power lines. A 30’ clearance is the mandatory distance in your decision to plant trees according to the Iowa Utilities Board. A tree planting will be up to the city’s discretion so not to interfere with water, sewer, gas, and electric lines

(Ord, 241, Passed May 10, 2007)

(Ord., Passed October 22, 2012)

6-4-11 YARD WASTE COLLECTION DATES. The City of Preston shall establish dates for collection of yard waste as necessary by motion of the City Council and publication of dates by public notice in the official newspaper.

6-4-12 STORM DAMAGE. Yard waste bundling or container requirements for collection shall not be enforced for storm damage debris if the Mayor has declared a storm damage exception.

6-4-13 ANTI-SCAVENGING. It shall be a violation of this Code for any person to sort through, scavenge or remove any garbage, waste, refuse, rubbish or recycling material that has been placed in a designated garbage or recycling container. Unauthorized collection, removal or scavenging of material placed in a garbage or recycling container shall be a violation of this Code and punishable as set forth in the Municipal Code.

(ECIA Model Code Amended in 2017)

TITLE VI, PHYSICAL ENVIRONMENT

CHAPTER 5, NATURAL GAS UTILITY

6-5-1	Adoption	6-5-5	Reserved
6-5-2	Charges, Terms and Conditions	6-5-6	Amount of Penalty
6-5-3	Residential or Commercial Deposits at a Place Which has Previously Received Gas Service	6-5-7	Back-billing for Meter Error
		6-5-8	Undercharges Not Due to Meter Error
6-5-4	Replacement or Additional Deposit		

6-5-1 ADOPTION. The municipal utility hereby adopts the gas service tariff which has been filed with the Iowa State Commerce Commission on August 12, 1985.

6-5-2 CHARGES, TERMS AND CONDITIONS. Charges, terms and conditions established by this ordinance are to read in conjunction with the appropriate section of the gas service tariff. Charges, terms and conditions as established by this ordinance are subject to other such conditions and stipulations as may be required by the gas service tariff. All charges, terms and conditions and stipulations of both this ordinance and the gas service tariff are subject to change from time to time, pursuant to a subsequent ordinance or tariff change filing with the Iowa State Commerce Commission.

6-5-3 RESIDENTIAL OR COMMERCIAL DEPOSITS AT A PLACE WHICH HAS PREVIOUSLY RECEIVED GAS SERVICE. In conjunction with Section 3.2 (1)a of the gas service tariff: The deposit for service shall be an amount equal to the highest billing of service for one month for the property in the previous twelve month period, whichever is less.

6-5-4 REPLACEMENT OF ADDITIONAL DEPOSITS. In conjunction with Section 3.2 (1)e of the gas service tariff: The number of late payments allowed (not including one automatic forgiveness of late payment) in any twelve month period, before a replacement of additional deposit for service is required is three.

6-5-5 RESERVED.

(Amended during 2021 codification)

6-5-6 AMOUNT OF PENALTY. In conjunction with Section 3.3 (4) of the gas service tariff, the late payment penalty shall be one and one half percent (1 1/2%) per month on the unpaid balance.

6-5-7 BACK-BILLING FOR METER ERROR. A customer shall be back-billed if the recalculated bill due to meter error exceeds \$10.00. A former customer shall be back-billed if the recalculated bill due to meter error exceeds \$20.00.

6-5-8 UNDERCHARGE NOT DUE TO METER ERROR. In conjunction with Section 3.3 (7)b of the gas service tariff, a customer shall be back-billed if the recalculated bill due to an error other than a meter error exceeds \$10.00.

TITLE VI, PHYSICAL ENVIRONMENT

CHAPTER 6, RESERVED

TITLE VI, PHYSICAL ENVIRONMENT

CHAPTER 7, UTILITIES-BILLING CHARGES

6-7-1	Utility Defined	Customer Application and Deposit Policy
6-7-2	Districts	6-7-15 General
6-7-3	Disposition of Fees and Charges	6-7-16 Electric Deposit Requirements
6-7-4	Billing, Penalty	6-7-17 Electric and Gas Deposit Requirements
6-7-5	Discontinuing Services, Fees	6-7-18 Electric, Gas, Water & Sewer Deposit Requirements
6-7-6	Residential Rental Property	6-7-19 Electric, Garbage and Water
6-7-7	Customer Guarantee Deposits	6-7-20 Residential – General
6-7-8	Utility Rates for Churches	6-7-21 Residential – Rental
6-7-9	Water Rates	6-7-22 History Defined
6-7-10	Sanitary Sewer Rates	6-7-23 Refunding of Deposits
6-7-11	Refuse Collection Rates	
6-7-12	Electric Utility Service Rates	
6-7-13	Natural Gas Rates	
6-7-14	Legislative Findings	Procedure and Priority for the Receipt and Application
RENTERS’ APPLICATION FOR UTILITIES; WATER AND SEWER		6-7-24 Payment Priority
		6-7-25 Service Revenues

6-7-1 UTILITY DEFINED. For use in this chapter, utility is the water, sewer, refuse collection, electric and natural gas distribution systems operated by the City.

6-7-2 DISTRICTS. There shall be one sewer and water district which encompasses all of the area within the corporation boundary of the City of Preston, Iowa.

6-7-3 DISPOSITION OF FEES AND CHARGES. All money received under this chapter shall be deposited in the City treasury not later than the last day of the month in which it was received and a written report of the amount and source of the fees and charges shall be on file with the City Clerk.

6-7-4 BILLING, PENALTY. Utility bills shall be due on the first of the month following the period for which service is billed. Payment shall be made to the City Clerk. Bills shall become delinquent after the twentieth (20th) of the month in which due and bills paid after said day shall have added a penalty of one and one half percent (1.5%) of the amount of the bill for utility service. When the twentieth falls on Saturday or Sunday, the City Clerk shall accept payment on the next office day without penalty.

(Code of Iowa, Sec. 384.84(1))

6-7-5 DISCONTINUING SERVICE, FEES.

1. If any account is not paid within twenty (20) days following the rendition of billing therein, the service to such owner or person so supplied with the utility shall be discontinued in accordance with applicable regulations of the Iowa Utilities Board (in regard to gas and electric services) and upon completion of the following procedures:

(Amended during 2021 codification)

a. The City Clerk shall send a disconnect or discontinuance notice by ordinary mail providing the following notice to customers: "You are advised that you may request a hearing on this matter to the City Clerk by noon on the day preceding the scheduled shut-off date or discontinuance of service."

b. When a hearing is requested by a customer, the Mayor and council shall conduct a hearing within two (2) days following the request. The customer shall have the right to present evidence or propose a payment plan. The decision of the Mayor is final.

2. If service is discontinued for nonpayment of fees and charges, or for the violation of any Ordinance, a fee of \$50.00 shall be paid to the City Clerk in addition to the rates or charges then due before such service is restored. If any such service charge is not paid within sixty (60) days from the date it is due, the same shall constitute a lien upon the premises served by said municipal system, which said lien shall be collected in the same manner as taxes.

(Sec. 384.84(2))

(Amended during 2013 codification)

3. A lien shall not be certified to the County Treasurer for collection unless thirty (30) days prior written notice by ordinary mail of the intent to certify a lien is given to the account holder of the delinquent account. If the account holder is a tenant, and if the owner or property lessor of the property has made a written request for notice, the notice shall also be given to the owner.

4. If the property in which there are delinquent utilities owing is sold before the City certifies the lien to the County Treasurer, the City may certify the delinquent utilities against another property located in this state owned by the delinquent user.

(Code of Iowa, Sec. 384.84(3)(a)(3))

(Amended during 2013 codification)

5. Customers who want their water, electricity, or gas turned off for the winter or summer and wish to resume service in the spring shall pay a fee of \$25.00.

(Amended during 2013 codification)

6. There will be no extension of water service after the current billing, unless an extension is preapproved due to extenuating circumstances. The City Clerk or the Clerk's authorized representative will determine whether to authorize an extension of time to pay, based on individual circumstances and the customer's payment history. Repeat violators will not be extended past the

shutoff date at the discretion of the City.

7. Persons receiving service outside the City limits shall be deemed to have accepted the requirements of the water service and rules set by the City Council and its authorized representatives. Persons receiving water service outside the city limits shall be charged a rate of 1-1/2 times the rate charged to premises located within the corporate city limits of the City.

(ECIA Model Code Amended in 2017)

6-7-6 RESIDENTIAL RENTAL PROPERTY. Residential rental property where a charge for any of the services of water, sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal is paid directly to the City by the tenant is exempt from a lien for delinquent rates or charges associated with such services if the landlord gives written notice to the City utility that the property is residential rental property and that the tenant is liable for the rates or charges. A City utility may require a deposit not exceeding the usual cost of ninety (90) days of the services of water, sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal to be paid to the utility. Upon receipt, the utility or enterprise shall acknowledge the notice and deposit. A written notice shall contain the name of the tenant responsible for the charges, the address of the residential rental property that the tenant is to occupy, and the date that the occupancy begins. A change in tenant shall require a new written notice to be given to the City utility within thirty (30) business days of the change in tenant. When the tenant moves from the rental property, the City utility shall return the deposit, within ten days, if the charges for the services of water, sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal are paid in full.

A change in the ownership of the residential rental property shall require written notice of such change to be given to the City utility within thirty (30) business days of the completion of the change of ownership. The lien exemption for rental property does not apply to charges for repairs related to a service of water, sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal if the repair charges become delinquent.

(Code of Iowa, Sec. 384.84(3)(d))

(Code of Iowa, Sec. 384.84(3)(e))

(ECIA Model Code Amended in 2012)

6-7-7 CUSTOMER GUARANTEE DEPOSITS. Customer deposits shall be required of all customers who are tenants, or others having no established credit record with the City of Preston, and of those who have an unacceptable credit record or who have a prior record of failure to pay utility bills rendered. Such deposit shall be equal to the highest typical electric and gas utility bill during the previous year for the property, or similar property, and be set to the nearest five (\$5.00) dollars. Deposits of customers having established acceptable credit records for one (1) year shall have their deposits returned. An occurrence or recurrence of a delinquent payment shall delay the deposit refund until such time as non-delinquent payment record has been established for one year.

(Code of Iowa, Sec. 384.84(1))

6-7-8 UTILITY RATES FOR CHURCHES. For the purpose of utility rates as shown in the following sections: Water Rates, Sanitary Sewer Rates, Refuse Collection Rates, Electric Rates, and Natural Gas Rates, churches shall be considered commercial.

6-7-9 WATER RATES. Water shall be furnished at the following monthly rates per residential and commercial property serviced within the City limits:

(Code of Iowa, Sec. 384.84(1))

Residential/Commercial

Monthly Service Charge	\$23.00
First 1,000 gallons or less at a minimum charge	\$14.00
All usage over 1,000 gallons shall be charged at the rate of	\$2.25 per 1,000 gal.

User charges for industrial users shall be negotiated between the City and user.

Residential customers, shall pay a monthly customer charge of \$23.00 per month and a commercial customer will pay a monthly customer charge of \$23.00 per month and shall pay according to a single rate schedule at the fixed rate of \$2.25 per 1,000 gallons.

(Ord. 265, Passed August 13, 2007)

(Ord., Passed September 27, 2010)

(Ord. 2018-7, Passed January 28, 2019)

6-7-10 SANITARY SEWER RATES. Sanitary sewer service shall be furnished at the following monthly rates, based upon metered water usage, per residential and commercial property serviced within the City limits:

Residential/Commercial

Monthly Service Charge	\$35.74
First 1,000 gallons or less at a minimum charge	\$2.38
All usage over 2,000 gallons shall be charged at a rate of	\$2.38 per 1,000 gal.

User charges for industrial contributors shall be negotiated based upon effluent volume and condition.

(Amended during 2021 codification)

6-7-11 REFUSE COLLECTION RATES. There shall be collected by the City for its services in collecting garbage and rubbish, the following mandatory fees:

(Amended during 2013 codification)

(Ord. 246, Passed October 24, 2005)

(Ord. 263, Passed May 14, 2007)

(Ord. 1-2014, May 12, 2014)

(Ord. 2-2015, Passed July 27, 2015)

1. Residential Rate. For each resident with curb pickup, \$22.00 per month for one city owned garbage can provided by the city. Recyclables will be collected each week. If you require 2

cans the city will provide another garbage can but you will be charged each month an additional \$5.00 along with the regular garbage rate. In the event the curb pickup for any residence is not feasible, the City Clerk is hereby empowered to enter into an agreement with such resident for any additional charge to be paid by such resident for any other location of pickup that may be agreed upon.

2. Commercial Rate. Rates for commercial establishments shall be based upon volume as follows:

Small Commercial	\$34.00
Medium Commercial	42.00
High Commercial	48.00
Large Commercial	104.00

Each business/apartment owner must purchase a dumpster from the city for them to collect garbage. It is there responsible to maintain the dumpster.

3. Apartment buildings with a dumpster shall be assessed \$22.00 per month per apartment unit served.

4. Municipal Services shall be charged \$22.00 per month per department served.

5. Dumpster Fees: \$5.00 per day rental when unit is on site.
\$10.00 for pickup plus five (.05) cents per pound tipping fee.
\$47.00 per month per building non-profit residential organizations.

6. The City does not accept E-waste, items such as Major appliances, tires, electronics. Customers will need to contact city hall to determine the charge that will be assessed to miscellaneous items such as sofa, tables, chairs etc.

7. No items classified as hazardous materials shall be picked up.

8. Commercial customers who request their dumpster emptied more than 2 times per week will be assessed the weight at .05/ per pound, plus monthly charge.

9. Any city utility customer outside city limits has the option of garbage pickup.

10. Any resident that request 3 garbage cans will be required to purchase a dumpster.

11. Customer will not be charged garbage only in the event that the water/sewer is shut off at the curb.

12. The garbage can that is provided by the city will not be used for yard waste.

13. Garbage rates for in home business are considered the same as residential rate. If in home business customers request twice a week pickup, it will be at the same commercial rate. Or you can request an extra garbage can for additional \$5.00 a month.

14. Penalty Clause. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this ordinance is guilty of a misdemeanor. Any person convicted of a misdemeanor under the ordinance of Preston shall be punished by a fine of not more than one hundred dollars (\$100.00).

(Amended during 2021 codification)

6-7-12 ELECTRIC RATES.

1. Monthly electric rates for electricity distributed and sold in the City of Preston shall be as follows:

Residential:

Monthly Customer charge	\$20.00
Energy Rate per kWh	\$0.125/kWh

Commercial/Industrial:

Monthly Customer Charge	\$25.00
Energy Rate per kWh (less than 10,000 /month average)	\$0.125/kWh
Energy Rate per kWh (10,000 kWh to less than 30,000 kWh monthly average)	\$0.115/kWh
Energy Rate per kWh (30,000 or greater monthly average)	\$0.100/kWh

Municipal

Monthly Customer Charge	\$25.00
Energy Rate per kWh	\$0.125/kWh

(Ord. 2018-1, Passed February 12, 2018)

Security Light rental is as follows:

100 Watt	\$ 7.00 monthly
150 Watt	\$10.50 monthly
250 Watt	\$19.50 monthly

...

(Ord. 250, Passed August 28, 2006)

...

(Ord., Passed December, 2011)

2. The Council shall determine each meter usage classification based on the divisions sited above.

3. Commercial/Industrial usage parameters.

The Commercial/Industrial customer shall be determined by billing name and shall include all

meter usage billed to that customer.

Monthly average shall be determined by the previous six month usage as recorded by the City or its supplier. With council approval they shall certify which Commercial/Industrial customers qualify for the rate categories for the next period based on the previous six month average. Period of six months is defined as January to June and July to December. If a Commercial/Industrial customer changes rate categories, no refund or additional charges shall be billed for previous periods.

New customers shall be billed the highest rate for the initial six month period unless the council determines that an alternate rate should be used. After the first six month usage is known, one time refunds or additional charges will be made for the initial six month period and the appropriate rate be applied. New customers will be reevaluated after the next full six month cycle to determine whether they qualify for a different rate category for the following six month period.

... (Ord. 2018-1, Passed February 12, 2018)

6-7-13 NATURAL GAS RATES. Monthly gas rates for natural gas distributed and sold in the City of Preston by the Preston Municipal Gas Distribution System shall be as follows:

(Ord. 229, Passed February 25, 2002)

(Ord., Passed March 12, 2012)

(Ord. 2018-3, Passed April 9, 2018)

1. Residential/Commercial:

Monthly Service Charge-----\$10.00
Non-Gas Commodity Charge ----- \$2.75/MCF
* First 30,000 CF ----- \$6.17 Fluctuating rate per month

2. School/Grain Drying Interruptible:

Minimum Charge -----\$56.00
Non-Gas Commodity Charge -----\$2.75/MCF
* Per CF ----- \$6.17 Fluctuating rate per month

3. Municipal Light Plant:

Minimum Charge -----\$10.00
Non-Gas Commodity Charge -----\$2.75/MCF
* Per CF ----- \$6.17 Fluctuating rate per month

* Fluctuating rate per month is based on the actual cost of gas purchased by the City of Preston per cubic foot for the previous month.

4. Penalty Clause. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this ordinance is guilty of a misdemeanor. Any person convicted of a misdemeanor under the ordinance of Preston shall be punished by a fine of not more than one hundred dollars (\$100.00).

6-7-14 LEGISLATIVE FINDINGS. Whereas, the Federal Energy Regulatory Commission has issued Order No. 719, 125 FERC ¶ 61,071, 73 Fed. Reg. 64,009 (October 28, 2008).

Whereas pursuant to Order No. 719, 18 C.P.R. § 35.28(g)(l)(iii) provides: "Each Commission-approved independent system operator and regional transmission organization must permit a qualified aggregator of retail customers to bid demand response on behalf of retail customers directly into the Commission-approved independent system operator's or regional transmission organization's organized markets, unless the laws and regulations of the relevant electric retail regulatory authority expressly do not permit a retail customer to participate."

Whereas pursuant to Order No. 719, 18 C.P.R. § 35.28(g)(l)(i)(A) provides: "Every Commission-approved independent system operator or regional transmission organization that operates organized markets based on competitive bidding for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff) must accept bids from demand response resources in these markets for that product on a basis comparable to any other resources, if the demand response resource meet the necessary technical requirements under the tariff, and submits a bid under the Commission-approved independent system operator's or regional transmission organization's bidding rules at or below the market-clearing price, unless not permitted by the laws or regulations of the relevant electric retail regulatory authority."

Whereas, pursuant to Iowa Code Chapter 476, the City of Preston is authorized to enact local ordinances governing the provision of the electric power to retail customers within the boundaries of the City of Preston.

Whereas, the City of Preston has determined that it would be harmful to the demand response in the City of Preston, and the collective interests of the City of Preston, as a loadserving entity with an obligation to serve at retail, and the City of Preston's retail customers to permit any entity other than the City of Preston itself or its authorized designee to aggregate demand response on behalf of its retail customers.

Whereas, the City of Preston, as the electric retail regulatory authority for the City of Preston, has determined it to be desirable that the aggregation of demand response on behalf of retail customers located in and served by the City of Preston to be bid directly into the organized electric and ancillary services markets administered by the municipal system (or any successor independent system operator or regional transmission organization to which the City of Preston is a participant be performed by the City of Preston or its authorized designee, the following amendments to the Code of Ordinances of the City of Preston are hereby adopted.

1. Hereby adds the heading "Aggregation of Retail Customer Demand Response" a new subsection to provide as follows:

- a. The City of Preston, or its authorized designee, is the sole entity permitted to bid

demand response on behalf of retail customers served by the City of Preston directly into any Commission-approved independent system operator's or regional transmission organization's organized electric markets.

b. Retail customers served by the City of Preston wishing to bid their demand response into a Commission-approved independent system operator's or regional transmission organization's organized electric markets may do so by participating in the program established by the City of Preston or its authorized designee. Retail customers are not permitted to participate in the demand response program of any other entity without the express prior authorization of the City of Preston.

2. Hereby adds the heading "Ancillary Services Provided by Demand Response Resources" a new subsection to provide as follows:

a. The City of Preston, or its authorized designee, is the sole entity permitted to bid demand response on behalf of retail customers served by the City of Preston directly to any Commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff).

b. Retail customers served by the City of Preston wishing to bid their demand response into a Commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff) may do so by participating in the program established by the City of Preston or its authorized designee. Retail customers are not permitted to participate in the demand response program of any other entity without the express prior authorization of the City of Preston.

(Ord., Passed April 13, 2009)

RENTERS' APPLICATION FOR UTILITIES; WATER AND SEWER

Customer Application and Deposit Policy

6-7-15 GENERAL. New or moving rental unit tenants applying for utility service SHALL DO SO IN PERSON at the City Clerk's office; and SHALL pay a cash deposit and/or an assigned Certificate of Deposit (CD) or Surety Bond; or comply with the creditworthy criteria (written confirmation from previous utility companies), as specified below, before any utility service will be rendered.

The applicant must submit and sign the "Application for Utility Service" and provide proof of identification (Driver's License preferred). The "Application for Utility Service" will be maintained in the Preston City Clerk's office.

If the applicant is renting, the Property Owner or Manager SHALL sign the “Landlord Certification” section on the application in person or provide a copy of their signed lease agreement with the property owner. The Clerk’s office will sign the application, which acknowledges receipt of the completed application, and compliance with the policy as stated herein.

Copies of this policy and related forms shall be available at the City Clerk’s Office.

6-7-16 ELECTRIC AND GARBAGE DEPOSIT REQUIREMENTS. \$200.00
(Only Customers)

(Amended during 2021 codification)

6-7-17 ELECTRIC AND GAS DEPOSIT REQUIREMENTS. \$240.00
(Only Customers)

6-7-18 ELECTRIC, GAS, WATER & SEWER AND GARBAGE DEPOSIT
REQUIREMENTS. \$345.00
(Only Customer)

(Amended during 2021 codification)

6-7-19 ELECTRIC, GARBAGE AND WATER. \$280.00
(Only Customer)

6-7-20 RESIDENTIAL – GENERAL. When a previously terminated account (owner-occupied or renter) returns to establish a new account after a period of time has elapsed, the deposit on those accounts which have previously established a negative credit history (see below for “History Defined”) with the City of Preston, may be doubled the regular deposit as stated above and any amounts previously written off as bad debts MUST be paid AND any collection or legal fees paid to outside agencies MUST be reimbursed before a new account will be established.

If an active account (owner occupied or renter) continually becomes or remains past due (determined by multiple application of penalty charges against the account), or service has been discontinued due to non-payment, a deposit equal to double the schedule established above may be required for continuation or reestablishment of service.

6-7-21 RESIDENTIAL – RENTAL. A Residential Rental deposit shall always be required before utility service will be rendered.

When a rental account moves to a new account, a new “Application for Utility Service” shall be required. The old deposit will be applied to the current and final bills of the old account, and the balance, if any, will be refunded. If the old account is past due on the moving date, a new account will not be established until the old account is brought current. A new deposit is required for each new service. If a customer leaves an unpaid bill the deposit required on the new account may be double the regular deposit requirement.

If, after the final bill is prepared, the old deposit is not sufficient to cover the remaining charges on the old account and the old account becomes past due, the new account will be subject to service termination as though the two accounts were one.

6-7-22 HISTORY DEFINED. Having a “history of being past due” or a “negative credit history” is hereby defined as follows:

1. Having been past due on more than one (1) occurrence during the preceding twelve (12) month period.
2. Having any service disconnected as a result of non-payment during the preceding twenty-four (24) month period, and/or
3. Being past due on the date service is terminated. (This includes those customers who request service be terminated at one location and connected at a new location as a result of moving to said new location.)

6-7-23 REFUNDING OF DEPOSITS.

1. Cash deposits will be applied to the customer’s Final Bill after which the balance, if any, will be refunded. Any balance due after application of the deposit shall be due and payable on or before the date specified on the Final Bill.
2. Residential Owner Occupied cash deposits may be refunded after two (2) years, if requested and, if the following conditions are met:
 - (a) Within the past one (1) year, the Owner/Occupant did not have more than one (1) bill, which became delinquent, AND
 - (b) Within the past two (2) years, the Owner/Occupant did not have a service disconnected for non-payment.
3. Non-Residential Certificates of Deposit (CD’s) will be returned to the owner with a cancellation of the assignment within a reasonable time after all final charges are paid.
4. Non-Residential Surety Bonds will be canceled and returned to the principal within a reasonable time after all final charges are paid.
5. If the City of Preston’s deposit has a balance remaining after that utility’s charges are satisfied, said balance shall be applied to other charges not so satisfied before any amount of the deposit is refunded.
6. Interest will NOT be paid on any part of the deposit.

7. Residential Rental Property deposits will be paid once the tenant has moved out.
(Amended during 2021 codification)

Procedure and Priority for the Receipt and Application

6-7-24 PAYMENT PRIORITY

1. All monies received toward the payment of services, including utility, water and sewer deposits or any payments on accounts for the City of Preston shall be applied and paid in the following priority:

- 1st – to any and all outstanding water service bills;
- 2nd – to any outstanding utility charges;
- 3rd – the remaining portions shall be applied to any sewer charges.

6-7-25 SERVICE REVENUES

1. The City of Preston and the Clerk-Treasurer for the City of Preston are hereby required to apply the revenues according to section number A. above, with any and all revenues received by them for water, utilities and sewer charges.

(Ord. 287, Passed May13, 2013)

TITLE VI, PHYSICAL ENVIRONMENT

CHAPTER 8, NUMBERING OF BUILDINGS

6-8-1	Buildings to be Numbered	6-8-4	Type of Numbers, Size
6-8-2	Numbering System	6-8-5	Enforcement
6-8-3	Mandatory Numbering		

6-8-1 BUILDINGS TO BE NUMBERED. All buildings now or hereafter erected within the City limits shall be assigned numbers and the owners notified of the assigned number. The owners shall cause the numbers to be placed and maintained on their property.

6-8-2 NUMBERING SYSTEM. Numbers shall be assigned in accordance with the system developed by the City Council. The system consists of three-digit numbering. The even numbers shall be on the west and north sides of all streets and the odd numbers shall be on the east and south sides of all streets.

6-8-3 MANDATORY NUMBERING. The placing of numbers is mandatory effective August 1, 2000.

6-8-4 TYPE OF NUMBERS, SIZE. The numbers shall be conspicuously displayed on the portion of the building or premise which faces the street. All numbers shall be of durable substance, clearly legible and the numerals shall be not less than five inches in height.

6-8-5 ENFORCEMENT. If numbers meeting the requirements of this ordinance have not been placed on each building, the City shall cause individual notice to be given to the owner of buildings not numbered, requiring compliance within a reasonable time set in the notice, and if not completed by such time, the City shall cause proper numbers to be installed and the reasonable cost of the installation billed to such owner.

TITLE VI, PHYSICAL ENVIRONMENT

CHAPTER 9, SUBDIVISION REGULATIONS

GENERAL PROVISIONS

- 6-9-1 Short Title
- 6-9-2 Purpose
- 6-9-3 Application
- 6-9-4 Recording of Plat

DEFINITIONS

- 6-9-5 Terms Defined

IMPROVEMENTS

- 6-9-6 Improvements Required
- 6-9-7 Inspection
- 6-9-8 Minimum Improvements
- 6-9-9 Completion of Improvements
- 6-9-10 Performance Bond

MINIMUM STANDARDS FOR THE DESIGN OF SUBDIVISIONS

- 6-9-11 Minimum Standards

PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS

- 6-9-12 Procedures and Submission Requirements for Plats
- 6-9-13 Pre-Application Conference
- 6-9-14 Sketch Plan Required
- 6-9-15 Presentation to Planning Commission or City Council
- 6-9-16 Subdivision Classified
- 6-9-17 Plats Required
- 6-9-18 Requirements of Preliminary Plat
- 6-9-19 Referral of Preliminary Plat
- 6-9-20 Action by the City Engineer
- 6-9-21 Action by the City Council
- 6-9-22 Final Plat Attachments
- 6-9-23 Referral Final Plat
- 6-9-24 Requirements of the Final Plat
- 6-9-25 Final Plat Attachments
- 6-9-26 Action by the City Council

OTHER PROVISIONS

- 6-9-27 Variances
- 6-9-28 Chain Subdividing
- 6-9-29 Extraterritorial Review Agreement

GENERAL PROVISIONS

6-9-1 **SHORT TITLE.** This chapter shall be known and may be cited as "The City of Preston, Iowa, Subdivision Control Ordinance."

6-9-2 **PURPOSE.** The purpose of this Ordinance is to provide minimum standards for the design, development and improvement of all new subdivisions and resubdivisions of land, so that existing developments will be protected, and so that adequate provisions are made for public facilities and services, and so that growth occurs in an orderly manner, consistent with the Comprehensive Plan, and to promote the public health, safety and general welfare of the citizens of the City of Preston, Iowa.

(Code of Iowa, Sec. 354.1 and 364.1)

6-9-3 APPLICATION. Every owner who divides any original parcel of land, forty (40) acres or part thereof, entered of record in the office of the County Recorder as a single lot, parcel or tract on or before the effective date of these regulations November 9, 1998 into three or more lots, parcels, or tracts for the purpose, whether immediate or future, of laying out an addition, subdivision, building lot or lots, acreage or suburban lots, transfer of ownership or building development within the City or within two (2) miles of the corporate limits of the City; shall cause plats of such area to be made in the form, and containing the information, as hereinafter set forth before selling any lots therein contained or placing the plat on record.

(Code of Iowa, Sec. 354.9)

6-9-4 RECORDING OF PLAT. No subdivision plat, resubdivision plat or street dedication within the City of Preston, Iowa, or (choose one):

-within two (2) miles of the corporate limits of the City as recorded in the office of the County Recorder and filed with the County Auditor,

as provided in Section 354.9, Code of Iowa, shall be filed for record with the County Recorder, or recorded by the County Recorder, until a final plat of such subdivision, resubdivision, or street dedication has been reviewed and approved in accordance with the provisions of this Ordinance.

Upon the approval of the final plat by the governing body, it shall be the duty of the subdivider to immediately file such plat with the County Auditor and County Recorder, as required by law. Such approval shall be revokable after thirty (30) days, unless such plat has been duly recorded and evidence thereof filed with the City Clerk within such thirty (30) days.

(Code of Iowa, Sec. 354.9)

DEFINITIONS

6-9-5 TERMS DEFINED. For the purposes of this Ordinance, certain words herein shall be defined as and interpreted as follows. Words used in the present tense shall include the future, the singular shall include the plural, the plural shall include the singular, the term "shall" is always mandatory, and the term "may" is permissive.

1. "Acquisition Plat" means the graphical representation of the division of land or rights in land, created as the result of a conveyance or condemnation for right-of-way purposes by an agency of the government or other persons having the power of eminent domain.

(Sec. 354.2(1))

2. "Aliquot Part" means a fractional part of a section within the United States public land survey system. Only the fractional parts one-half, one-quarter, one-half of one-quarter, or one-quarter of one quarter shall be considered an aliquot part of a section.

(Code of Iowa, Sec. 354.2(2))

3. "Alley" means public property dedicated to public use primarily for vehicular access to the back or side of properties otherwise abutting on a street.

4. "Auditor's Plat" means a subdivision plat required by either the Auditor or the Assessor, prepared by a surveyor under the direction of the auditor.

(Code of Iowa, Sec. 354.2(3))

5. "Block" means an area of land within a subdivision that is entirely bounded by streets, railroad rights-of-way, rivers, tracts of public land, or the boundary of the subdivision.

6. "Building Lines" means a line on a plat between which line and public right-of-way no building or structures may be erected.

7. "City Engineer" means the professional engineer registered in the State of Iowa designated as City Engineer by the governing body or other hiring authority.

8. "Comprehensive Plan" means the general plan for the development of the community, that may be titled master plan, comprehensive plan or some other title, which plan has been adopted by the governing body. Such "Comprehensive Plan" shall include any part of such plan separately adopted, and any amendment to such plan or parts thereof.

9. "Conveyance" means an instrument filed with a Recorder as evidence of the transfer of title to land, including any form of deed or contract.

(Code of Iowa, Sec. 354.2(5))

10. "Cul-de-Sac" means a street having one end connecting to another street, and the other end terminated by a vehicular turn around.

11. "Division" means dividing a tract or parcel of land into two parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than public highway easement, shall not be considered a division for the purpose of this chapter.

(Sec. 354.2(6) and 355.1(2))

12. "Easement" means an authorization by a property owner for another to use a designated part of said owner's property for a specified purpose.

13. "Flood Hazard Area" means any area subject to flooding by a one percent (1%) probability flood, otherwise referred to as a one hundred (100) year flood; as designated by the Iowa Department of Natural Resources or the Federal Emergency Management Agency.

14. "Floodway" means the channel of a river or other watercourse and the adjacent lands that must be reserved in order to discharge the waters of a one hundred (100) year flood without cumulatively raising the waterway surface elevation more than one (1) foot.

15. "Forty-Acre Aliquot Part" means one-quarter of one-quarter of a section.
(Sec. 354.2(7))

16. "Governing Body" means the City Council of the City of Preston, Iowa.
(Sec. 354.2(8))

17. "Government Lot" means a tract, within a section, that is normally described by a lot number as represented and identified on the township plat of the United States public land survey system.

(Code of Iowa, Sec. 354.2(9) and 355.1(3))

18. "Improvements" means changes to land necessary to prepare it for building sites including but not limited to grading, filling, street paving, curb paving, sidewalks, walk ways, water mains, sewers, drainageways, and other public works and appurtenances.

19. "Lot" means a tract of land represented and identified by number or letter designation on an official plat.

(Code of Iowa, Sec. 354.2(10))

20. "Lot, Corner". The term "corner lot" means a lot situated at the intersection of two streets.

21. "Lot, Double Frontage". The term "double frontage lot" means any lot that is not a corner lot that abuts two streets.

22. "Metes and Bounds Description" means a description of land that uses distances and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to physical features of the land.

(Code of Iowa, Sec. 354.2(11))

23. "Official Plat" means either an auditor's plat or a subdivision plat that meets the requirements of this chapter and has been filed for record in the offices of the Recorder, Auditor, and Assessor.

(Code of Iowa, Sec. 354.2(12))

24. "Original Parcel" means forty acres or part thereof entered of record in the office of the County Recorder as a single lot or parcel on or before November 9, 1998.

25. "Owner" means the legal entity holding title to the property being subdivided, or such representative or agent as is fully empowered to act on its behalf.

26. "Parcel" means a part of a tract of land.

(Code of Iowa, Sec. 354.2(13))

27. "Performance Bond" means a surety bond or cash deposit made out to the City of Preston,

Iowa, in an amount equal to the full cost of the improvements which are required by this Ordinance, said cost estimated by the City and said surety bond or cash bond being legally sufficient to secure to the City that the said improvements will be constructed in accordance with this Ordinance.

28. "Permanent Real Estate Index Number" means a unique number or combination of numbers assigned to a parcel of land pursuant to Section 441.29 of the Code of Iowa.
(Sec. 354.2(14))

29. "Planning Commission" means the appointed commission designed by the governing body for the purpose of this Ordinance, and may also be the Zoning Commission, in which case such commission shall be known as the Planning and Zoning Commission.

30. "Plat" means a map drawing, or chart on which a subdivider's plan for the subdivision of land is presented, that said subdivider submits for approval and intends, in final form, to record.

31. "Plats Officer" means the individual assigned the duty to administer this Ordinance by the governing body or other appointing authority.

32. "Plat of Survey" means the graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor.

(Code of Iowa, Sec. 354.2(15) and 355.1(9))

33. "Proprietor" means a person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding mortgage, easement, or lien interest.

(Code of Iowa, Sec. 354.2(16))

34. "Resubdivision" means any subdivision of land that has previously been included in a recorded plat. In appropriate context it may be a verb referring to the act of preparing a plat of previously subdivided land.

35. "Street" means public property, not an alley, intended for vehicular circulation. In appropriate context the term "street" may refer to the right-of-way bounded by the property lines of such public property, or may refer to the paving installed within such right-of-way.

36. "Street, Arterial" means a street primarily intended to carry traffic from one part of the City to another, and not intended to provide access to abutting property.

37. "Street, Collector" means a street primarily designed to connect smaller areas of the community, and to carry traffic from local streets to arterial streets.

38. "Street, Local" means a street primarily designed to provide access to abutting property.

39. "Subdivider" means the owner of the property being subdivided, or such other person or entity empowered to act on the owner's behalf.

40. "Subdivision" means the accumulative effect of dividing an original lot, tract, or parcel of land, as of November 9, 1998 into three (3) or more lots for the purpose of immediate or future sale or transfer for development purposes excluding public roadways, public utility extensions, and land taken by condemnation. The term includes a resubdivision or replatting. When appropriate to the context, the word may relate to the process of subdividing or the land subdivided.

Any person not in compliance with the provisions of the subdivision definition at the time of its effective date (The effective date of this Ordinance is November 11, 2013), shall not be required to comply with such provisions unless or until a new division, re-subdivision or replatting occurs following that effective date.

(Code of Iowa, Sec. 354.2(17) and 355.1(10))

41. "Subdivision Plat" means the graphical representation of the subdivision of land, prepared by a registered land surveyor, having a number or letter designation for each lot within the plat and succinct name or title that is unique for the county where the land is located.

(Code of Iowa, Sec. 354.2(18) and 355.1(11))

42. "Surveyor" means a registered land surveyor who engages in the practice of land surveying pursuant to Chapter 542B of the Code of Iowa.

(Code of Iowa, Sec. 354.2(19) and 355.1(12))

43. "Tract" means an aliquot part of a section, a lot within an official plat, or a government lot.

(Code of Iowa, Sec. 354.2(20))

44. "Utilities" means systems for the distribution or collection of water, gas, electricity, wastewater, and storm water.

IMPROVEMENTS.

6-9-6 **IMPROVEMENTS REQUIRED.** The subdivider shall, at said subdivider's expense, install and construct all improvements required by this Ordinance. All required improvements shall be installed and constructed in accordance with the design standards established for such improvements by the City, and as shown on the approved preliminary plat.

6-9-7 **INSPECTION.** All improvements shall be inspected to insure compliance with the requirements of this Ordinance. The cost of such inspection shall be borne by the subdivider and shall be the actual cost of the inspection to the City.

6-9-8 **MINIMUM IMPROVEMENTS.** The improvements set forth below shall be considered the minimum improvements necessary to protect the public health, safety and welfare.

(Code of Iowa, Sec. 364.1)

1. Streets and alleys. All streets and alleys within the platted area which are dedicated for public use shall be brought to the grade approved by the governing body after receiving the report and recommendations of the City Engineer.

2. Roadways. All roadways shall be surfaced with portland cement concrete or with asphaltic concrete over a crushed stone base as the governing body may require.

3. Curb and Gutter. Curb and gutter shall be required on all streets. All curb and gutter shall be constructed to the grade approved by the governing body after receiving the report and recommendations of the City Engineer. Newly constructed curbs and gutters shall comply with the Americans With Disabilities Guidelines (ADAAG).

4. Sidewalks. Sidewalks shall be required. Sidewalks shall be constructed to the grade approved by the governing body after receiving the report and recommendations of the city engineer, and comply with the Americans with Disabilities Guidelines (ADAAG).

(Amended during 2013 codification)

5. Water lines. Where a public water main is reasonably accessible, the subdivider shall connect with such water main and provide a water connection for each lot with service pipe installed to the property line in accordance with the City Water Department standards, procedures and supervision.

6. Sewers.

a. Where a public sanitary sewer is reasonably accessible, the subdivider shall connect or provide for the connection with such sanitary sewer and shall provide within the subdivision the sanitary sewer system as required to make the sewer accessible to each lot in the subdivision. Sanitary sewers shall be stubbed into each lot. Sewer systems shall be approved by the governing body and the State Department of Health and the construction subject to the supervision of the Superintendent of public utilities.

b. Where sanitary sewers are not available, other facilities, as approved by the governing body and the State Department of Health must be provided for the adequate disposal of sanitary wastes.

c. Adequate provisions shall be made for the disposal of storm waters, subject to the approval of the governing body and to the supervision of the Superintendent of public utilities.

6-9-9 COMPLETION OF IMPROVEMENTS. Before the governing body shall approve the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the governing body. Before passage of said resolution of acceptance, the Superintendent of public works shall report that said improvements meet all City specifications and Ordinances or other City requirements, and the agreements between subdivider and the City.

6-9-10 PERFORMANCE BOND. The completion requirement may be waived in whole or in part if the subdivider will post a performance bond with the governing body guaranteeing that improvements not completed will be constructed within a period of one (1) year from final acceptance of the plat, but final acceptance of the plat will not constitute final acceptance by the City of any improvements to be constructed. Improvements will be accepted only after their construction has been completed, and no public funds will be expended in the subdivision until such improvements have been completed and accepted by the City.

MINIMUM STANDARDS FOR THE DESIGN OF SUBDIVISIONS.

6-9-11 MINIMUM STANDARDS. The following standards shall be considered the minimum standards necessary to protect the public health, safety, and general welfare.

1. Relation to existing streets.

a. The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

b. The arrangement of streets in a subdivision shall either provide for the continuation of appropriate projection of existing principal streets in surrounding areas or conform to a plat for the neighborhood approved by the governing body to meet a particular situation where topographical or other conditions made continuance or conformance to existing streets impracticable.

2. Acreage subdivisions.

a. Where the plat submitted covers only a part of the subdivider's plat, a sketch of the prospective future system of the unsubmitted part shall be furnished and the street system of the part submitted shall be considered in the light of adjustments in connection with the street system of the part not submitted.

b. Where the parcel is subdivided into larger tracts than for building lots such parcels shall be divided so as to allow for the opening of major streets and the ultimate extension of adjacent minor streets.

c. Subdivisions showing unplatted strips or private streets controlling access to public ways will not receive approval.

3. Local streets.

a. Local streets shall be so planned as to discourage through traffic.

b. Cul-de-sac streets are permitted where topography and other conditions justify their use. Such streets shall not be longer than five hundred (500) feet and shall terminate with a turn-around, having an outside roadway diameter of at least eighty (80) feet and a street property line diameter of at least one hundred (100) feet. The right-of-way width of the straight portion of such

streets shall be a minimum of fifty (50) feet. The property line at the intersection of the turn-around and the straight portion of the street shall be rounded at a radius of not less than twenty (20) feet.

4. Frontage streets.

a. Where a subdivision abuts or contains an existing or proposed arterial street, the governing body may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

b. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the governing body may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

5. Half-streets. Half-streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations, and where the governing body finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever a half-street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

6. Street Geometrics.

a. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided.

b. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets.

c. When connecting street lines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than two hundred (200) feet for minor and collector streets, and of such greater radii as the governing body shall determine for special cases.

7. Intersections.

a. Insofar as is practical, acute angles between streets at their intersection are to be avoided.

b. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than sixty (60) degrees.

c. Property lines at street intersections shall be rounded with a radius of ten (10) feet, or of a greater radius where the governing body may deem it necessary. The governing body may permit comparable cutoffs or chords in place of rounded corners.

8. Street names. Streets that are in alignment with others already existing and named shall

bear the name of the existing streets. The proposed names of new streets shall not duplicate or sound similar to existing street names. Street names shall be subject to the approval of the governing body.

9. Street grades.

a. Street grades, wherever feasible, shall not exceed five (5) percent, with due allowance for reasonable vertical curves.

b. No street grade shall be less than one-half (1/2) of one (1) percent.

10. Alleys.

a. Alleys shall be provided in commercial and industrial districts, except that the governing body may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.

b. The width of an alley shall be thirty (30) feet.

c. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movements.

d. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turn-around facilities at the dead-end, as determined by the governing body.

11. Blocks.

a. No block may be more than one thousand (1,000) feet or less than three hundred fifty (350) feet in length between the center lines of intersecting streets, except where, in the opinion of the governing body, extraordinary conditions unquestionably justify a departure from these limits.

b. In blocks over seven hundred (700) feet in length, the governing body may require at or near the middle of the block a public way or easement of not less than ten (10) feet in width for use by pedestrians and/or as an easement for public utilities.

12. Lots.

a. The lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

b. Minimum lot dimensions and sizes.

(1) Residential lots where not served by public sewer shall not be less than one hundred (100) feet wide nor less than twenty thousand (20,000) square feet in area.

(2) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

(3) Corner lots for residential use shall have an extra ten (10) feet of width to permit appropriate building setback from and orientation to both streets.

c. The subdividing of the land shall be such as to provide, by means of public street, each

lot with satisfactory access to an existing public street.

d. Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.

e. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.

13. Building lines. Building lines shall be shown on all lots within the platted area. The governing body may require building lines in accordance with the needs of each subdivision.

14. Easements.

a. Easement across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least fourteen (14) feet wide.

b. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse, and further width for construction, or both, as will be adequate for the purpose.

15. Plat markers. Markers shall be placed at all block corners, angle points, points of curves in streets, and all such intermediate points as shall be required by the governing body. The markers shall be of such material, size and length as may be approved by the governing body.

PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS.

6-9-12 PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS. In obtaining final approval of a proposed subdivision by the governing body, the subdivider and owner shall submit a plat in accordance with the requirements hereafter set forth and install improvements or provide a performance bond.

6-9-13 PRE-APPLICATION CONFERENCE. Whenever a subdivision located within the platting jurisdiction of the City is proposed, the owner and subdivider shall schedule a preapplication conference with the City Administrator. The conference should be attended by the City Administrator and such other City or utility representatives as is deemed desirable; and by the owner and said owner's engineer and/or planner, as deemed desirable.

The purpose of such conference shall be to acquaint the City with the proposed subdivision, and to acquaint the subdivider with the requirements, procedures, and any special problems relating to the proposed subdivision.

6-9-14 SKETCH PLAN REQUIRED. For the pre-application conference, the subdivider shall provide a map or sketch showing the location of the subdivision, the general location of any

proposed streets and other improvements, and the general layout and arrangement of intended land uses, in relation to the surrounding area.

6-9-15 PRESENTATION TO PLANNING COMMISSION OR CITY COUNCIL. The subdivider may present the sketch plan to the governing body for review, prior to incurring significant costs preparing the preliminary or final plat.

6-9-16 SUBDIVISION CLASSIFIED. Any proposed subdivision or resubdivision shall be classified as minor subdivision or a major subdivision.

1. Minor Subdivision. Means any subdivision that contains not more than four (4) lots fronting on an existing street and that does not require construction of any public improvements, and that does not adversely affect the remainder of the parcel shall be classified as a minor plat.

2. Major Subdivision. Any subdivision that, in the opinion of the governing body, does not for any reason meet the definition of a minor subdivision, shall be classified as a major subdivision.

6-9-17 PLATS REQUIRED. In order to secure approval of a proposed subdivision, the owner and subdivider of any major subdivision shall comply with the requirements for a preliminary plat and the requirements for a final plat. The owner and subdivider of a minor subdivision or an auditor's plat may elect to omit the submission of a preliminary plat.

(Code of Iowa, Sec. 354.6)

6-9-18 REQUIREMENTS OF PRELIMINARY PLAT. The subdivider shall prepare and file with the City Clerk five (5) copies of a preliminary plat of adequate scale and size showing the following:

1. Title, scale, north point and date.
2. Subdivision boundary lines, showing dimensions, bearing angles, and references to section, townships and range lines or corners.
3. Present and proposed streets, alleys and sidewalks, with their right-of-way, in or adjoining the subdivision, including dedicated widths, approximate gradients, types and widths of surfaces, curbs, and planting strips, and location of street lights.
4. Proposed layout of lots, showing numbers, dimensions, radii, chords and the square foot areas of lots that are not rectangular.
5. Building setback or front yard lines.
6. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes.

7. Present and proposed easements, showing locations, widths, purposes and limitation.

8. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities, with the size, capacity, invert elevation and location of each.

9. Proposed name of the subdivision which shall not duplicate or resemble existing subdivision names in the county.

10. Names and addresses of the owner, subdivider, builder, and engineer, surveyor or architect who prepared the preliminary plat, and the engineer, surveyor or architect who will prepare the final plat.

11. Existing and proposed zoning of the proposed subdivision and adjoining property.

12. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat.

13. Contours at vertical intervals of not more than two (2) feet if the general slope of the site is less than ten (10) percent and at vertical intervals of not more than five (5) feet if the general slope is ten (10) percent or greater, unless the City Council waives this requirement.

6-9-19 REFERRAL OF PRELIMINARY PLAT. The City Clerk shall forthwith refer two (2) copies of the preliminary plat to the City Engineer and (2) copies to the governing body.

6-9-20 ACTION BY THE CITY ENGINEER. The City Engineer shall carefully examine said preliminary plat as to its compliance with Section 354.8 of the Code of Iowa and the laws and regulations of the City of Preston, Iowa, the existing street system, and good engineering practices, and shall, as soon as possible, submit the City engineer's findings in duplicate to the governing body together with one (1) copy of the plat received.

(Code of Iowa, Sec. 354.8)

6-9-21 ACTION BY THE CITY COUNCIL. The City Council shall, upon receiving the report of the City Engineer, as soon as possible, but not more than thirty (30) days thereafter, consider said report, negotiate with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by the subdivider, and pass upon the preliminary plat as originally submitted or modified. If the governing body does not act within thirty (30) days, the preliminary plat shall be deemed to be approved, provided, however, that the subdivider may agree to an extension of the time for a period not to exceed an additional sixty (60) days. It shall then set forth its recommendations in writing, whether of approval, modification or disapproval.

1. In the event that substantial changes or modifications are made by the governing body or disapproval of the plat, it shall give its reasons therefor and it may request and cause the revised preliminary plat to be resubmitted in the same manner as the original plat.

2. If approved, the governing body shall express its approval as "Conditional Approval" and state the conditions of such approval, if any.

3. The action of the governing body shall be noted on two (2) copies of the preliminary plat, referenced and attached to any conditions determined. One (1) copy shall be returned to the subdivider and the other copy retained by the governing body.

4. The "Conditional Approval" by the governing body shall not constitute final acceptance of the addition or subdivision by the City but an authorization to proceed with preparation of the final plat.

6-9-22 FINAL PLAT. The final plat shall conform substantially to the preliminary plat as approved, and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time, provided, however, that such portion conforms to all requirements of these regulations.

6-9-23 REFERRAL FINAL PLAT. The subdivider shall, within twelve (12) months of the "Conditional Approval" of the preliminary plat by the governing body prepare and file five (5) copies of the final plat and other required documents with the City Clerk as hereafter set forth, and upon the subdivider's failure to do so within the time specified, the "Conditional Approval" of the preliminary plat shall be null and void unless an extension of times is applied for and granted by the governing body. Upon receipt of the final plat and other required documents, the City Clerk shall transmit two (2) copies of the final plat to the governing body for its recommendations and approval.

Except for a final plat for a minor subdivision or an auditor's plat as set forth herein, no final plat shall be considered by the governing body until and unless a preliminary plat for the area included in the proposed final plat has been approved and has not expired and become void as set forth above.

At its discretion the governing body may refer the final plat to the City Engineer pursuant to the procedure established in 6-9-18.

6-9-24 REQUIREMENTS OF THE FINAL PLAT. The final plat shall conform to the requirements of chapter 355, Code of Iowa, and shall be clearly and legibly drawn to a scale of not more than one hundred (100) feet to one (1) inch with permanent ink on a reproducible tracing material. It shall show:

(Code of Iowa, Sec. 354.8 and 355.8)

1. The title under which the subdivision is to be recorded.
2. The linear dimensions in feet and decimals of a foot of the subdivision boundary, lot lines, streets and alleys. These should be exact and complete to include all distances, radii, arc, chords,

points of tangency and central angles.

3. Street names and clear designations of public alleys. Streets that are continuations of present streets should bear the same name. If new names are needed, they should be distinctive. Street names may be required to conform to the City Plan.

4. Location, type, materials, and size of all monuments and markers including all U.S., county or other official bench marks.

5. The signature and acknowledgement of the subdivision land owner and the subdivision land owner's spouse.

6. A sealed certification of the accuracy of the plat and that the plat conforms to Section 354.8 of the Code of Iowa by the professional engineer or land surveyor who drew the final plat.

6-9-25 FINAL PLAT ATTACHMENTS. The final plat shall have the following attached to it:

1. A correct description of the subdivision land.

(Code of Iowa, Sec. 354.6(2))

2. A certificate by the owner and the owner's spouse, if any, that the subdivision is with the free consent, and is in accordance with the desire of the owner and spouse. This certificate must be signed and acknowledged by the owner and spouse before some officer authorized to take the acknowledgements of deeds.

(Code of Iowa, Sec. 354.11(1))

3. A complete abstract of title and an Attorney's opinion showing that the fee title to the subdivision land is in the owner's name and that the land is free from encumbrances other than those secured by an encumbrance bond.

(Code of Iowa, Sec. 354.11(3))

4. A certificate from the County Treasurer that the subdivision land is free from taxes.

(Code of Iowa, Sec. 354.11(5))

5. A certificate from the Clerk of District Court that the subdivision land is free from all judgments, attachments, mechanics or other liens of record in the Clerk's office.

6. A certificate from the County Recorder that the title in fee is in the owner's name and that it is free from encumbrances other than those secured by an encumbrance bond.

(Sec. 354.11(2))

7. A certificate of dedication of streets and other public property.

(Code of Iowa, Sec. 354.11(1))

8. A statement of restrictions of all types that run with the land and become covenants in the deeds of lots.

9. Resolution and certificate for approval by City Council and for signatures of the Mayor and Clerk.

(Code of Iowa, Sec. 354.11(4))

10. Profiles, typical cross sections, and specifications of street improvements and utility systems, to show the location, size and grade. These should be shown on a fifty (50) foot horizontal scale and a five (5) foot vertical scale with west or south at the left.

11. A certificate by the City Clerk or similar official that all required improvements and installations have been completed, or that a performance bond guaranteeing completion has been approved by the City Attorney and filed with the City Clerk, or that the City Council has agreed that the City will provide the necessary improvements and installations and assess the costs against the subdivider or future property owners in the subdivision.

12. The encumbrance bond, if any, as specified in Sections 354.11 and 354.12, Code of Iowa.

(Code of Iowa, Sec. 354.11(2) and 354.12)

6-9-26 ACTION BY THE CITY COUNCIL. Upon receipt of the plat, but not more than sixty (60) days following submission of the final plat to the Clerk as stated in 6-9-23 the City Council shall either approve or disapprove the final plat.

(Code of Iowa, Sec. 354.8)

1. In the event that said plat is disapproved by the City Council, such disapproval shall be expressed in writing and shall point out wherein said proposed plat is objectionable.

2. In the event that said plat is found to be acceptable and in accordance with this Ordinance, the City Council shall accept the same.

3. The passage of a resolution by the City Council accepting the plat shall constitute final approval of the platting of the area shown on the final plat, but the subdivider or owner shall cause such plat to be recorded in the office of the County Recorder of Jackson, County, Iowa, and shall file satisfactory evidence of such recording before the City shall recognize the plat as being in full force and effect.

OTHER PROVISIONS.

6-9-27 VARIANCES. Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirement of this Ordinance would result in extraordinary hardship to the subdivider, because of unusual topography or other conditions, the City Council may vary, modify or waive the requirements so that substantial justice may be done and the public interest secure. Provided, however, that such variance, modification or waiver will not have the effect of

nullifying the intent and purpose of this Ordinance. Such variances and waivers may be granted only by the affirmative vote of three-fourths (3/4) of the members of the City Council.

6-9-28 CHAIN SUBDIVIDING. No more than two building permits for each separate tract existing at the effective date of this Ordinance shall be issued unless the tract has been platted in accordance with this Ordinance; except that this provision shall not limit the number of building permits that may be issued for accessory buildings as defined by the restricted residence district Ordinance or additions or improvements to a main or accessory building already legally located upon said tract.(Optional provision based on section 6-9-3 and 6-9-4).

6-9-29 EXTRATERRITORIAL REVIEW AGREEMENT.

The City may negotiate an extraterritorial review agreement between the City of Preston and Jackson County for the standards and conditions applied by the City for review and approval of a subdivision as provided in Section 354.9 of the Code of Iowa.

The City of Preston shall apply the 28 E agreement standards and conditions for review and approval of a subdivision in the extraterritorial review area as established in Section 6-9-3 of the City of Preston Municipal Code.

The City of Preston may, by resolution, waive its right to review the subdivision or waive the requirements of any of its standards or conditions for approval of the subdivision in the extraterritorial area. Such resolution shall be certified and recorded with the plat.

Procedures for certifying approval of subdivisions in the extraterritorial area of the City shall be the same as those established for other subdivisions with the City unless waived by the Governing Body.

(Code of Iowa, Sec. 354.8 and 354.9)

TITLE VI, PHYSICAL ENVIRONMENT

CHAPTER 10, SIDEWALK REGULATIONS

6-10-1	Purpose	6-10-10	Permits for Construction or Removal
6-10-2	Definitions	6-10-11	Failure to Obtain Permit; Remedies
6-10-3	Cleaning Snow, Ice, and Accumulations	6-10-12	Inspection and Approval
6-10-4	Maintenance Responsibility	6-10-13	Barricades and Warning Lights
6-10-5	Liability of Abutting Owner	6-10-14	Interference with Sidewalk Improvements
6-10-6	Ordering Sidewalk Improvements	6-10-15	Special Assessments for Construction and Repair
6-10-7	Repairing Defective Sidewalks	6-10-16	Notice of Assessment for Repair or Cleaning Costs
6-10-8	Notice of Inability to Repair or Barricade	6-10-17	Hearing and Assessment
6-10-9	Standard Sidewalk Specifications	6-10-18	Billing and Certifying to County
		6-10-19	ADAAG Compliance

6-10-1 PURPOSE. The purpose of this chapter is to improve and maintain sidewalks in a safe condition, to require owners of abutting property to maintain, repair, replace, construct or reconstruct sidewalks.

6-10-2 DEFINITIONS. As used in this chapter, the following terms have these meanings:

1. Defective Sidewalk. Any public sidewalk exhibiting one or more of the following characteristics:

- a. vertical separations equal to three-fourths (3/4) inch or more.
- b. horizontal separations equal to three-fourths (3/4) inch or more.
- c. holes or depressions equal to three-fourths (3/4) inch or more and at least four (4) inches in diameter.
- d. spalling over fifty (50) percent of the surface of a single square of the sidewalk with one or more depressions equal to one-half (1/2) inch or more.
- e. spalling over less than fifty (50) percent of a single square of the sidewalk with one or more depressions equal to three-fourths (3/4) inch or more.
- f. a single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot.
- g. a sidewalk with any part thereof missing to the full depth.
- h. a change from design or construction grade equal to or greater than three-fourths (3/4) inch per foot.

2. Sidewalk Improvements. The construction, reconstruction, repair, replacement, or

removal of a public sidewalk or the excavating, filling, or depositing of material in the public right-of-way in connection therewith.

3. Owner. The person owning the fee title or the contract purchaser for purposes of notification required herein. For all other purposes, "owner" shall include the lessee, or person in possession.

6-10-3 CLEANING SNOW, ICE, AND ACCUMULATIONS. It shall be the duty of the owner to keep sidewalks abutting the owner's property clear of the natural accumulations of snow or ice. If the owner fails to do so within twenty four (24) hours after deposit of accumulation, the Mayor may have the natural accumulations of snow or ice removed without notice to the property owner. The Mayor shall give the Council an itemized and verified statement of the removal costs and a legal description of the property at the next regular Council meeting. The costs shall be reviewed by the Council, and if found correct, shall be assessed against the property as taxes. The City Clerk shall be directed to certify the costs to the County Treasurer for collection as provided in Section 364.12 of the Code of Iowa.

(Code of Iowa, Sec. 364.12(2b) and (2e))

6-10-4 MAINTENANCE RESPONSIBILITY. The abutting property owner or owners shall be responsible for the repair, replacement or reconstruction of all broken or defective sidewalks to a safe condition and to maintain in a safe condition all sidewalks in the abutting street right-of-way.

(Code of Iowa, Sec. 364.12(2c))

6-10-5 LIABILITY OF ABUTTING OWNER. As provided in Section 364.14, Code of Iowa, in the event the owner of property abutting any public sidewalk fails or refuses to perform any act required of them by this Ordinance and in the event an action is brought against the City for personal injuries alleged to have been caused by a defect in or the condition of said sidewalk, the City may notify in writing the said abutting owner that it claims the injury was caused by their negligence and/or their failure to repair the defect or eliminate the condition complained of. The notice shall state the pendency of the action, the name of the plaintiff, the name and location of the court where the action is pending, a brief statement of the alleged facts from which the cause arose, that the City believes that the person notified is liable to it for any judgment rendered against the City, and asking the person to appear and defend.

A judgment obtained in the suit is conclusive in any action by the City against any person so notified, as to the existence of the defect or condition or other cause of the injury or damage, as to the liability of the City to the plaintiff in the first named action, and as to the amount of the damage or injury. The City may maintain an action against the person notified to recover the amount of the judgment together with all the expenses incurred by the City in the suit.

(Sec. 364.14)

6-10-6 ORDERING SIDEWALK IMPROVEMENTS. The City Council may order the construction, reconstruction, repair, or replacement of permanent sidewalks upon any street or court. Notice of this order shall be sent to the owner by certified mail. The notice shall include the fact

that the owner may request a hearing by the Council within fifteen (15) days or receipt of the notice.

6-10-7 REPAIRING DEFECTIVE SIDEWALKS. It shall be the duty of the abutting property owner at any time, or upon receipt of thirty (30) days' notice from the City, to repair, replace, or reconstruct all broken or defective sidewalks in the abutting street right-of-way. If, after the expiration of the thirty (30) days as provided in the notice, the required work has not been done or is not in the process of completion, the Mayor shall order the work to proceed to repair, replace, or reconstruct the sidewalk. Upon completion of the work, the Mayor shall submit to the Council an itemized and verified statement of expenditures for material and labor, and the legal description of the property abutting the sidewalk on which work has been performed. These costs shall be assessed to the property as taxes. The City Clerk shall be directed to certify the costs to the County Treasurer for collection as provided in Section 364.12 of the Code of Iowa.

(Code of Iowa, Sec. 4.12(e))

6-10-8 NOTICE OF INABILITY TO REPAIR OR BARRICADE. It shall be the duty of the owner of the property abutting the sidewalk, or of the contractor or agent of the owner, to notify the City immediately in the event the owner is unable to make necessary sidewalk improvements or to install or erect warnings and barricades as required by this chapter.

6-10-9 STANDARD SIDEWALK SPECIFICATIONS. Sidewalks constructed, repaired, or replaced under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Portland cement concrete shall be the only material used in the construction and repair of sidewalks unless otherwise authorized by the City Council.

2. Sidewalks shall be on one-course construction.

3. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a four (4) inch sub-base of compact, clean, coarse gravel, sand, or cinders shall be laid. The adequacy of the soil drainage is to be determined by the Superintendent of Public Works.

4. The sidewalk bed shall be graded to the established grade.

5. Residential sidewalks shall be at least four (4) feet wide, or match existing sidewalks, and four (4) inches thick, and each section shall be no more than four (4) feet in length. In the central business district, sidewalks shall extend from the property line to the curb unless the Council shall establish a different distance due to the circumstances. Each section shall be four (4) inches thick and no more than six (6) feet in length and width. All driveway areas shall not be less than six (6) inches in thickness.

6. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line, unless the Council shall establish a different distance due to the circumstances.

7. All elevations of sidewalks are to be established by the City Council with assistance from the Superintendent of Public Works on a case-by-case basis.

8. All sidewalks shall slope at least one-quarter (1/4) inch per foot toward the curb, but in no event more than one-half (1/2) inch per foot toward the curb.

9. All sidewalks shall have a steel trowel finish followed by a "broom" or a "wood float" finish.

10. Ramps for the handicapped. There shall not be less than two (2) curb cuts or ramps per lineal block which shall be located on or near the cross-walks at intersections. Each curb cut or ramp shall be at least thirty (30) inches wide, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for physically handicapped persons using the sidewalk.

(Code of Iowa, Sec. 216C.9)

11. All sidewalk improvements on public property, whether performed by the owner of the abutting property or by the City, shall be performed under the supervision and inspection of the City Superintendent of Public Works, and in accordance with the standard sidewalk specifications set forth in this chapter.

6-10-10 PERMITS FOR CONSTRUCTION OR REMOVAL. No person shall make any sidewalk improvements unless such person shall obtain a permit from the City Clerk. The permit shall state that the person will comply with the Ordinances of the City and with the specifications for sidewalks adopted by the City. The permit also shall state that the work will be done under the direction and approval of the City Superintendent of Public Works. All such permits shall be issued without charge and a copy thereof, with the application, shall be filed and preserved in the office of the City Clerk. The permit shall state when the work is to be commenced and when the work is to be completed. The time of completion for the sidewalk improvements may be extended by the City Council. All permits for sidewalk improvements not ordered by resolution of the City Council shall be issued in compliance with this chapter. The City Council may withhold the issuance of any permit for any sidewalk improvements for a sufficient period to determine the necessity for the proposed improvements or when weather conditions will adversely affect the sidewalk improvements.

6-10-11 FAILURE TO OBTAIN PERMIT; REMEDIES. Whenever any sidewalk improvements are made that do not conform to the provisions of this chapter and with the specifications, or when any sidewalk improvements are made without a permit, the Mayor shall serve notice to obtain a permit upon the property owner and upon the contractor doing the work. If the sidewalk is in the course of construction, the notice shall order the work to stop until a permit is obtained and the work is corrected to comply with the specifications. If the sidewalk work has been completed, the owner

shall obtain a permit immediately and perform any needed corrections within five (5) days from receipt of the permit. If the owner fails to comply with this notice, the Mayor shall have the work completed and the costs assessed to the property owner as provided in this chapter.

6-10-12 INSPECTION AND APPROVAL. Upon final completion, the Superintendent of Public Works shall inspect the work and may order corrections if the work does not meet specifications. When the work does meet all requirements of this chapter, the specifications, and the permit, the Superintendent of Public Works shall indicate this on both copies of the permit.

6-10-13 BARRICADES AND WARNING LIGHTS. Proper warning lights and barricades shall be placed to protect persons from materials, equipment, and dangerous conditions. Placement and maintenance of adequate warnings is the responsibility of the constructor, the owner, and the lessee of the property.

6-10-14 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while it is in the process of being improved, or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar, or deface any sidewalk at any time or destroy, mar, remove, or deface any notice or warning device provided by this chapter.

6-10-15 SPECIAL ASSESSMENTS FOR CONSTRUCTION AND REPAIR. The City Council may assess the cost of initial construction, improvements, and/or repair of sidewalks in the City according to the special assessment procedures established in Chapter 384, division IV, Code of Iowa.

(Code of Iowa, Sec. 384.38)

6-10-16 NOTICE OF ASSESSMENT FOR REPAIR OR CLEANING COSTS. When the Mayor submits a bill for sidewalk improvements or for removal of accumulations as provided in this chapter, the City Clerk shall send a notice of such facts to the owner of the abutting property. The notice may be given either by personal service or by certified mail to the last known address of the owner. The notice shall contain a statement of the work performed, the cost of the work that is being assessed, a description of the property affected, and the fact that the person may pay the amount assessed within thirty (30) days without interest or penalty. The notice also shall indicate that the person may object to such assessment and given the place and time at which Council will hear such objections. The time set for hearing shall be at least fifteen (15) days after the service or mailing of the notice.

(Code of Iowa, Sec. 384.50)

6-10-17 HEARING AND ASSESSMENT. At the time and place designed in the Notice, the Council shall consider all objections to the assessment, correct all errors or omissions, and adopt a corrected list as the amounts to be assessed against the property.

(Code of Iowa, Sec. 384.51)

6-10-18 BILLING AND CERTIFYING TO COUNTY. Thirty (30) days after the Council's decision, the City Clerk shall certify any unpaid amounts to the County Treasurer. The unpaid assessments shall constitute a lien against the property and shall be collected by the County Treasurer in the same manner as other taxes. Any assessment that exceeds \$100 may be paid in installments as set by Council, not exceeding ten, in the same manner and at the same interest rates as for special assessments under Chapter 384, division IV, Code of Iowa. No interest shall be charged for assessments, or parts thereof, paid within thirty (30) days of the time the Council determined the final amounts.

(Code of Iowa, Sec. 384.60)

6-10-19 ADAAG COMPLIANCE. All construction, repair, and maintenance of sidewalks shall comply with Americans with Disabilities Guidelines (ADAAG).

(Amended during 2013 codification)

TITLE VI, PHYSICAL ENVIRONMENT

CHAPTER 11, RESTRICTED RESIDENCE DISTRICT

6-11-1	Purpose	6-11-8	Special Permits
6-11-2	Definitions	6-11-9	Protest
6-11-3	District Described	6-11-10	Fees
6-11-4	Buildings Permitted	6-11-11	Action to Abate
6-11-5	Rules and Regulations	6-11-12	Certifying Ordinance
6-11-6	Set Back		
6-11-7	Buildings Requiring Special Permits to Locate Within Restricted Districts		

6-11-1 PURPOSE. The purpose of this Ordinance is to establish a restricted residence district in the City of Preston, Iowa, and to provide reasonable rules and regulations for the erection, reconstruction, altering, and repairing of buildings of all kinds, and to provide that there shall be no use in such district except for residences, schoolhouses, churches, and other similar structures, except when a permit is granted in accordance with this Ordinance.

(Sec. 414.1 and 414.24)

6-11-2 DEFINITIONS. For use in this Ordinance, the following terms are defined:

1. "Residence" is a building used exclusively for a dwelling.

(Amended during 2021 codification)

2. "School" is a building used for educational purposes, public or private, that is regulated by the state department of public instruction as to curriculum.

3. "Garage" is a structure for sheltering motor vehicles or household equipment and/or effects.

4. "Residential accessory use" is a building or structure customarily used in conjunction with a dwelling, namely a garage with a capacity of not more than three cars or more than one garage per apartment building nor more than one stall per dwelling unit, a tool or "summer" house not exceeding 100 square feet floor area, or a private swimming pool properly fenced and screened.

Any other building on residential property shall not be deemed a residential accessory use if not incidental to a residential purpose, nor if it is used in conjunction with or for the business of selling goods or rendering services.

5. "Church", or "church school" is a building used for public worship, or connected with a building so used, for instruction in religious beliefs, or for the conduct of activities related to church affairs.

6. "Home-Based Business" any occupation or activity conducted within a residence which is clearly incidental and subordinate to the use of premises for dwelling purposes. Home-based businesses shall be permitted as accessory uses within principal residential dwellings provided they meet the following provisions.

a. A home-based business shall not be permitted that:

(1) Generates traffic, parking, sewage or water use in excess of what is normal in the residential neighborhood;

(2) Occupies more than twenty-five (25) percent of the total floor area of the dwelling unit;

(3) Produces noise, vibration, smoke, odors, heat or glare as a result of a home-based business which would exceed that normally produced by a single residence as determined by the City Council.

b. No external or internal alterations of the structure shall be made and no more than one sign indicating said occupation shall be displayed (but the sign may be double faced) nor shall the sign have a single face area of over one square foot.

(Amended during 2021 codification)

6-11-3 DISTRICTS DESCRIBED. The following restricted residence districts are hereby designated and established.

BCD Addition

City of Preston Subdivision No. 1

Farley's First Addition

Farley's Second Addition

Five City Lots West of West Street between School Street and former railroad right-of-way

Lot measuring 330.63' by 296.5' lying North of Block 37, Original Town Plat

Moellenhof's First Addition

Moellenhof's Second Addition

Northview Addition

Original Town Plat, Blocks 1,2,3,4,5,6,7,8,9,12,13,14,16,17,18,20(except Lots 5,6 & 7 thereof)

Original Town Plat, Block 10, Lots 1,2,6,7,8,9,10

Original Town Plat, Block 11, Lots 1,2,3,4,7,8,9,10

Original Town Plat, Block 19, Lots 1,2,5,6,7,8,9,10,11

Original Town Plat, Block 22, Lots 3,4,5,6

Original Town Plat, Block 23, Lots 1,2,3,4,5,6,7,8

Original Town Plat, Block 26, Lots 3,4,5,6,7,8,9,10

Original Town Plat, Blocks 21,24,25,27 (except Lot 10 thereof),29,30,31,32,44,35,36,
37,A,D, E,H,P and Q

Original Town Plat, East Railroad Block, Lots 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15

St. Joseph's Addition

Three City Lots East of Copper Creek Bridge on School Street

6-11-4 BUILDINGS PERMITTED. No buildings or other structures, except residences, schoolhouses, churches, and other similar structures shall be hereafter erected, reconstructed, altered, repaired, or occupied within said district without first securing from the City Council a permit therefore. Permits for residences, schoolhouses, churches, and other similar structures, and for structures outside restricted residence districts, shall be applied for and are required, but shall be issued by the City Clerk if the requirements of this and other applicable City Ordinances are met. Council permission shall be required under this Ordinance.

(Amended during 2021 codification)

6-11-5 RULES AND REGULATIONS. As permitted under Section 414.24 of the Code of Iowa, there are hereby adopted the following rules and regulations for the erection, reconstruction, altering, and repairing of buildings of all kinds within restricted districts established by this Ordinance for the use and occupancy of such buildings, and for the granting of permits to erect, reconstruct, alter, or repair any structure other than a residence, residential accessory use, school, church, or church school within said districts.

6-11-6 SET BACK. No residential building or residential accessory use building shall be erected hereafter on a lot closer to the street property line on which it fronts than the set back of the nearest adjacent existing building except that no new construction shall be made closer than twelve (12) feet, nor shall any construction be required to be built with its front further than thirty (30) feet from said front line.

No residence or other building exempted from permit shall be located in the restricted district closer than four (4) feet to the side lot lines, and no accessory building closer than two (2) feet to said side lot lines, and overhangs shall not extend over any lot line, regardless of the compliance of the main foundation with this set back rule. In no case may the residence, other building, or accessory building be located closer to the side lot line than it is currently located. Any other building granted a permit by council shall be placed at least as far from side lot lines as the residential, school, and church related buildings. All set backs shall be measured from the main foundation line.

6-11-7 BUILDINGS REQUIRING SPECIAL PERMITS TO LOCATE WITHIN RESTRICTED DISTRICTS. Construction of clinics, offices, hospitals, utility buildings and substations, any type of commercial stores and warehouses, plant nurseries, farm buildings, and industrial buildings and structures may be authorized by special permit to locate within the restricted residential district only if it appears that said use and the type of building will be compatible with the residential character of the district, and if the particular use could not practicably be built in an unrestricted area, or if the restricted district boundaries cannot be amended logically, considering topography, access to railroad or highway or other proper reason acceptable to the council. Further, the construction and/or placement of a building or structure that

would otherwise violate Section 6-11-6 may be authorized by special permit if it appears that such deviation from the lot size and/or set back requirements of that section would alleviate a substantial hardship for the permit applicant, be compatible with the character of the neighborhood and not create a substantial hardship for neighboring property owners.

6-11-8 SPECIAL PERMITS. A written special permit shall be required for the erection, reconstruction, alteration, or repair of any building and for its occupancy and use within the restricted residential district of this City except for buildings for residences, residential accessory use, schools, churches, and church schools. Further, a written special permit shall be required to authorize the construction and/or placement of any building or structure contrary to the requirements of Section 6-11-6. Any such permit shall be applied for in writing, accompanied by plans and specifications sufficient to determine compliance with applicable Ordinances of the City and/or the extent to which proposed construction deviates from the requirements of Section 6-10-6. Said application shall be made to the City Clerk at least seven (7) days before the council meeting at which council action is taken. No permit shall or will be granted until notice of the application has been posted at least four (4) days prior to the meeting at which final action is taken to grant or deny the permit.

6-11-9 PROTEST. No permit shall be granted when sixty (60) percent of the resident real estate owners in said district within six hundred (600) feet of the proposed building and occupancy object thereto, except by a three-fourths (3/4) vote of all the members of the council.

6-11-10 FEES. There will be a fee required for a permit under this Ordinance. The fee will be set by resolution and appear on the application.

(Amended during 2021 codification)

6-11-11 ACTION TO ABATE. Any building or structure erected, reconstructed, altered, or repaired in violation of the provisions of this Ordinance shall be deemed unlawful. The violator will be fined \$350.00.

(Amended during 2021 codification)

6-11-12 CERTIFYING ORDINANCE. Within thirty (30) days after this Ordinance becomes effective the Clerk shall prepare or have prepared a plat of the restricted residence district as established by this Ordinance and certify such Ordinance and plat to the County Recorder.

(Sec. 380.11)

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 12 PROPERTY MAINTENANCE AND ENFORCEMENT CODE

6-12-1	General	6-12-8	Rubbish & Garbage
6-12-2	Definitions	6-12-9	Violations
6-12-3	Applicability	6-12-10	Notices & Orders
6-12-4	Administration	6-12-11	Abandoned or Unsafe Structures
6-12-5	Duties and Powers of the Code Official	6-12-12	Demolition
6-12-6	Exterior Premises	6-12-13	Emergency Measures
6-13-7	Exterior Structure	6-12-14	Variances

6-12-1 GENERAL.

1. Title. These regulations shall be known as the Property Maintenance and Enforcement Code of the City of Preston, Iowa, hereinafter referred to as “this Code.”

2. Scope. The provisions of this Code shall apply to all existing and future residential and nonresidential structures and all existing and future premises in the City of Preston, and constitute minimum maintenance requirements and standards for such premises and structures. This Code shall be deemed to be the “Housing Property Code” of the City of Preston for purposes of Iowa Code §657A.10A(3)(d).

3. Intent. This Code shall be construed to secure its expressed intent, which is to ensure public health, safety, and welfare in so far as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions at the time of passage of the Code or thereafter, shall be altered or repaired to provide a minimum level of health and safety as required herein.

4. Severability. If a section, subsection, sentence, clause or phrase of this Code is, for any reason, held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this Code.

6-12-2 DEFINITIONS.

1. Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property, or safety of the public or the occupants of the structure because such structure is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation, that partial or complete collapse is likely.

2. Abandoned Property. An abandoned property is a building that has remained vacant and has been in violation of this Property Maintenance Code for a period of six consecutive months.

3. Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the Code Official finds that such structure is unsafe, or because of the degree to which the structure is in

disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth or contamination, or lacks ventilation, electricity, sanitary, or heating facilities or other essential utility services, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

6-12-3 APPLICABILITY.

1. General. The provisions of this Code shall apply to all matters affecting or relating to structures and premises, as set forth in Section 6-12-1. Where, in a specific case, different sections of this Code specify different requirements, the most restrictive shall govern. All structures in violation of the provisions of this Code are hereby declared to be public nuisances and shall be abated by repair or demolition in accordance with the procedures specified herein.

2. Vacant structures and land. All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition so as not to cause a blighting problem or adversely affect the public health, safety, or welfare.

3. Maintenance. Except as otherwise specified herein, the maintenance of buildings, structures and premises shall be the responsibility of the owner thereof. For purposes of this Code, the term “owner” shall mean the person or entity having legal title to the property in question according to the records of the County Auditor, including the Conservator or other legal representative of any such person or entity, and the personal representative of a deceased person. In the case of a property subject to a land sale contract, the contract Buyer shall be deemed to be the owner for purposes of this Code.

4. Existing remedies. The provisions in this Code shall not be construed to supersede or impair any other remedies available to the City or its officers or agencies relating to the repair, removal or demolition of any structure which is abandoned, a nuisance, or otherwise dangerous or unsafe. The City specifically reserves the following remedies:

a. When a structure is found by the Code Official to be unsafe, or when a structure is found unfit for human occupancy, such structure has been abandoned, the City may be awarded title to the property by the Court through the provisions of Iowa Code Chapter 657A.

b. The City may acquire the nuisance or abandoned property if the owner is delinquent on property taxes and the County has an ordinance authorizing the purchase of tax sale certificates of abandoned housing properties or vacant lots per Iowa Code Chapter 446.

c. The City may acquire a nuisance residential property through condemnation, Iowa Code Section 364.12A “for the public purpose of disposing of the property under Iowa Code Section 364.7 by conveying the property to a private individual for rehabilitation or for demolition and construction of housing.

5. Workmanship. Repairs, maintenance work, alterations, or installations which are caused directly or indirectly by the enforcement of this Code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer’s installation instructions.

6. Historic buildings. The provisions of this Code shall not be mandatory for existing buildings or structures listed on the National Register of Historic Places or believed eligible to be listed on the National Register by the City Council.

7. Requirements not covered by Code. Requirements necessary for the strength, stability, or proper maintenance of an existing structure, or for the public safety, health, and general welfare, not specifically covered by this Code, shall be determined by the Code Official.

6-12-4 ADMINISTRATION.

1. General. The Preston City Administrator, shall be designated as the “Code Official” for the purposes of this Code.

2. Deputies. In accordance with the prescribed procedures of the City, the Code Official shall have the authority to retain such engineers, inspectors, or other necessary technical personnel as may be necessary to carry out the requirements of this Code.

3. Liability. The Code Official or any other employee or agent charged with the enforcement of this Code, while acting for the jurisdiction, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of their official duties.

Any suit instituted against any person because of an act performed by that person in the lawful and good faith discharge of duties and under the provisions of this Code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings.

6-12-5 DUTIES AND POWERS OF THE CODE OFFICIAL.

1. General. The Code Official shall have primary responsibility for enforcing the provisions of this Code.

2. Rule-making authority. The Code Official shall have authority as necessary in the interest of public health, safety, and general welfare, to interpret and implement the provisions of this Code; to secure the intent thereof; and to designate requirements applicable because of local climatic or other conditions.

3. Inspections. The Code Official shall cause to be examined every structure or premises reported to be in violation of this Code, or otherwise brought to the attention of the Code Official. Examination may include, but is not limited to, examination of the structure’s or premises’ exterior or interior, and may be accomplished through owner consent, observation from off premises, or after obtaining an administrative warrant under Iowa Code Section 808.14. The Code Official is authorized to engage such experts as he/she deems necessary to examine and report on any structure believed to be in violation of this Code. If any such structure or premises is found to be in violation of the provisions of

this Code, the Code Official shall give notice to the owner thereof in accordance with Section 6-12-10 below.

4. Notices and orders. The Code Official shall issue all necessary notices or orders to ensure compliance with this Code.

5. Records. The City Clerk shall keep records of all business and activities specified by the provisions of this Code. Such records shall be retained in the official records as long as the building or structure to which such records relate remains in existence, unless otherwise provided for by other regulations.

6-12-6 EXTERIOR PREMISES.

1. Sanitation. All exterior property and premises shall be maintained in a clean, safe, and sanitary condition. No garbage, litter, debris, junk, furniture, appliances, or yard waste, shall be permitted on any premises.

2. Sidewalks and driveways. All sidewalks, walkways, stairs, driveways, parking spaces, and similar areas shall be kept in a proper state of repair, and maintained free from conditions that endanger public health, safety, or welfare.

3. Weeds. Premises and exterior property shall be maintained free from weeds or plant growth in excess of six (6) inches. Noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants, and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Chapter 6-12-9 of this Code and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.

4. Rodent harborage. All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent re-infestation.

5. Accessory structures. All accessory structures, including but not limited to, detached garages, sheds, fences and walls, shall be maintained structurally sound and in good repair.

6. Motor Vehicles. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a

state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed an approved for such purposes.

7. Defacement of property. No person shall damage, mutilate, or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.

It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

6-12-7 EXTERIOR STRUCTURE.

1. General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety, or welfare.

2. Protective treatment. All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks, and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking, and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

3. Structural members. All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

4. Foundation walls. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

5. Exterior walls. All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

6. Roofs and drainage. The roof and flashing shall be sound, tight, and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters, and downspouts shall be maintained in good repair and free

from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance. A roof shall be protected from the elements by appropriate shingling, tiling, metal panels, rubberized membrane, or tar and gravel so as to prevent damage to the roof itself or the underlying structure.

7. Decorative features. All cornices, belt courses, corbels, terra cotta trim, wall facings, and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

8. Overhang extensions. All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes, and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

9. Stairways, decks, porches, and balconies. Every exterior stairway, deck, porch, and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

10. Chimneys and towers. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

11. Handrails and guards. Every exterior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp, or other walking surface which is more than 30 inches (762 mm) above the floor or grade below shall have guards. Handrails shall not be less than 34 inches (863.6 mm) high or more than 38 inches (965.2 mm) high measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than 36 inches (914.4 mm) high above the floor of the landing, balcony, porch, deck, or ramp or other walking surface. Every handrail and guardrail shall be firmly fastened and capable of supporting normally imposed loads, and shall be maintained in good condition.

12. Window, skylight and door frames. The exterior of every window, skylight door and frame shall be kept in sound condition, good repair, and weather tight.

13. Doors. All exterior door, door assemblies and hardware shall be maintained in good condition.

14. Basement hatchways. Every basement hatchway shall be maintained to prevent the entrance of rodents, rain, and surface drainage water.

15. Guards for basement windows. Every basement window that is openable shall be supplied with rodent shields, storm windows, or other approved protection against the entry of rodents.

6-12-8 INTERIOR RUBBISH AND GARBAGE.

- 1. Accumulation of rubbish or garbage. The interior of every unoccupied structure, shall be free from any accumulation of rubbish or garbage.
- 2. Infestations. All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent re-infestation.

6-12-9 VIOLATIONS.

- 1. Unlawful acts. It shall be unlawful for the owner of any premises or structure to be in conflict with or in violation of any of the provisions of this Code.
- 2. Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Section 6-12-9 shall be deemed guilty of a municipal infraction. If the notice of violation is not complied with, the Code Official shall institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this Code or of any order or directions made pursuant thereto.
- 3. Violation penalties. Any person who shall violate a provision of this Code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state and local laws for municipal infractions. Each day that a violation continues after due notice has been served shall be deemed a separate offense.
- 4. Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the jurisdiction from instituting appropriate legal action to restrain, correct, or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, or utilization of the building, structure or premises, by means of an injunction or any other equitable remedy.

6-12-10 NOTICES AND ORDERS.

- 1. Notice to person responsible. Whenever the Code Official determines that there has been a violation of this Code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 6-12-10(2) and 6-12-10(3) to the owner of the subject premises or structure. If the Code Official has knowledge of an occupant of the subject premises other than the owner, a copy of said Notice shall be sent to same.
- 2. Form. Such notice prescribed in Section 6-12-10(1) shall:

- a. Prepare and serve Order to Abate Nuisance in writing.
- b. Include a description of the real estate sufficient for identification.
- c. Include a statement of the violation or violations hereunder.
- d. Advise property owner of right to request a hearing before the City Council or the designee within a specified period of time.
- e. Allow in the order a reasonable time to make the repairs and/or improvements required to bring the structure or premises into compliance with the provisions of this Code.
- f. Set a date and time for a reinspection of the premises or structure to determine whether the necessary repairs and/or improvements to bring the structure or premises into compliance with the provisions of this Code.
- g. Advise the property owner that attempting to transfer any of the owner's interest in the premises or structure subject to the notice of violation without correcting or abating such violation prior to the transfer; or without providing a copy of the notice of violation to the grantee, transferee, or lessee, and obtaining a signed acknowledgment from the grantee, transferee, or lessee of receipt of such notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such notice of violation.

3. Serve the Order to Abate on the Responsible Party by the following methods of service. Such notice shall be deemed to be properly served if a copy thereof is:

- a. Personally served by the Code Official or its designee, which may include the local sheriff's department or other private process server; or
- b. Sent by certified mail (return receipt requested) to the last known address; together with posting a copy thereof in a conspicuous place on or about the structure that is the subject of such Notice or the Notice could be published as a public notice.

NOTE: Service is complete when it is either personally delivered, or when the certified mail is sent. It is not necessary to have proof of anyone receiving the certified mail.

4. The City shall also send copy of the Order to Abate to complaining citizen by ordinary mail so they know the City has taken action.

5. Transfer of ownership. It shall be unlawful for the owner of any premises or structure upon whom a notice of violation has been served to sell, transfer, lease or otherwise dispose of same until the provisions of the notice of violation have been complied with; or until such owner shall first furnish the grantee, transferee, or lessee a true copy of any compliance order or notice of violation issued by the Code Official and shall furnish to the Code Official a signed and notarized statement from the grantee,

transferee, or lessee, acknowledging the receipt of such notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such notice of violation.

Failure to comply with this provision, shall itself be a separate municipal infraction which shall be brought by the City against the owner at the time of the notice of violation, and shall be punishable to the fullest extent allowed by the Code or Iowa law.

6. At the date and time of reinspection, the Code Official or its designee shall inspect the structure or premises to determine whether the necessary repairs and/or improvements have been completed to bring it into compliance with the provisions of this Code.

7. If property is not in compliance on the compliance date, the Code Official must decide if the nuisance will be abated or if a municipal infraction will be issued.

8. If the City is abating the nuisance, no further notice is necessary, however one last notice shall be mailed via regular mail or posted on the front door, to alert the owner as to the date and time the City will come to mitigate the nuisance(s).

9. If the City abates the nuisance, the City Clerk will bill the property owner for the costs thereof. If the owner does not pay the City, the City may assess the costs to abate the nuisance pursuant to Iowa Code 364.12(3) or pursue a civil suit for collection of costs.

10. If the Code Official determines that a municipal infraction is necessary, the municipal infraction process is initiated according to Chapter 3 of this Code.

6-12-11 ABANDONED OR UNSAFE STRUCTURES.

1. Closing of vacant structures. If the structure is vacant and unfit for human habitation and occupancy, but does not appear to be in danger of structural collapse, the Code Official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the Code Official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.

2. Notice. Whenever the Code Official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with Section 6-12-10(3). The notice shall be in the form prescribed in Section 6-12-10(2).

3. Placarding. Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the Code Official shall post on the premises a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

4. Placard removal. The Code Official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the Code Official shall be guilty of a misdemeanor.

5. Prohibited occupancy. Any occupied structure condemned and placarded by the Code Official shall be vacated as ordered by the Code Official. Any person who shall occupy a placarded premises and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be guilty of a misdemeanor.

6-12-12 DEMOLITION.

1. General. The Code Official shall order the owner of any premises upon which is located any structure, which in the Code Official's judgment is so old, dilapidated, or has become so out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to demolish and remove such structure.

2. Notice and orders. All notices and orders shall comply with Section 6-12-10.

3. Failure to comply. If the owner of a premises fails to comply with a demolition order within the time prescribed, the Code Official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged to the owners of the premises involved, and may be levied as a special assessment against the land on which the building or structure is located, and shall be certified by the Code Official to the County Treasurer for collection in the manner provided for other taxes.

4. Salvage materials. When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

6-12-13 EMERGENCY MEASURES.

1. Imminent danger. When, in the opinion of the Code Official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure is in such condition that public health or safety is endangered thereby, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors, or the presence of toxic fumes, gases, or materials, or operation of defective or dangerous equipment, the Code Official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The Code Official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the City of Preston." It shall be unlawful for any person to enter such structure without the permission of the City.

2. Temporary safeguards. Notwithstanding other provisions of this Code, whenever, in the opinion of the Code Official, there is imminent danger due to an unsafe condition, the Code Official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the Code Official deems necessary to meet such emergency.

3. Closing streets. When necessary for public safety, the Code Official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, street, public ways, and places adjacent to unsafe structures, and prohibit the same from being utilized.

4. Emergency repairs. For the purposes of this section, the Code Official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

5. Costs of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

6-12-14 VARIANCES.

1. Modifications. Whenever there are practical difficulties involved in carrying out this Code, the Code Official shall have the authority to grant modification for individual cases, provided the Code Official shall first find that unique individual reasons exists that make the strict letter of this Code impractical, or unreasonably burdensome to the owner, and the modification is in compliance with the intent and purpose of this Code, and that such modification does not threaten health, life, or fire safety. The details of action granting modifications shall be recorded and entered in the records.

2. Alternative materials, methods, and equipment. The provisions of this Code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this Code. An alternative material or method of construction shall be approved where the Code Official finds that the proposed design is satisfactory and complies with the intent of the provisions of this Code, and that the material, method, or work offered is, for the purpose intended at

least the equivalent of that prescribed in this Code in quality, strength, effectiveness, fire resistance, durability, and safety.

TITLE VI, PHYSICAL ENVIRONMENT

CHAPTER 13, PUBLIC WATER SUPPLY WELLHEAD PROTECTION REGULATIONS

6-13-1	Definitions	6-13-7	Exceptions
6-13-2	Substances Regulated	6-13-8	Determination of Locations Within Zones
6-13-3	Maps of Zones of Influence	6-13-9	Enforcement and Penalties
6-13-4	Restrictions Within the Primary Protection Zone	6-13-10	Inspections
6-13-5	Restrictions Within the Secondary Protection Zone	6-13-11	Injunctive Relief
6-13-6	Restrictions Within the Zone of Sensitivity		

6-13-1 DEFINITIONS.

1. "Aquifer" - A rock formation, group of rock formations or part of a rock formation that contains enough saturated permeable material to yield significant quantities of water.
2. "Alluvium" - Sand, clay, etc., gradually deposited by moving water.
3. "Contamination" - The presence of any harmful or deleterious substances in the water supply.
4. "Groundwater" - Subsurface water in the saturated zone from which wells, springs, and groundwater runoff are supplied.
5. "Hazardous Substances" - Those materials specified in Section 6-16-2 of this ordinance.
6. "Labeled Quantities" - The maximum quantity of chemical as recommended on the label, for specific applications.
7. "Permitted Pumping Capacity" - The amount of water authorized to be pumped from a well during a one (1) year period.
8. "Person" - Any natural person, individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer, or any other entity whatsoever in any combination of such, jointly or severally.
9. "Petroleum Product" - Fuels (gasoline, diesel fuel, kerosene, and mixtures of these products), lubricating oils, motor oils, hydraulic fluids, and other similar products.

10. "Pollution" - The presence of any substance (organic, inorganic, radiological, or biological) or condition (temperature, pH, turbidity) in water that tends to degrade usefulness of the water.

11. "Potable Water" - Water that is satisfactory for drinking, culinary and domestic purposes, meeting current drinking water standards.

12. "Primary Containment" - The first level of product tight containment, i.e., the inside portion of that container which comes into immediate contact on its inner surface with the hazardous material being contained.

13. "Public Utility" - Any utility (gas, water, sewer, electrical, telephone, cable television, etc.) whether publicly or privately owned.

14. "Secondary Containment" - The level of product-tight containment external to and separate from the primary containment. Secondary containment shall consist of leakproof trays under containers, floor curing or other containment systems and shall be of adequate size and design to handle all spills, leaks, overflows, and precipitation until appropriate action can be taken. The specific design and selection of materials shall be sufficient to preclude and substance loss. Containment systems shall be sheltered so that the intrusion of precipitation is effectively prevented.

15. "Shallow Well" - A well located and constructed in such a manner that there is not a continuous five-foot layer of low permeability soil or rock between the aquifer from which the water supply is drawn and a point twenty five (25) feet below the normal ground surface.

16. "Toxic Substance" - Any substance that has the capacity to produce person injury or illness to humans through ingestion, inhalation, or absorption into the body.

17. "Water Pollution" - The introduction in any surface or underground water, of any organic or inorganic deleterious substance in such quantities, proportions, and accumulations that are injurious to human, plant, animal, fish, and other aquatic life or property that unreasonably interferes with the comfortable enjoyment of life or property or the conduct of business.

18. "Well" - A pit or hole sunk into the earth to reach a resource supply such as water.

19. "Well Field" - A tract of land that contains a number of wells for supplying water.

20. "Wellhead Protection Zones" - Zones delineated by fixed radii around wellheads, within which toxic substances will be regulated to protect the quality of the underground resource.

6-13-2 SUBSTANCES REGULATED. The materials regulated by this ordinance shall consist of the following:

1. Substances listed in 40 CFR, Section 302.4.

2. Substances listed by the Iowa Labor Commissioner pursuant to Section 898.12 of the Iowa Code, Hazardous Chemicals, Risks - Right to Know.

3. Substances listed in 40 CFR, Section 261, Subparts a, b, c and d.

6-13-3 MAPS OF ZONES OF INFLUENCE Zone of Protection maps and any amendments thereto are incorporated by reference and made a part of this ordinance. These maps shall remain on file at City Hall. As of August 28, 1992, all wells in Preston supplying potable water to the City of Preston Municipal Water System shall be located on the official Wellhead Protection Map with Primary Zone, Secondary Zone, and Zone of Sensitivity indicated thereon.

1. Map Maintenance - The Zone of Protection Maps may be updated on an annual basis. The basis for such an update may include, but is not limited to, the following:

- a. Changes in the technical knowledge concerning the aquifer(s).
- b. Changes in permitted pumping capacity of City Wells.
- c. Addition of wells
- d. Designation of new well fields.

2. Wellhead Protection Zones - The zones of protection indicated on the Zone of Protection Maps are as follows:

a. Primary Protection Zone - An area extending twenty five (25) feet radially from any well supplying potable water to the City of Preston Municipal Water System.

b. Secondary Protection Zone - An area extending between twenty five (25) and one thousand (1,000) feet radially from any well supplying potable water to the City of Preston Municipal Water System.

c. Zone of Sensitivity - An area extending between one thousand (1,000) and twenty six hundred and forty (2,640) feet radially from any well supplying potable water to the City of Preston Municipal Water System.

6-13-4 RESTRICTIONS WITHIN THE PRIMARY PROTECTION ZONE

1. Permitted Uses - The following uses are permitted uses within the Primary Protection Zone. Uses not listed are to be considered prohibited.

a. Parks, provided there is no on-site waste disposal or fuel storage tank facilities associated within this use, and there is compliance with the Iowa DNR "Separation Distances from Wells".

b. Playgrounds

c. Wildlife Areas and open spaces.

d. Lawns and gardens.

e. Trails for nonmotorized use such as biking, skiing, nature and fitness trails.

2. Additional Restrictions - No person shall discharge or cause or permit the discharge of a hazardous substance, including herbicide or pesticide applications, to the soils, groundwater, or surface water within the Primary Protection Zone. Any person knowing or having evidences of a discharge shall report such information to the Well Field Protection Officer.

6-13-5 RESTRICTIONS WITHIN THE SECONDARY PROTECTION ZONE.

1. Permitted Uses - The following are permitted uses within the Secondary Protection Zone. Uses not listed are to be considered prohibited.

- a. All uses listed as permitted in the Primary Protection Zone.
- b. Sewered residential and commercial development.
- c. Above ground storage tanks of 660 gallons or less.
- d. Basement storage tanks.
- e. Livestock grazing and field cropping activities.

2. Additional Restrictions - No person shall discharge or cause or permit the discharge of a hazardous substance, in excess of labeled application quantities, to the soils, groundwater, or surface water within the Secondary Protection Zone. Any person knowing or having evidence of a discharge shall report such information to the Well Field Protection Officer.

6-13-6 RESTRICTIONS WITHIN THE ZONE OF SENSITIVITY

1. Permitted Uses – The following uses are permitted in the Zone of Sensitivity. Uses not listed are to be considered prohibited.

- a. All uses listed as permitted in the Primary Protection Zone.
- b. All uses listed as permitted in the Secondary Protection Zone.
- c. All uses, handling and storage, when in compliance with, and allowed by, federal, state, and local laws and regulations.

2. Additional restrictions are as follows: No person shall discharge or cause or permit the discharge of a hazardous substance, in excess of labeled quantities, to the soils, groundwater, or surface water within the Zone of Sensitivity. Any person knowing or having evidence of a discharge shall report such information to the Well Field Protection Officer.

6-13-7 EXCEPTIONS

1. The following activities or uses are exempt from the provision of this ordinance:
 - a. The transportation of any hazardous substance through the well field protection zones, provided the transporting vehicle is in transit.
 - b. Silviculture uses and mosquito control spraying providing that said uses shall comply

with the Iowa Commercial and Public Pesticide Applicators and Dealers Licensing through the Iowa Department of Agriculture. The use and storage of herbicides and pesticides for silvaculture uses is prohibited within the Primary Protection Zone but is allowed within the secondary Secondary Protection Zone.

c. The use of any hazardous substance solely as fuel in a vehicle fuel tank or as lubricant in a vehicle.

d. Fire, police, emergency medical services, emergency management center facilities, or public utility transmission facilities.

e. Retail sales establishments that store and handle hazardous substances for resale in their original unopened containers only in the Secondary Protection Zone and the Zone of Sensitivity.

f. Consume products limited to use at a facility solely for janitorial or minor maintenance purposes only in the Secondary Protection Zone and the Zone of Sensitivity.

g. The storage and use of hazardous substances as a fuel or lubricant to provide auxiliary power for emergency use to the well field, provided an enclosed secondary containment system is provided for the hazardous substance.

h. The use of water treatment chemicals connected with the operation of the well.

2. The use of structures of facilities existing at the time of the adoption of the ordinance codified by this chapter may be continued even though such use may not conform with the regulations of this chapter. However, such structure or facility may not be enlarged, extended, reconstructed or substituted unless an exemption is granted by the City Council.

6-13-8 DETERMINATION OF LOCATIONS WITHIN ZONES

In determining the location of properties within the zones depicted on the Zone of Protection Maps, the following rules shall apply:

1. Properties located wholly within one (1) zone reflected on the applicable Zone of Protection Map shall be governed by restrictions applicable to that zone.

2. For properties having parts lying within more than one (1) zone as reflected on the applicable Zone of Protection Map, each part shall be governed by the restrictions applicable to the zone in which it is located.

6-13-9 ENFORCEMENT AND PENALTIES

1. The Water Superintendent is designated as the Well Field Protection Officer unless another person is specifically designated by the City Council to supervise the implementation and enforcement of this ordinance.

2. No building permit shall be issued which is a violation of the Iowa DNR "Separation Distances from Wells", a violation of this ordinance or a source of contamination for a city well.

3. No new underground tanks will be allowed for auxiliary fuel storage in the Primary or Secondary Zones.

4. Any person, firm or corporation who fails to comply with the provisions of this chapter shall be subject to a fine of up to one hundred dollars (\$100) per day until compliance.
(Amended during 2021 codification)

6-13-10 INSPECTIONS

1. The Well Field Protection Officer shall have the power and authority to enter and inspect all buildings, structures, and land within all wellhead protection zones for the purpose of making and inspection. Failure of a person having common authority over a property to permit an inspection shall be sufficient grounds and probably cause for a court of competent jurisdiction to issue a search warrant to the Protection Officer to inspect such premises.

2. The Well Field Protection Officer may inspect each city well annually and shall maintain an inventory, if applicable, of all hazardous substances which exist within the Primary Zone. (Acceptable format is Iowa DNR form OMB # 2050---72)

6-13-11 INJUNCTIVE RELIEF

If any person who engages in nonresidential activities stores, handles, uses, and/or produces toxic substances within the wellhead protection zones, as indicated on the Zone of Protection Maps, continue to operate in violation of the provisions of this ordinance, then the City may file an action for injunctive relief in the court of jurisdiction.

TITLE VI, PHYSICAL ENVIRONMENT

CHAPTER 14, PRESTON CABLE REGULATORY ORDINANCE

6-14-1	SHORT TITLE	6-14-6.5	Emergency Override
		6-14-6.6	Live Broadcasts
6-14-2	INTENT		
6-14-3	DEFINITIONS	6-14-7	STANDARDS AND REQUIREMENTS
		6-14-7.1	Additional Tests & Measurements
6-14-4	GENERAL REQUIREMENTS	6-14-7.2	Method of Installation
6-14-4.1	Grant of Franchise	6-14-7.3	Service Repair Standards
6-14-4.2	Accord	6-14-7.4	Use of Poles
6-14-4.3	Assurance of Service	6-14-7.5	Public Property Rights
6-14-4.4	Non-transferability and No Change In Control	6-14-7.6	Private Property Rights
6-14-4.5	Duration of Franchise	6-14-7.7	Compliance With Codes
6-14-4.6	Extension or Renewal	6-14-7.8	Construction Conditions
6-14-4.7	Rights Reserved to City		
6-14-4.8	Amendment	6-14-8	LOCAL REGULATIONS, FILINGS & SERVICES
6-14-4.9	Recission		
6-14-4.10	Revocation	6-14-8.1	Records, Reports, and Filings
6-14-4.11	Condition of Sale	6-14-8.2	Review Sessions
6-14-4.12	Protection of Grantee's Property	6-14-8.3	Annual Reports
6-14-4.13	Disposition Upon Termination	6-14-8.4	Filing of Maps
6-14-4.14	Removal of System	6-14-8.5	Local Regulation of Signal Carriage
6-14-4.15	Time of Essence		
6-14-4.16	Right of Intervention	6-14-8.6	Rates & Charges
6-14-4.17	Jurisdiction	6-14-8.7	Deposits
6-14-4.18	Contract Validity	6-14-8.8	Disconnections
		6-14-8.9	Reconnections
6-14-5	COVERAGES & EXTENSIONS	6-14-8.10	Downgrades
6-14-5.1	City Coverage	6-14-8.11	Franchise Fee
6-14-5.2	Extension of System	6-14-8.12	Rights of Recomputation
		6-14-8.13	Subscriber Payments
		6-14-8.1	Subscriber Usage
6-14-6	SYSTEM DESIGN & CONDITIONS	6-14-8.15	Subscriber's Antenna
6-14-6.1	Television Services	6-14-8.16	Switching Device
6-14-6.2	Interconnection Services	6-14-8.17	Parental Control Devices
6-14-6.3	Local Community Programming	6-14-8.18	Notification to City of Service Interruptions
6-14-6.4	Leased Services	6-14-8.19	Subscriber Credit For Service Interruptions

6-14-8.20	Program Guide	6-14-10.3	Construction Deposit
6-14-8.21	Channel Guide	6-14-10.4	Faithful Performance Bond
6-14-8.22	Service to Public Buildings	6-14-10.5	Violations & Penalties
6-14-8.23	Sales & Services	6-14-10.6	Security Fund
6-14-8.24	Respondent Superior	6-14-10.7	Liability & Indemnification
6-14-9	SUBSCRIBERS	6-14-10.8	Foreclosure
	PROTECTIONS	6-14-10.9	Receivership
6-14-9.1	Availability & Continuity of Services	6-14-10.10	Publication of Notice
6-14-9.2	Rental Properties	6-14-10.11	Cost of Publication
6-14-9.3	Local Office Services	6-14-10.12	Taxes
6-14-9.4	FCC customer Service Standards	6-14-10.13	No Recourse
6-14-9.5	Refunds to Subscribers	6-14-10.14	Severability
6-14-9.6	Subscriber Complaint Procedures	6-14-10.15	Notices
6-14-9.7	Subscriber Privacy	6-14-10.16	Deregulation
6-14-9.8	Discrimination or Preferential Practices		
6-14-10	MISCELLANEOUS PROVISIONS		
6-14-10.1	Failure to Enforce		
6-14-10.2	Reduced Rate Structures for Noncompliance		

6-14-1 SHORT TITLE. This ordinance shall be known as the Preston Cable Services Regulatory Ordinance, and may be so cited.

6-14-2 INTENT. The purpose of the Preston City Council in this ordinance is to regulate any cable company granted a franchise to operate a cable services system in the public interest, to define the terms of the Council, and to provide day-to-day regulation of the cable services system by the Council or its designated agents. The City is including the program supplier, Skitter, Inc., d/b/a Skitter TV per ordinance 2016-20, adopted September 26, 2016.

(Amended during 2021 codification)

6-14-3 DEFINITIONS. For the purpose of this ordinance, the following words, terms, phrases, and their derivatives shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, words in the singular number include the plural number, and words in the masculine gender include the feminine gender. The word "shall" is always mandatory and not merely directory. The word "may" is permissive.

1. BASIC SUBSCRIBER SERVICE means the aggregate of the following:
 - a. The retransmission of all broadcast television signals viewed off the air within the City, cultural educational television signals and audio, as provided for herein,
 - b. The transmission of all community programming, and syndicated and satellite programming as provided for herein,
 - c. Any other programming or services provided for herein or agreed upon by the Grantor and Grantee. For purpose of rates only, BASIC SUBSCRIBER SERVICE may be tiered.

2. CABLE SERVICE SYSTEM, CABLE SYSTEM, means a separate and distinct, non-broadcast system of antennas, cables, amplifiers, towers, microwave links, waveguides, laser beams, satellites, or any other transmission paths and associated signal generation, reception and control equipment, and conductors, ducts, conduits, converters, terminals, vaults, manholes, facilities, appliances, attachments, designed and constructed and necessary for the purpose of producing, receiving, amplifying, storing, processing and distributing audio, video, digital, or other forms of electronic or electrical signals to subscribers within the City of Preston.

3. CHANNEL means a frequency band within which a video, audio or digital signal or some combination of such is delivered by cable to and from a subscriber terminal.

4. CITY means the municipal corporation of Preston, Iowa, its City Council, officers, and employees, or a representative person or entity as may be designated to act on its behalf, and all the territory within its present and future corporate limits.

5. COMMUNITY PROGRAMMING means programming:
 - a. which is cablecast under sole authority of the Grantor or its agent,
 - b. which is originated or produced by members of the local general public, or
 - c. which originated or produced by the Grantee, a minimum of fifty percent (50%) of which included showing local events, weather, and business affairs of local interest.

6. CONNECTION OR RECONNECTION means the aggregate of and nothing less than the following:
 - a. prior notice to the subscriber in clear and understandable language of all available, applicable connection, reconnection and cost options,
 - b. the Grantee's internal business procedures relating to all the subscriber's accounts,
 - c. the activation of drop cable(s) already installed to the subscriber's premises, for all services being subscribed to, and,
 - d. the delivery and attachment by the Grantee of the appropriate subscriber equipment.

7. DISCONNECTION means one (1) or two (2) or all of the following:
 - a. the Grantee's internal business procedures relating to all the subscriber's accounts,

- b. the deactivation, but not removal, of drop(s) to the subscriber's premises,
- c. the removal by the Grantee of Grantee owned subscriber terminal equipment.

8. FCC means the Federal Communications Commission, or a designated representative, or a Congressionally designated successor agency or entity in cable communication matters.

9. FEE means the charge fixed pursuant to the provisions of this franchise for the use of the public streets and ways for a cable system, and for the Grantor's regulating such cable system in the public interest, but excluding any tax or fee required by any other law or regulation.

10. FRANCHISE means the initial authorization, or renewal thereof, issued by The Franchising Authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, or otherwise, which authorizes construction and operation of the System.

11. GRANTEE means the person or parent corporation and its local subsidiary corporation to which a franchise it granted for the construction, operation, maintenance and reconstruction of a cable services system in the City of Preston, Iowa.

12. GRANTOR means the City Council of the City of Preston, Iowa, which grants this franchise, or its duly authorized agent, with respect to all aspects of the cable services system operated by the Grantee within the territory of this franchise.

13. REVENUES.

a. GROSS REVENUES means any and all compensation in whatever form, exchange, or otherwise, derived from all cable services within the service area of this franchise, including, but not limited to, revenues from subscriber rates, pay services, leased channels, advertising, installations, connection charges; provided however, it does not include any tax or services furnished by the Grantee imposed directly on any subscriber or user by a local, state or federal government unit and collected by the Grantor for such entity.

b. BASIC SUBSCRIBER REVENUES means only those revenues derived from the monthly service charges paid by subscribers located within the City for regular cable television reception service which service includes only the transmission of broadcast signals and the programming presented on the required access and origination channels if any. Basic subscriber revenues shall not include any revenues received as reimbursement of expense in the operation of any access channels, as advertising payments, from the leasing of cable channels, from programs for which a per-channel, per program or tier charge is made and from furnishing other communications and nonbroadcast services either directly or as a carrier for another party or any other income

derived from the system. Basic subscriber revenues shall not include revenues received as installation charges and fees for reconnections, inspections, repairs, or modifications of any installation nor shall it include any tax on services furnished by the Grantee imposed directly on any subscriber or user by a local, state, or federal governmental unit and collected by the Grantor for such entity.

14. INSTALLATION, SUBSCRIBER, means the aggregate of the following:

- a. prior notice to the subscriber in clear and understandable language of all available, applicable installation, connection, reconnection and cost options,
- b. the laying or hanging of drop(s) from the feeder cable to the subscriber's premises for all services being subscribed to,
- c. the installation and attachment of outlets within the subscriber's premises,
- d. connection. The maintenance or repair of any of the equipment referred to in this subsection shall not constitute installation.

15. INTERCONNECTION means any link between the cable services system within the City and any cable system or part thereof located outside the corporate limits of the City, whether for one or more channels or services, whether by direct link, microwave, satellite, or other means, or whether coming into or going out from the Preston system.

16. MONITORING means the observing, whether by visual or electronics means, a one-way communications signal, or the absence of a signal, where the observer is neither the subscriber nor the programmer, for any purpose whatsoever.

17. OUTAGE means any failure of a signal or service, due or promised, to be transmitted to a subscriber's terminal.

18. PAY TELEVISION SERVICE means the delivery to subscribers willing to receive and pay for such, over the cable services delivery system, of television signals at a separate rate or a per view, per channel, per tier, or other subscription basis.

19. RATE means the charge to a subscriber for a service available on the cable services delivery system, including all charges of whatever nature related to such a service, whether a deposit, installation, delivery, equipment related, interest, disconnect, penalty, repair, maintenance, or other charges.

20. STREET means the surface of and the space above and below any public street, road, highway, freeway, land, path, public way or place, alley, court, sidewalk, boulevard, parkway, drive or other easement now or hereafter held by the City for the purpose of public travel, and included such other easements or rights-of-way as shall by now or hereafter held by the City which, within their proper use and meaning, entitle the City to use thereof for a utility.

21. SERVICE AREA means the present municipal boundaries of the Franchising Authority, and shall include any additions thereto by annexation or other legal means.

22. SUBSCRIBER means any person, corporation, or entity who agrees to receive a service provided by the Grantee by means of or in connection with the cable services system.

23. SYNDICATED PROGRAM means any program sold, leased, licensed, distributed, or offered to a television station licensee or cable operator in more than one community within the United States for non-interconnected (i.e., non-network) broadcast or cablecast exhibition.

24. TAPPING means observing, whether by visual or electronic means, a two-way communications signal exchange, where the observer is neither of the communicating parties, for any purpose whatsoever.

25. TERMINATE means to end, and included expiration, rescission, and revocation.

6-14-4 GENERAL REQUIREMENTS

6-14-4.1 GRANT OF FRANCHISE. In consideration of the mutual agreements contained herein, the City of Preston, Iowa, hereafter referred to as the Grantor, may grant to any person, persons, or business corporation that may be approved as grantee from time to time by the Preston City Council, hereafter referred to as the Grantee, and the grantee hereby accepts, a non-exclusive franchise to construct, operate, maintain, and reconstruct a cable services system in, on, upon, along, across, over and under the streets and ways within the City of Preston, Iowa, and all annexations thereto, and agrees that it shall continually operate its cable system in compliance with all provisions herein.

The Grantor may at any time as it deems appropriate, without prior notice to, consultation with, or compensation for the Grantee, grant such additional cable franchises or any other telecommunications permit to any other person or corporation. The Grantor may grant franchises for other utility purposes. The Grantor does not have an unqualified right to authorize the Grantees unencumbered use of the streets and easements. The Grantor does not warrant or represent as to any particular street or way that the Grantor has the right to authorize the Grantee to install and operate portions of its cable system within the City, and in each case, the burdens and responsibility for making such determinations and compliance with any limitations, shall rest with the Grantee. Access to any private property, dwelling, or establishment without the express consent of any private owner is not granted to the Grantee under this franchise. Prior to the effective date of a franchise, the Grantee shall secure the necessary authorization to do business in the State of Iowa and shall provide proof of such to the City.

Any franchise shall be amended, or transferred only by ordinance. No such ordinance shall become effective unless a public hearing shall be held on the proposed ordinance, and the ordinance approved by the City Council as per state code. The issuance of or the renewal of the franchise shall

not be finally effective until the acceptance in writing has been made, provided such shall occur within thirty (30) days after the elections or ordinance approval.

6-14-4.2 ACCORD. Any franchise granted shall be the entire agreement between the Grantor and Grantee, and shall be in lieu of any and all other grants, rights, privileges, powers, claims, immunities, and authorities owned, possessed, controlled, or exercisable by the Grantee or any parent, affiliate, or successor pertaining to the construction, operation, maintenance, or reconstruction of cable system within the City. The acceptance of any franchise shall operate, as between the Grantee and the Grantor, as a release and abandonment of any and all such grants, rights, privileges, powers, claims, immunities, and authorities within the City.

6-14-4.3 ASSURANCE OF SERVICE. By acceptance of a franchise governed by this ordinance the Grantee shall assume all legal, delegated, contracted and unreserved responsibility.

- a. for construction, maintenance, and operation of a cable services system,
- b. for continuous and uninterrupted delivery of cable services,
- c. for compliance with all standards, regulations, and procedures, and
- d. for all liabilities, penalties, and sanctions, as may be required herein or by the laws and regulations of federal, state, and local governments.

6-14-4.4 NON-TRANSFERABILITY AND NO CHANGE IN CONTROL. Any franchise governed by this ordinance shall be a privilege to be held for the benefit of the public by the Grantee. Any franchise shall not in any event be transferred, assigned, sold, leased, or disposed of in whole or in part, either by forced or voluntary sale merger, acquisition, consolidation, mortgage, trust, receivership, or any other means nor shall title thereof, either legal or equitable, or any right, interest, control, or property therein, pass to or vest in any person except the Grantee only as organized, operated, and controlled on the effective date of this ordinance and herein acknowledged, without the prior approval and consent of the City Council as per section 6-10-4.1 and then only under such conditions as the grantor may establish. The Grantee shall notify the Grantor with full identifying particulars any actual or proposed change in, transfer of, or acquisition by any other party of ownership, interest in, operation, or control of Grantee. The Grantor may inquire into the qualifications, finances, policies, or any other concerns which it considers material of any party seeking ownership, interest in, operation, or control of the Grantee, and the Grantee shall assist the Grantor in any reasonable inquiry by promptly responding with the requested information.

Bankruptcy proceedings, including proceedings under any chapter of the Bankruptcy Code (P.L. 95-958), foreclosure, judicial sale, or a judicially ordered change in interest in or control of the Grantee shall be treated as a change, and the provisions of this section shall apply.

For the purpose of this subsection, the term "control" is not limited to the majority stock ownership, but includes actual working control in whatever manner exercisable, or the acquisition or accumulation by any person or group of persons of greater than fifty percent (50%) of the shares of the Grantee.

6-14-4.5 DURATION OF FRANCHISE. The term of any franchise governed by this ordinance and all rights, privileges, obligations, and restrictions pertaining thereto, shall be ten (10) years from the effective date of the franchise, unless by prior revocation or termination.

6-14-4.6 EXTENSION OR RENEWAL. Any request for an extension or renewal of the franchise shall be handled in the manner prescribed by law as defined in Section 626 of the Cable Act, as amended. (47 U.S.C. 546)

6-14-4.7 RIGHTS RESERVED TO THE CITY.

1. No Impairment of City's Rights. Nothing herein shall be deemed or construed to impair or affect in any way to any extent the right of the City to acquire the property of the Grantee through the exercise of the right of eminent domain, at a fair and just value, which shall not include any amount for the franchise itself or for any of the rights or privileges granted, and nothing shall be construed to contract away or to modify or abridge, either for a term or in perpetuity, the City's right to eminent domain.

2. Grantee Agrees to City's Rights. The City reserves every right and power which is required to be reserved or provided by an ordinance of the City, and the Grantee, by its acceptance of the franchise, agrees to be bound thereby and to comply with any action or requirements of the City in its exercise of such rights or powers which have been or will be enacted or established.

3. City's Right of Intervention. The City shall have the right to intervene and the Grantee specifically agrees by its acceptance of the franchise not to oppose such intervention by the City in any suit or proceedings to which the Grantee is a party, provided the Grantor has such rights under applicable procedural rules.

4. Powers of the City. Neither the granting of any franchise nor any provision governing the franchise shall constitute a waiver or bar to the exercise of any governmental right or power of the City.

5. City's Transfer of Functions. Any right or power in or duty imposed upon any elected official, officer, employee, department or board of the City shall be subject to transfer by the City to any elected official, officer, employee, department or board.

6. City's Right of Inspection. The City reserves the right, during the life of any franchise granted hereunder, to inspect and supervise all construction or installation work performed, subject to the provisions of this chapter and perform network measurements to insure compliance with the terms of this chapter.

6-14-4.8 AMENDMENT. The Grantor or the Grantee may request an amendment to a franchise

1. To take advantage of advancements in telecommunication technology or methods which shall result in serving Preston subscribers more effectively, efficiently, and economically, or,

2. To serve the public interest, or
3. To change a provision for the better by removing or correcting a fault, or
4. To conform with changed federal or state law or regulation.

The period of a franchise shall be extended or renewed only in an extension or renewal, subject to such provisions as are provided elsewhere herein. Nothing in a franchise, or arising as a result of any relations or dealings thereof, shall be construed to require an amendment be granted by the Grantor, nor shall anything in a franchise, nor any right, privilege, interest, or claim arising therefrom be construed to give the Grantee any claim, interest, or right to expect, demand, or sue for an amendment.

6-14-4.9 RESCISSION. The contractual duties arising from a franchise may be discharged by a mutual agreement between the Grantor and Grantee. Such rescission shall include the surrender of all rights, interests, or claims granted to the Grantee herein or arising therefrom, the payment of such consideration to the Grantor by the Grantee as the Grantor deems appropriate for the resulting loss of services and public inconvenience, and shall be conditioned on the Grantee's temporary continuation of cable services as determined by the Grantor.

6-14-4.10 REVOCATION. In addition to all other rights and powers reserved or permitted to the City, the Grantor reserves as a separate and distinct remedy the right to revoke a franchise and all rights and privileges hereunder, in the event that:

1. The Grantee, by act or omission, violates any material term or condition of the franchise, or
2. The Grantee violates a provision of the franchise for which revocation is provided as a sanction, or
3. The Grantee fails to begin or complete construction of a rebuild of the cable system as defined in its franchise,
4. The Grantee becomes insolvent, unable or unwilling to pay its debts, including those owned to the City, or invokes proceedings under any chapter of the Bankruptcy Code (P.L. 95-958), is adjudged a bankrupt, or all or part of the Grantee's facilities should be sold under an instrument to secure a debt and are not redeemed by the Grantee within thirty (30) days from such sale, or
5. The Grantee fails to restore service following sixty (60) consecutive hours of interrupted service, except when prior approval of such interruptions is obtained from the City Clerk, or City Administrator.
6. The Grantee attempts to or does practice any fraud or deceit in its conduct or relations with the Grantor or subscribers in relation to or under this contract.

The Grantor may, but shall not be required to, resort to legal procedures to procure compliance, especially for repeated violations or noncompliance. Failure of the Grantee to comply with such legal orders or to act contrary to such, shall also be grounds for revocation.

The Grantee shall promptly reimburse the Grantor for all expenses incurred for revocation proceedings and legal fees.

Prior to revocation, the Grantor shall give the Grantee sixty (60) days notice of the particular grounds upon which the Grantor relies. If, at the end of the sixty (60) day period, the Grantee has not cured the defect complained of and met all adjustments, rebates, or penalties applicable, the Grantor may enact an ordinance repealing and revoking this franchise. Such ordinance shall not require voter approval.

Since revocation is based on nonperformance by the Grantee, the Grantor shall not be held liable for any remedy in favor of the Grantee as a result of or arising from a proper revocation.

The Grantor and Grantee agree that an act occasioned exclusively by violence of nature without the interference of any human agency shall not result in revocation to the extent that the Grantee had, prior to the act, implemented all reasonable measures to protect and minimize its system from such damage, and further provided that after the act, the Grantee shall promptly repair and restore the system to the operation and quality required by this ordinance.

6-14-4.11 CONDITION OF SALE. If a renewal or extension of the Grantee's franchise is denied or the franchise is lawfully terminated, and the Franchising Authority either lawfully acquires ownership of the System or by its actions lawfully effects a transfer of ownership of the System to another party, any such acquisition or transfer shall be at the price determined pursuant to the provisions set forth in Section 627 of the Cable Act.

In the case of a final determination of a lawful revocation of the franchise, at the Grantee's request, which shall be made in its sole discretion, the Grantee shall be given a reasonable opportunity to effectuate a transfer of its system to a qualified third party. The Franchising Authority further agrees that during such a period of time, it shall authorize the Grantee to continue to operate pursuant to the terms of its prior franchise. However, in no event shall such authorization exceed a period of time greater than six months from the effective date of such revocation. If, at the end of the time, the Grantee is unsuccessful in procuring a qualified transferee or assignee of its system which is reasonably acceptable to the Franchising Authority, the Grantee and the Franchising Authority may avail themselves of any rights they may have pursuant to federal or state law. The Grantee's continued operation of its system during the six month period shall not be deemed to be a waiver, nor an extinguishment of, any rights of either the Franchising Authority or the Grantee.

6-14-4.12 PROTECTION OF GRANTEE'S PROPERTY. The Grantor acknowledge that property, real and personal, owned or under the control of the Grantee, is entitled to all protection provided for by law for the protection of private property even if located on public land, unless otherwise specified herein. Protection extended to the Grantee's property in, on, over, or under private property depends on applicable law and any agreement between the Grantee and the private property owner. Nothing in this ordinance shall be construed to assign property rights or interest in

any transmission or signal passing through the air. Nothing in this ordinance shall be construed to designate "theft of service" a crime.

6-14-4.13 DISPOSITION UPON TERMINATION. Upon termination of a franchise by virtue of expiration of lack of extension or renewal, because of the Grantee's breach of this contract, or because of revocation, the Grantee:

1. Shall temporarily continue to operate the system so that no interruption of service shall occur, and

2. May sell its system to another Grantee, if any, who has been granted a franchise to operate a cable system within the service area of the City, provided the new Grantee is willing to purchase the system, and the City is willing to allow the system to be used in performance of a new franchise, or

3. May sell its system to the City, provided the City is willing to purchase the system, or

4. Shall remove, at its own expense, its system from the streets and ways of the City and the private property of subscribers, within one hundred eighty (180) days after the turn-on of a new, successor system, or notice to remove from the City.

6-14-4.14 REMOVAL OF SYSTEM. In addition to requirements for removal of the cable system provided herein upon termination or revocation, the Grantee shall promptly, within one hundred eighty (180) days, remove its system from public and subscriber private property if the Grantee fails or ceases to operate its system for a continuous period of ninety (90) days. No notice of revocation proceedings shall be required for this provision to become effective.

If, when removal of system is applicable, the Grantee fails to remove all its properties from public and subscriber private property within the one hundred eighty (180) days removal period, the Grantee shall forfeit its faithful performance bond, and the City may declare all such property of the Grantee abandoned, and such property shall become the property of the City, and the Grantee further agrees to execute and deliver an instrument in writing transferring all ownership interest in any such property to the City.

6-14-4.15 TIME OF THE ESSENCE. Whenever a franchise shall set forth any time or any action to be performed by or in behalf of the Grantee, such time shall be deemed of the essence, and any failure of the Grantee to perform within the time allotted, unless otherwise agreed to by the Grantor or provided for herein, shall be sufficient grounds for the Grantor to proceed to the revocation procedure of this contract.

6-14-4.16 RIGHT OF INTERVENTION. The Grantor shall have the right of intervention in any suit or judicial or regulatory proceeding to which the Grantee is a party and which may affect the rights of the Grantor. The Grantee shall not oppose such intervention by the Grantor.

6-14-4.17 JURISDICTION. In the case of any dispute between the Grantee and Grantor arising from any franchise governed by this ordinance, the Grantee and the Grantor agree that the laws of the State of Iowa shall apply in construing the franchise, and to that end the federal courts of Iowa and the state courts of Iowa shall have exclusive jurisdiction.

In the event of any litigation by the Grantee against the Grantor, its officers, agents, or employees, the Grantee agrees that it shall pay the City reasonable attorney fees and administrative costs in the event the Grantee does not prevail in such litigation.

6-14-4.18 CONTRACT VALIDITY. The Grantor and Grantee acknowledge and agree that a franchise is both a grant to operate a cable system in the City of Preston, Iowa, as required by statute and a mutually bargained and negotiated contract acceptable to both parties.

6-14-5 COVERAGES & EXTENSIONS

6-14-5.1 CITY COVERAGE. The Grantee shall design, construct, operate, maintain, and reconstruct its cable delivery system in such a manner as to pass by and provide adequate tap-off facilities to deliver quality services for every single-family dwelling, multiple-family dwelling, institution, agency, school, government, facility, and business establishment within the corporate limits of the Preston, Iowa. Upon petition from the Grantee, the Grantor may authorize the Grantee to delay extension of its cable services to an isolated area of the City which has fewer than two (2) residences along twelve hundred feet (1200') of street or roadway. Such authorization shall be limited to the instance in which the potentially affected subscriber(s) is (are) unwilling to pay a total of fifty percent (50%) of the labor and material costs of extending up to two thousand feet (2000') of feeder and drop lines actually needed to service the subscriber(s).

In any area subsequently annexed by the City, the Grantee shall, within one (1) year after the effective date of such annexation, extend its cable system in such a manner as to pass by and provide adequate tap-off facilities for every school and government building located in the annexed area and to all dwelling units where the average density is at least twenty-five (25) per linear mile of proposed trunk and feeder cable route measured from the nearest former city boundary. Within three (3) years after the effective date of such annexation, the Grantee shall extend its cable system so as to serve all units in the annexed area in the same manner as is required in the former city boundaries.

6-14-5.2 EXTENSION OF SYSTEM. The Grantee may extend any portion of the Preston cable services system beyond the corporate limits of the City provided that the extension:

1. Shall not at any time interfere with or degrade any service, degrade any quality, nor reduce any coverage within the Preston system,
2. Shall not increase the costs attributable to the Preston system, and shall not increase the rates paid by subscribers in the City of Preston, and,
3. Shall not jeopardize or violate subscriber security.

6-14-6 SYSTEM DESIGN AND CONDITIONS

6-14-6.1 TELEVISION SERVICES. The Grantee shall deliver such television signals as are required by the federal must carry laws.

6-14-6.2 INTERCONNECTION SERVICES. The Grantee may provide interconnection facilities to interconnect the Preston cable services system with another cable services system provided that:

1. The proposed interconnection shall not at any time interfere with or degrade any service or quality within the Preston cable services system,
2. The proposed interconnection shall add to the services or quality within the Preston cable system, or shall reduce the costs attributable to the Preston system,
3. The interconnection shall not jeopardize or violate subscriber security, and
4. The Grantor submits detailed cost and cost sharing projections for the interconnection to the Grantee, as requested.

6-14-6.3 LOCAL COMMUNITY PROGRAMMING. The Grantee shall design and operate the cable system to provide a channel for local community use at a location as specified by the Grantor. The Grantee shall have and offer to the public at no service charge, the equipment necessary to transmit video tapes and films of local interest. The formats for such shall be those approved by the Grantor.

The Grantee acknowledge its commitment to local programming and agrees to continue its support and encouragement.

The Grantee may allow on the community programming channel, fund raising or sponsorship revenues for the furtherance and support of community programming, or for local charitable, educational or public projects.

While local programming is in part under the jurisdiction of the Grantee, the programming interests and needs of subscribers shall be periodically and systematically solicited, surveyed, and considered by the Grantee in program selection. In no case shall commercial or political messages be given programming priority or preemption over Grantee or local public produced programming.

6-14-6.4 LEASED SERVICES. The Grantee of any franchise granted under this ordinance shall comply with rules and regulations for commercial and leased services governed by the Telecommunications Act of 1996 and the FCC.

6-14-6.5 EMERGENCY OVERRIDE. The Grantee shall design, construct, and maintain the cable services system to permit, at the City's option, an audio or character override of all channels, in accordance with FCC regulations.

The Grantee shall maintain, in a location designated by the Grantor, all equipment for use of the emergency override. In the event of an emergency or disaster, upon the request of the City or its agent, the Grantor shall make its override facilities available to the Grantor for emergency use. The Grantee shall use the emergency override in accordance with FCC regulations. The Grantor shall hold the Grantee, its agents, employees, officers, and assigns hereunder, harmless from any claims arising out of the emergency use of its facilities by the Franchising Authority, including, but not limited to, reasonable attorney's fees and costs.

6-14-6.6 LIVE BROADCASTS. The Grantee shall provide and maintain the equipment required to allow live broadcast on the local community channel from the Preston City Hall. The Grantor shall provide the video camera needed to provide such live broadcast.

6-14-7 STANDARDS AND REQUIREMENTS

6-14-7.1 ADDITIONAL TESTS AND MEASUREMENTS. The Grantor reserves the right to conduct its own inspections of the cable system periodically and at any time.

The Grantor, its agent, or an individual may perform tests on a subscriber's premises, provided the subscriber consents and the Grantee's property is not damaged.

6-14-7.2 METHOD OF INSTALLATION. All wires, cables, amplifiers and other property shall be constructed and installed in an orderly manner consistent with the best practices in telecommunications. All cables and wires shall be installed parallel with existing electric and telephone wires whenever possible. Multiple cable configurations shall be arranged in parallel and bundled, with due respect for engineering and safety considerations.

6-14-7.3 SERVICE REPAIR STANDARDS. The Grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible.

Scheduled service interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum use of the system. A written log or an equivalent stored in computer memory and capable of access and reproduction shall be maintained for all service interruptions and requests for cable service as required by this Ordinance.

6-14-7.4 USE OF POLES. In areas where electric utility facilities are above ground at the time of cable installation, the Grantee may install its wire and cables and amplifiers above ground provided that the Grantee shall negotiate the appropriate pole attachment agreements with owners of the poles.

The Grantee shall not erect, for any reason, any poles on or along any street or public way of the City, except as may be reasonably required or necessary to fill small gaps in the existing aerial utility systems, and then only with the advance written approval of the City.

If a new development is constructed within the City with underground telephone and both primary and secondary electrical utility services, the Grantee shall extend its cable system underground to such development.

6-14-7.5 PUBLIC PROPERTY RIGHTS. Nothing in a franchise shall grant to a Grantee any right of property in any street or way or other City owned property, nor shall the City be compelled to maintain any of its streets, poles or property any longer than, or in any fashion other than in the Grantor's judgement, its own needs may require.

In the event continued use of a street is denied to a Grantee by the Grantor for any reason, a Grantee shall make every reasonable effort to provide service over alternate routes.

6-14-7.6 PRIVATE PROPERTY RIGHTS. No trunk or feeder cable, feeder amplifier, or other feeder equipment owned or used by the Grantee shall be installed on private property without first securing a written easement recorded at the Jackson County Recorder's Office. No drop cable or associated equipment owned by the Grantee shall be installed on private property without first securing the informed oral or written permission of the owner of any property involved. If such permission is later withdrawn, whether by the original or a subsequent owner, the Grantee shall remove forthwith any of its equipment which is movable and promptly restore the property to its original condition.

6-14-7.7 COMPLIANCE WITH CODES.

1. All construction practices of the Grantee shall be in accordance with all applicable standards of the Occupational Safety and Health Act of 1970 and any amendments thereto as well as all applicable state and local codes.

2. All installations of electronic equipment by or for the Grantee shall be of a permanent nature, durable and installed in accordance with the applicable sections of the municipal ordinances and all state and local codes where applicable, and to the extent it is consistent with such laws, the most recent edition of the National Electrical Safety Code.

3. The Grantee's antenna supporting structures (towers) shall be painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration, the State Aeronautic's Board governing the erection and operation of supporting structures or television towers, and all other applicable local or state codes and regulations.

4. The Grantee shall first obtain the approval of the City, if such will be required, prior to commencing any construction beneath, on , or above the streets, alleys, public grounds or places of the City or any area within the City limits. Applications for approval of construction shall be in a form provided by the Grantor.

5. The Grantee shall not open or disturb the surface of any street, sidewalk, driveway, or public place for any purpose without first having obtained a permit to do so in the manner provided by ordinance.

6. The Grantee shall construct, operate, maintain, reconstruct and update its cable services system subject to the supervision of all of the authorities of the City who have jurisdiction in such

matters and in strict compliance with all laws, ordinances, and departmental rules and regulations affecting the system.

7. Any earth station, antenna, tower, or equipment for receiving signals from or transmitting signals to a point outside the corporate limits of the City shall be registered, certified and licensed as may be required by the Federal Communications Commission, except to the extent the Federal Communications Commission does not in any event regulate such equipment or use.

8. Any antenna structure of the Grantee shall comply with applicable zoning ordinances and with construction, marketing and lighting of antenna structure, 47 C.F.R. 17.1 et., seq., September 1967, or such standards as may be adopted by the Grantor.

9. The Grantee shall at all times use special care and shall use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

6-14-7.8 CONSTRUCTION CONDITIONS.

1. All wires, conduits, cables and other property facilities of the Grantee shall be so located, constructed, installed and maintained as not to endanger or unnecessarily interfere with the usual and customary trade, traffic and travel upon the streets and public places of the City or with the rights or reasonable convenience of adjoining property owners, or with any gas, electric, or telephone fixture, or with any water hydrants, mains, or sewers. In the event of any such hazard or interference as determined by the Grantor, the Grantor may require the removal of the Grantee's poles, lines, cables, and appurtenances from the property in question. The Grantee shall keep accurate maps and records of all its facilities and furnish copies of such maps and records as requested by the Grantor, and shall keep and maintain all its property in good condition, order and repair. The Grantor reserves the right hereunder to inspect and examine at any reasonable time and upon reasonable notice the property owned or used, in part or in whole by the Grantee.

2. Any and all streets or public places which are disturbed or damaged by the Grantee during the construction, operation, maintenance, or reconstruction of its cable system or facilities, shall be promptly repaired by the Grantee, or at the option of the Grantor, shall be repaired by the Grantor and paid for by the Grantee. Any private property which is disturbed or damaged by the Grantee during the construction, operation, maintenance, updating or reconstruction of its cable system or facilities, shall be promptly repaired in as good a condition as before the damage occurred by the Grantee, at its expense, in a manner approved by the owner. In the event the Grantee, upon receipt of written notice, fails to perform such repair, owner shall have the right to do so at the expense of the Grantee. Payment for such repair shall be immediate, upon demand by the owner.

3. With explicit, prior written notification and approval of the Grantor, the Grantee shall have authority to trim trees that are overhanging streets, alleys, sidewalks, and other public places of the Grantor so as to prevent the branches or such trees from coming in contact with the wires and cables of the Grantee. All trimming is to be done under the supervision of the Grantor and at the expense of the Grantee.

4. The Grantee shall, at its expense, protect, support, temporarily disconnect, relocate in other public place, any property of the Grantee when required by the Grantor by reason of traffic conditions, public safety, street vacation, street construction, change or establishment of street grade, installation of sewers, drains, water pipes, street lights, city-owned power or signal lines, and tracks or any other type of structure or improvement by public agencies.

5. The Grantor shall give the Grantee reasonable notice of plans for street improvements where paving, resurfacing, or curbing of a permanent nature is involved. The notice shall give the Grantee sufficient time to make reasonable alterations or repairs to its facilities in advance of the actual commencement of the work, so as to permit the Grantee to maintain continuity of service.

6. If, at any time, in case of fire or disaster in the City, it shall become necessary in the reasonable judgement of the Grantor's agent to cut or secure any of the wires, cables, amplifiers, appliances, or appurtenances thereto of the Grantee, such cutting or removing may be done and any repairs rendered necessary thereby shall be made by the Grantee, at its sole expense provided such repairs are not necessitated by the negligent act of the Grantor, in which case, costs for repairs shall be borne by the Grantor.

7. The Grantee shall, at the request of any person holding a building moving permit, temporarily remove, raise, or lowers its wires to permit the moving of said building, provided the Grantee has been given not less than ten (10) working days notice of such move. The reasonable cost of such temporary removal, raising, or lowering of wires shall be paid by the person requesting the same, and the Grantee shall have the authority to require such payment in advance.

6-14-8 LOCAL REGULATIONS, FILINGS AND SERVICES

6-14-8.1 RECORDS, REPORTS AND FILINGS. The Grantee shall keep separate books reflecting the total financial status and operation of the Preston system. Such books shall be accurate and shall be supplied with true documentation sufficient to satisfy standards for certified audits. The Grantee shall promptly submit to the Grantor copies of such books or reports as required herein or requested by the Grantor.

The Grantee shall manage all of its operations in the service area in accordance with a policy of open books and records. The Grantor's City Clerk or auditor shall have the right to inspect at any time during ordinary business hours, all books, records, maps, plans, financial statements, and other like materials of the Grantee which relate to its operations in the City and service area. Access to such information shall not be denied by the Grantee. Further, the City or its agents shall have the right to ascertain the accuracy of any and all reports, records and such, and shall be given access, to all supporting documentation. Any false entry in the books of account of records of the Grantee or false statements in the reports to the Grantor or its agent as to a material fact shall constitute breach of a material provision of this ordinance and franchise.

Copies of all petitions, applications, and communications submitted by the Grantee to the Federal Communications Commission, Securities and Exchange Commission, or any other federal or state

regulatory commission or agency having jurisdiction in respect to any matters affecting cable services or operations authorized pursuant to a franchise shall be submitted simultaneously with the City.

6-14-8.2 REVIEW SESSIONS. In recognition of the fact that a great many technical, financial, marketing and legal uncertainties are associated with all aspects of cable communications at the present time, it is the intent of the City to provide for a maximum feasible degree of flexibility throughout its term to achieve an advanced and modern system for the City. The principal means for accomplishing this flexibility will be the scheduled review sessions provided for in this Section. It is intended that such review sessions will serve as a means of cooperatively working out solutions to problems that develop. Furthermore, such review sessions shall be two-way processes. For example, if either party has perceived that some major problem has developed, the session shall be devoted primarily to working out solutions acceptable to both parties.

The Grantee shall conduct a citizens' satisfaction survey regarding cable services in the City of Preston at least Sixty (60) days prior to any scheduled review sessions. The questions in the survey, the format of the survey, the method of distribution, the calculation of results, and the return point of the surveys shall be subject to the review and approval of the City Council.

The City and the Grantee shall hold scheduled review sessions no later than April 30, of calendar year 2001 and every third year thereafter for the duration of the franchise. All such review sessions shall be open to the public and notice thereof shall be published once, not less than four (4) days or more than twenty (20) days before each review session, as provided by law. The published notice shall specify the topics to be discussed. The review sessions may be cancelled by mutual agreement of the City and Grantee.

The following topics shall be discussed at every scheduled review sessions:

Survey Results

Recent and Developing Judicial and Federal Communications Rulings Service Rate Structures Free and Discounted Services Application of New Technology or New Developments System Performance System Extension Policy Services Provided Programming Offered Customer Complaints Review Community Development and Education Interconnection New Services Franchise Fees Other topics, in addition to those listed, may be added by either party. Members of the general public may also request additional topics.

6-14-8.3 ANNUAL REPORTS. The Grantee shall file annually with the Preston City Clerk, no later than March 31 of each year, two copies of:

1. An expense and income statement identifying all revenues, expenditures, and income applicable to its Preston operations under a franchise governed by this ordinance,

2. A total facilities report for the Preston system setting forth the total physical miles of plant installed or in operation during the fiscal year, and a map, the scale of which shall be no less than one inch (1") equals four hundred feet (400') and no larger than one inch (1") equals one hundred feet (100'), showing the location of such,

3. For the Preston System, a log or a summary of complaints communicated to the Grantee, outages experienced during the year, including complaint disposition, response time, and repairs made,

4. A report of Preston cable services systems's technical reports as required by the FCC.

5. The names and both business and residential addresses and telephone numbers of the local cable system manager and engineer,

6. All types of Preston cable subscriber agreements,

7. All rules and regulations which relate to Preston cable subscriber services and relationships, and

8. All reports required to be filed by any other agency which relate directly or indirectly to the Preston system.

The Grantor reserves the right to view all confidential agreements and contracts which pertain to or affect the Preston system, provided reasonable assurances are given that such information will remain confidential.

6-14-8.4 FILING OF MAPS. Upon request of the City, the Grantee shall file with the City strand maps showing the location and nature of all property of the Grantee within the City.

6-14-8.5 LOCAL REGULATION OF SIGNAL CARRIAGE. In the event the United States Congress or the Federal Communications Commission or any court of competent jurisdiction deregulates signal carriage or allows any greater degree of local regulation of signal carriage, the signal carried at that time any subsequent changes in such shall be subject to the approval of the City. The Grantor may direct the Grantee to carry or cease carriage of a signal.

In order to operate its system in the public interest and retain desired local flavor, the Grantee agrees that all programming and signal carriage shall reflect local interest.

6-14-8.6 RATES AND CHARGES.

1. The Grantor may regulate rates for the provision of basic cable and equipment as permitted by the Telecommunications Act of 1996, as amended, and applicable law.

2. Any rate adjustments shall be filed with the City Clerk not later than 30 days prior to the implementation of the adjustment.

6-14-8.7 DEPOSITS. Any deposit required by Grantee shall bear interest equal to the average twelve (12) month certificate of deposit rate paid by local banks.

6-14-8.8 DISCONNECTION. There shall be no charge for disconnection of any installation or outlet. If any subscriber fails to pay a fee or charge, the Grantee may disconnect the subscriber's service. Such disconnection shall not be effected until the subscriber has been given ten (10) days advance written notice of the intention to disconnect. After disconnection, upon payment of any required delinquent fee or reconnection charge, the Grantee shall promptly reinstate the subscriber's service.

6-14-8.9 RECONNECTIONS. Grantee shall restore service to customers wishing restoration of service provided customer shall first satisfy any previous obligations owed.

6-14-8.10 DOWNGRADES. Subscribers shall have the right to have cable service disconnected or downgraded in accordance with FCC rules. The billing for such service will be effective immediately and such disconnection or downgrade shall be made as soon as practicable. A refund of unused service charges shall be paid to the customer within forty-five (45) days from the date of termination of service.

6-14-8.11 FRANCHISE FEE. The Grantee shall pay annual fees to the Grantor for the following reasons.

- * regulating the Grantee to assure compliance with all provisions of a franchise,
- * the use of streets of the City, and
- * the franchise granted herein.

The amount of the fee to be paid annually shall be paid out of the rates approved by the Grantor, and shall be equal to three percent (3%) of total gross revenues.

1. FRANCHISE FEE PAYMENT. As compensation for a franchise governed by this ordinance and in consideration for the use of the streets and public ways of the City for the construction, operation, maintenance, and reconstruction of a system within the City, the Grantee shall pay to the City an annual amount, as specified in the Grantee's franchise, of the Grantee's Gross or Basic Subscriber Revenues as defined in section 6-10-3-13 of this ordinance. This amount shall not include any taxes on cable service which are imposed directly and indirectly on any subscriber thereof by any governmental unit or agency and which are collected by the Grantee on behalf of such governmental unit or agency.

2. QUARTERLY PAYMENTS. Payment due to the City under this provision shall be made quarterly at the City Clerk's office not later than forty-five (45) days following March 31, June 30, September 30 and December 31 of each year. Any fee not paid when due shall bear interest at a rate

of one and one-half percent (1 1/2%) per month from the date due. Each payment shall be accompanied with a detailed report showing the basis for the computation; specific income categories, and such other relevant facts as may be required by the City. The acceptance of any payment shall not be construed as an accord that the amount paid is, in fact, the correct amount; nor shall such acceptance of payment be construed as a release of any claim the City may have for additional sums payable by the Grantee. All amounts paid shall be subject to audit and recomputation by the City.

3. LIMITATION ON FRANCHISE FEE ACTIONS. The period of limitation for recovery of any franchise fee payable hereunder shall be ten years from the date on which payment by the Grantee is due.

4. FRANCHISE FEE AUDIT. The Grantee will fully cooperate with a franchise fee audit performed by a professional firm that is chosen by the City. The costs associated with the audit will be paid for by the City, provided that the Grantee shall pay for the costs if the audit shows an underpayment of franchise fees in excess of five percent (5%) or more. In addition, the City and Grantee will design a mutually agreeable form to be used by the Grantee that reflects a breakout of the items used to calculate the franchise fees paid to the City.

5. FRANCHISE FEE INCREASES. The City may request an increase in franchise fees at any time during the term of the franchise, equal to the maximum allowed by federal law. However, such request shall be made in writing and the Grantee will not be liable for said increase until proper notice, as defined by federal law, is given to its subscriber.

6. PROCEDURE UPON TERMINATION. Procedure upon termination in the event any franchise should be terminated, transferred, sold, forfeited, or revoked before its expiration date, the Grantee shall immediately submit to the City Clerk a financial statement showing the gross revenues of the Grantee for the time elapsed since the last quarter reported and which the Grantee has paid full to the Grantor the required percentage of revenues.

The Grantee shall pay to the Grantor not later than thirty (30) days following such termination, but prior to the expiration or lapse of its faithful performance bond, all fees due.

6-14-8.12 RIGHTS OF RECOMPUTATION. No acceptance of any payment or fee by the Grantor shall be construed as a release or as an accord and satisfaction of any claim the Grantor may have for further or additional sums payable as a franchise fee under this ordinance or for the performance of any other obligation of the Grantee. All amounts paid by the Grantee shall be subject to audit and recomputation by the Grantor or its agents.

6-14-8.13 SUBSCRIBER PAYMENTS. The Grantee may bill every cable service using a month as the chargeable period. The subscriber account is due and payable on or before the due date printed on the statement. Accounts with a balance remaining after the due date are considered delinquent. Accounts with delinquent balances are due "upon receipt." The Grantee may assess a late fee to all delinquent accounts.

Every statement, in clear and understandable language, citing the actual dollars amounts applicable, shall inform the subscriber of any possible delinquent charge or available discount.

6-14-8.14 SUBSCRIBER USAGE. The Grantee shall not limit the number of outlets a subscriber may install or may have installed or are within the chargeable unit nor shall the Grantee charge any additional monthly rate for any outlet.

If the subscriber elects to attach such monitors and equipment to his cable outlets as may significantly degrade the strength or quality of the cable transmission or signal within his premises, the subscriber shall have the responsibility to remedy such degradation.

In no event shall a subscriber allow his cable service be extended into any other dwelling or business or institutional unit without the express and prior approval of the Grantee.

6-14-8.15 SUBSCRIBER'S ANTENNA. The Grantee shall not require the removal, or provide an inducement for removal of any potential or existing subscriber's antenna as a condition for a cable service.

6-14-8.16 SWITCHING DEVICE. The Grantee upon request from any subscriber, shall install, at cost a switching device to permit a subscriber to continue to utilize the subscriber's television antenna. The Grantee shall not require the removal, or offer to remove, any subscriber's antenna lead-in wire.

6-14-8.17 PARENTAL CONTROL DEVICES. Grantee shall provide to subscribers, upon request, parental control devices that allow any channel or channels to be locked out. Such devices shall block both the video and the audio portion of such channels at all times to the extent that both are unintelligible. The lockout device described herein shall be made available to all subscribers requesting it beginning on the first day that any cable service is provided, without cost to the Subscriber.

6-14-8.18 NOTIFICATION TO CITY OF SERVICE INTERRUPTIONS. If requested by the Grantor, the Grantee shall promptly notify the City Clerk, in writing, or, if appropriate, by oral communication, of any significant interruption in the operation of the system. For the purposes of this section, a "significant interruption in the operation of the system" shall mean any interruption of sound or picture on one (1) or more channels a duration of at least one (1) hour to at least five (5) percent of the subscribers, or an interruption of sound or picture on at least one (1) or more channels initiated by the Grantee of at least four (4) hours to any single subscriber.

6-14-8.19 SUBSCRIBER CREDIT FOR SERVICE INTERRUPTION. Upon service interruption of subscriber's cable service, the following shall apply: For service interruptions of over four (4) hours and up to seven (7) days, the Grantee shall provide, at the subscriber's request, a credit of one-thirtieth (1/30) of one month's fees for affected services for each 24-hour period service is interrupted for four (4) or more hours for all affected subscribers.

6-14-8.20 PROGRAM GUIDE. The Grantee shall provide at no charge to the subscriber a program and channel guide which is updated weekly. The Grantor may fulfill this requirement by publishing a program and channel guide in a newspaper with a general circulation in the City of Preston.

6-14-8.21 CHANNEL GUIDE. The Grantee shall prepare and make available at no charge to the subscriber, an accurate and up-to-date channel and radio frequency guide listing the cable frequencies and channels of all FM, radio, television, signals, and service available over the cable system. The channel guide shall be distributed to every subscriber, at least once each year, and within forty-five (45) days after a change or addition in channels or frequency uses or services offered.

6-14-8.22 SERVICE TO PUBLIC BUILDINGS. The Grantee shall upon request, provide without charge, one outlet of basic service and expanded basic service to those public buildings which shall include, but are not limited to, the following locations:

1. Preston City Hall
2. Preston Public Library
3. Preston Fire Station
4. Preston Police Station
5. Preston Municipal Power Plant
6. Preston Community High School
7. Preston Elementary School
8. Preston Town Hall

The outlets shall not be used to distribute or sell services in or throughout such buildings. Users of such outlets shall hold the Grantee harmless from any and all liability or claims arising out of their use of such outlets, including but not limited to, those arising from copyright liability. If additional outlets are provided to such buildings, the building owner shall pay the usual installation fees associated there with, including, but not limited to labor and materials.

6-14-8.23 SALES AND SERVICES. If a shop-at-home or buying service delivered by the cable system results in any amounts received by or credited to the Grantee based on sales or as a portion of the profits generated from purchases made by a subscriber, such amounts shall be included in calculating gross revenues.

6-14-8.24 RESPONDENT SUPERIOR. Any contractor or subcontractor performing for the Grantee in the service area of this franchise, shall be deemed to be an agent of the Grantee, and the Grantee shall be responsible and liable for the acts of the contractor, subcontractor, and their employees while so performing for the Grantee.

6-14-9 SUBSCRIBERS PROTECTIONS

6-14-9.1 AVAILABILITY AND CONTINUITY OF SERVICES. All services offered by the Grantee shall be available to every subscriber insofar as the subscriber honors his financial and other obligations to the Grantee, except that the Grantor may designate that a particular service may or shall be restricted to a certain class of subscribers.

If the Grantee elects to overbuild, rebuild, modify, expand, sell or transfer the system, or if the Grantor revokes or declines to renew this franchise, the Grantee shall do everything in its corporate power to ensure that all subscribers receive continuous, uninterrupted services regardless of the circumstances. In the event of a change of Grantee, the then current Grantee shall cooperate with the City to operate the system for a temporary period, as determined by the local regulatory agent, in maintaining continuity of services to all subscribers.

Without the approval of the Grantor expressed by resolution, no Grantee or its successor, assignee, transferee, shall turn off the cable services system nor allow the system to be turned off by any other person. Any unapproved turnoff extending to forty-eight (48) hours shall subject this franchise to immediate revocation without any notice from the Grantor.

For any turnoff of a portion of the cable system or any failure to deliver services to a significant number of subscribers not otherwise specifically authorized by the City, nor otherwise designated by the City as an outage subject to adjustment or rebate, the Grantee shall be subject to a penalty in money, payable to the Grantor, of one hundred dollars (\$100.00) per day for each whole or part day that the services are not delivered.

Every television or syndicated program for which delivery shall have begun in the cable services delivery system shall be carried to its completion, except that a live presentation or an isolated, rare and unusual program carrying an announcement at the beginning of such program that it will be curtailed before completion, may be curtailed to allow another regularly scheduled program to begin on time. This provision shall not apply to a program curtailed by a broadcast network or station. A violation of this provision shall be treated as an outage.

Switching, whether automatic or otherwise, to and from signals, programs, and services shall be accomplished in such a manner that no signal, program, or service transmission shall be discontinued for more than five (5) seconds. Such switching in compliance with this provision shall not be considered an outage.

6-14-9.2 RENTAL PROPERTIES. No landlord shall unreasonably interfere with his tenant subscriber's right to purchase and receive a cable service if the lawful tenant shall request the installation of cable facilities to his rented premises, except that a landlord may require:

1. That the cable installation conform to such reasonable conditions as are necessary to protect the safety, functioning, and appearance of the premise, and the convenience and well-being of other tenants, if any,
2. That the tenant and the Grantee agree that the landlord shall not be financially liable for any charge for a cable installation requested by a tenant, and

3. That the tenant and Grantee agree to indemnify the landlord for any property damage caused by installation, operation, or removal of the cable facilities.

6-14-9.3 LOCAL OFFICE SERVICES. The Grantee throughout the duration of a franchise, shall maintain a business office

1. Which shall be located within the corporate limits of the City, and
2. Which shall have publicly listed telephone number, and
3. Which shall be reasonably accessible to the public, and
4. Which shall be open for business during normal business hours, and
5. Which shall be managed by a person who has full responsibility and authority to deal with and resolve local problems, and who is routinely available to handle subscriber complaints, and
6. Which shall maintain for inspection all reports and data required elsewhere herein, and
7. Which shall be so operated that written, telephonic, and personal inquires and complaints about types of services, personnel, connections disconnections, and charges and billings, may be received and responded to promptly during all business hours.
8. With a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, 7 days a week.

6-14-9.4 FCC CUSTOMER SERVICE STANDARDS.

1. SYSTEM OFFICE HOURS AND TELEPHONE AVAILABILITY. The Grantee will maintain a local, toll-free or collect call telephone access line which will be available to subscribers 24 hours a day, seven days a week, including holidays. Trained representatives of the Grantee will be available to respond to subscriber telephone inquiries during Normal Business Hours.

After Normal Business Hours, an access line will be available to be answered by a service or an automated response system, including a phone answering system. Inquiries received after Normal Business Hours must be responded to by a trained representative of the Grantee on the next business day.

Under Normal Operating Conditions, telephone answer time by a customer representative, including wait time, will not exceed 30 seconds when the connection is made. If the call needs to be transferred, transfer time will not exceed 30 seconds. These standards will be met no less than 90 percent of the time under Normal Operating Conditions, as measured by the Grantee on a quarterly basis.

The Grantee shall not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards set forth unless a historical record of complaints indicates a clear failure to comply with such standards.

Under Normal Operating Conditions, the subscriber will receive a busy signal less than 3 percent of the time.

Customer billing payment location will be open at least during Normal Business Hours and will be conveniently located in Preston, Iowa.

The local office shall provide a customer service drop box to be located within Preston city limits for the after hours payment of monthly bills.

2. INSTALLATION, OUTAGES, AND SERVICE CALLS. Under Normal Operating Conditions, each of the following four standards will be met no less than 95 percent of the time, as measured by the Grantee on a quarterly basis:

a. Standard installation will be performed within seven business days after an order has been placed. "Standard" installations are those that are located up to 150 feet from the existing distribution system.

b. Excluding normal operating conditions, beyond its control, the Grantee will begin working on service interruptions, as defined herein, promptly and in no event later than 24 hours after the interruption becomes known. The Grantee will begin actions to correct other service problems the next business day after notification of the service problem.

c. The Grantee will provide "appointment window" alternatives for installations, service calls, and other installation activities, which will be either a specific time or, at maximum, a four-hour time block during normal business hours.

d. The Grantee shall not cancel an appointment with a subscriber after the close of business on the business day prior to the scheduled appointment. If a representative of the Grantee is running late for an appointment with a subscriber and will not be able to keep the appointment in Preston as scheduled, the subscriber will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the subscriber.

3. COMMUNICATIONS BETWEEN GRANTEE AND SUBSCRIBER.

a. Notifications to subscribers:

b. The Grantee shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:

- (1) products and services offered;
- (2) prices and options for services and conditions of subscription to programming and other services;
- (3) installation and service maintenance policies;
- (4) channel positions of programming carried on the system, and;
- (5) billing and complaint procedures, including the address and telephone number of the local Franchising Authority's cable office.

c. Subscribers will be notified of any changes in rate, programming services or channel positions as soon as possible and in writing. Notice will be given to subscribers a minimum of 30 days in advance of such changes if the change is within the control of the Grantee. In addition, the Grantee shall notify subscribers 30 days in advance of any significant changes in the other information required by the proceeding paragraph.

4. BILLING

Bills will be clear, concise and understandable. Bills will be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebate and credits.

In case of a billing dispute, the Grantee will respond to a written complaint from a subscriber within 30 days from receipt of the complaint.

Refund checks will be issued promptly, but no later than either, (i) the subscriber's next billing cycle following resolution of the complaint or 30 days, whichever is earlier, or (ii) the return of the equipment supplied by the Grantee if service is terminated.

Credits for service will be issued no later than the subscriber's next billing cycle following the determination that a credit is warranted.

6-14-9.5 REFUNDS TO SUBSCRIBERS. If the Grantee fails to provide any material service requested by a subscriber in accordance with the current FCC standards, the Grantee shall, after adequate notification and being afforded the opportunity to provide the service, promptly refund all deposits or advance charges paid for the service in question by the subscriber. If any subscriber terminates service for any other reason, the Grantee shall refund the unused portion of any prepaid subscriber service fee on a daily pro rata basis.

6-14-9.6 SUBSCRIBER COMPLAINT PROCEDURES. The Grantee, with the consent of the Grantor, shall adopt, publish, and implement subscriber complaint procedures which are designed to:

1. Detect and correct defects and failures in the delivery of cable services,
2. Speedily and satisfactorily resolve subscriber complaints,
3. Develop the local managers sensitivity and positive response to subscriber needs,
4. Improve the quality and delivery of cable services,
5. Produce an accurate record of all subscriber complaints received at the local office and actions taken to correct such,
6. Provide a basis for evaluating the Grantee's performance.

The Grantor shall regularly review the subscriber complaint procedures and provide an appeal forum for subscribers whose complaints were unresolved by the Grantee.

The Grantee shall be obligated to speedily, positively, and satisfactorily resolve reasonable subscriber complaints. Failure to do so shall be a material violation of this ordinance and may subject the Grantee to revocation procedures.

The video terminal used by the Grantor to test reception at a subscriber's outlet shall be comparable to the equipment ordinarily used by subscribers in this system.

Technical or manpower limitations shall not be an excuse for failure or lateness to correct a complained-of problem.

If, in response to a subscriber complaint, any employee or agent of the Grantee shall recommend that the complained of problem could be resolved by repairs to subscriber owned equipment, and if a qualified and licensed television or electronic repairman shall certify in writing that such recommended repairs are or were not necessary to resolve the complaint, the Grantee shall reimburse the subscriber for any and all expenses incurred seeking such repairs, no later than the next billing date for that subscriber.

The Grantee, at its expense, shall prepare and distribute a notice, to each subscriber each year between the first and seventy-fifth day of the calendar year, and to each new subscriber within fifteen (15) days of his initial payment to the Grantee, containing full disclosure in clear and understandable language of all the procedures for filing, referring, or appealing any complaint about cable services or matters, including the procedures adopted by the local regulatory agent, and the Grantee's procedures for responding to complaints.

6-14-9.7 SUBSCRIBER PRIVACY. Neither the Grantee, nor any other person, agency, or entity shall arrange for or permit the tapping of any subscriber tap, cable, line, signal output device, subscriber outlet or receiver for any purpose whatsoever.

Neither the Grantor, nor any other person, agency, or entity shall monitor, or arrange for or permit the monitoring of any subscriber tap, cable, line, signal input device, or subscriber outlet or receiver without prior written valid authorization from each subscriber so affected, except that the Grantee may scan all and only all subscribers for unauthorized reception of service or for the total number of unidentified subscribers using a service at a given time. Any request for authorization to monitor shall be made available to the authorizing subscriber in understandable fashion, and shall never be a condition, nor even have the appearance of being a condition, for the reception of any cable service. Before the Grantee monitors or allows any monitoring of a cable delivered service, at its own expense, it shall provide the affected subscriber a signaling device which informs the subscriber when his use of a cable service is being monitored.

Nothing in this subsection shall be construed to prohibit the subscriber's voluntarily sending, and the Grantor's receiving, upstream signals as part of a cable service specifically designed, and so understood by the subscriber, for the purpose of the subscriber's voluntarily and knowingly sending upstream messages or signals.

The Grantee shall not sell or otherwise make available any list, in whole or part, or cable subscribers, past or current, subscription list and distribution shall have been specifically authorized by the local regulatory agent expressed by resolution, after a public hearing which shall be announced by written notice published at the Grantee's expense, not less than one three (3) separate dates in a newspaper of general circulation in the community at least ten (10) days before the date of the hearing. Any such subscriber list shall be limited to names and addresses only, and shall not indicate any specific type of service received by any individual, nor shall any subscriber's viewing habits, nor any specific amount of monies paid by any individual subscriber, nor any classification or characterization of an individual subscriber, nor any personal data supplied to the Grantee by the subscriber, be so revealed.

6-14-9.8 DISCRIMINATORY OR PREFERENTIAL PRACTICES. The Grantee shall not, in making available the services or facilities of its system, or in its rules or regulations, or in any other manner, make or grant preferences or advantages to any subscriber or potential subscriber, or to any user or potential user, and shall not subject any person to any prejudice or disadvantage, based on their race, color, national origin or gender. This provision shall not prohibit promotional campaigns to stimulate subscriptions to the system or other legitimate uses thereof, nor the establishment of a graduated scale of charges and classified rate schedules to which any subscriber coming within such classification shall be entitled.

6-14-10 MISCELLANEOUS PROVISIONS

6-14-10.1 FAILURE TO ENFORCE. The Grantor's failure to enforce any provision of this ordinance or to exercise any lawfully held right or privilege shall not operate against the city nor diminish its powers, rights, or duties, nor shall such excuse or relieve the Grantee's noncompliance.

6-14-10.2 REDUCED RATE STRUCTURES FOR NONCOMPLIANCE. In the event that the Grantor believes that the Grantee has not complied with the terms of this chapter, it shall notify the Grantee in writing of the exact nature of the alleged noncompliance. The Grantee shall have 30 days from receipt of the notice described in this Section to:

1. Respond to the Grantor, contesting the assertion of noncompliance, or,
2. To cure such default, or,
3. In the event that, by the nature of default, such default cannot be cured within the 30 day period, initiate reasonable steps to remedy such default and notify the Grantor of the steps being taken and the projected date that they will be completed.

In the event that the Grantee fails to respond to the notice described in this Section or in the event that the alleged default is not remedied within 30 days or the date projected pursuant to (c) above, the Grantor shall schedule a public hearing to investigate the default. The Grantor shall notify the Grantee in writing of the time and place of such meeting no less than five business days in advance and provide the Grantee with an opportunity to be heard.

If after notice and opportunity for hearing, the Grantor determines that the Grantee is not in complete compliance with all the provisions of this cable services regulatory ordinance, the Grantee shall reduce the rate for the basic tier of cable service by twenty-five percent (25%) until such time that the Grantor has been satisfied that the Grantee is in compliance of all the provisions of this cable services regulatory ordinance.

6-14-10.3 CONSTRUCTION DEPOSIT. Upon the effective date of this ordinance, the Grantee shall, at its option,

1. Deposit in a local banking or financial institution acceptable to the City, the amount of fifteen thousand dollars (\$15,000.00) in cash, or
2. Deliver to the City Clerk, a properly executed bond in a form and with the content acceptable to the City Clerk, in the amount of fifteen thousand dollars (\$15,000.00).

Said cash or bond or replacements shall remain on deposit throughout the construction period as defined by the Grantor and until released by the Grantor, and shall be used to pay any sanction, lien, or tax levied by the Grantor, for the Grantee's failure to perform by all the provisions of any franchise governed by this ordinance or to comply with all orders, permits, and directions of any agent of the Grantor having jurisdiction over the acts or defaults of the Grantee under this ordinance, which arise by reason of the construction of the system. Amounts sufficient to pay charges against this Construction Deposit shall be withdrawn by the Grantor from the account established for the Construction Deposit. Within thirty (30) days after notice to it that any amount has been withdrawn from the Construction Deposit or withdrawn from the bond, the Grantee shall show proof to the Grantor that an amount equal to the amount of this withdrawal has been deposited into the account established for that purpose, or that the bond has been amended so that the withdrawn balance on deposit shall be no less than fifteen thousand dollars (\$15,000.00). The interest on this account will accrue to the benefit of the Grantee. No costs associated with deposit shall be passed on to the subscriber. This section shall not apply to an incumbent Grantee whose system is operational at the time this ordinance is enacted.

6-14-10.4 FAITHFUL PERFORMANCE BOND. Upon the effective date of this ordinance, the Grantee shall post, furnish proof of the posting to the City Clerk, and maintain throughout the term of this franchise, and any extension or renewal thereof, and any period thereafter while any portion of the Grantee's system shall remain in place, such surety as the Grantor may approve or a faithful performance bond running to the City, with sureties or guarantee approved by the City Clerk, in the penal sum of one hundred thousand dollars (\$100,000.00) conditioned that the Grantee shall well and truly observe, fulfill, and perform each term and condition of this franchise and all regulations thereof lawfully authorized and adopted by the Grantor or its agent, and upon the further condition that in the event the Grantee shall fail to comply with any law, ordinance, or regulation governing this franchise, and that in case of any breach of condition of the bond, there shall be recoverable jointly and severally from the principal and surety of the bond, by the Grantor for any damages or loss suffered by the City resulting from the failure of the Grantee to well and truly observe and perform any provision of this franchise, including the full amount of any compensation,

indemnification, or cost of removal of abandonment of any property of the Grantee, plus a reasonable allowance for attorney's fees and costs, and shall include the reasonable costs and expenses of any services rendered by the Grantor's attorneys, and their assistants, or any employee or agent of the Grantor, up to the full amount of the bond.

6-14-10.5 VIOLATIONS AND PENALTIES. If the Grantee fails to comply with the requirements of this cable service regulatory ordinance, then the City may invoke and secure compliance in accordance with Chapter- Municipal Infractions-of the City Code of Ordinances for the City of Preston, Iowa and as authorized by Section 364.22 of the Code of Iowa.

6-14-10.6 SECURITY FUND. - TRANSFER OF THE SYSTEM

1. Within ten (10) days after transfer of the cable system the Grantee shall deposit with the City Clerk, and maintain on deposit through the remaining term of the transferred franchise, the sum of \$10,000.00 as security for the faithful performance by it of all the provisions of this franchise and compliance with all orders, permits, and directions of any agency of the City having jurisdiction over its act or defaults under the contract governed by this ordinance, and the payment by the Grantee of any claims, liens, and taxes due the City which arise by reason of the construction, operation, or maintenance of the system.

2. Within ten (10) days after notice that any amount has been withdrawn from the security fund deposited pursuant to subdivision (A) of this section, the Grantee shall pay to, or deposit with, the City Clerk a sum of money of \$10,000.00.

3. If the Grantee fails to pay to the City any compensation within the time fixed herein; or fails after ten (10) days notice to pay to the City taxes due and unpaid; or fails to repay to the City within such ten (10) days, any damages, costs, or expenses which the City shall be compelled to pay by reason of any act or default of the Grantee in connection with this franchise; or fails after three (3) days notice of such failure by the City Council reasonably determines can be remedied by an expenditure of the security, the City Clerk may immediately withdraw the amount thereof, with interest and any penalties, from the security fund. Upon such withdrawal, the City Clerk shall notify the company of the amount and date thereof.

4. The security fund deposited pursuant to this section shall become the property of the City in the event that the transferred franchise is cancelled by reason of the default of the Grantee. The Grantee, however, shall be entitled to the return of such security fund, or portion thereof, as remains on deposit at the expiration of the term of this franchise, provided that there is then no outstanding default on the part of the Grantee. Interest earned by the investment of the security fund will accrue to the Grantee.

5. The rights reserved to the City with respect to the security fund are in addition to all other rights of the City, whether reserved by this franchise or authorized by law, and no action, proceeding, or exercise of a right with respect to such security fund shall affect any other right the City may have.

6. This Section shall not apply to the incumbent Grantee and shall only apply to grantees who may acquire the cable system in Preston from the incumbent Grantee, unless such requirement is waived by a written resolution of the Grantor.

6-14-10.7 LIABILITY AND INDEMNIFICATION. The Grantee shall indemnify and save the Grantor harmless from and against any and all claims, suits, actions, penalties, damages, and causes of action arising during the term of this franchise, and any extension or renewal thereof, and any period while any portion of the Grantee's system is in place within the service area, for any bodily injury, loss of life, or damage to property, sustained by any person, firm, corporation, other business entity, or the City:

1. As a result of the construction, operation, maintenance, or reconstruction of the cable services system by the Grantee, and

2. Arising out of copyright infringements or defamation, and

3. For the failure by the Grantee to keep, maintain, and abide by each and every covenant of this contract on its part to be kept and performed, and

4. As a result of any negligence, act, error, or omission of the Grantee, its employees, or agents, and

5. Imposed or claimed against the Grantor by virtue of the execution of this franchise, and

6. For the costs, attorney fees, expenses, and liabilities incurred by the Grantor in and about such claim, suit, action, penalty, damage, or cause of action, the investigation thereof, or the defense of any action or proceeding brought thereon, and from and against any orders, judgements, or decrees which may be imposed therein or as a result thereof.

The Grantee shall specifically defend or subrogate, at the Grantor's option, any action or proceeding brought against the City as a result of any of the matters enumerated in this franchise, at the Grantee's sole cost and expense. The Grantor shall cooperate with the Grantee in the defense of such claims.

The Grantee shall maintain throughout the term of its franchise, any extension or renewal thereof, and while any portion of the Grantee's system is in place within the service area, general liability insurance insuring both the Grantee and the Grantor with regard to all damages mentioned in this section in the minimum amount of one million dollars (\$1,000,000.00).

Upon effective date of this ordinance, the Grantee shall furnish proof to the City Clerk that a satisfactory insurance policy has been issued by a company acceptable to the City Clerk authorized and qualified to do business in the State of Iowa. Such insurance policy:

a. shall be subject to approval of the City Clerk/Administrator or Mayor, and such approval shall not be unreasonably withheld.

b. shall name the City as an additional insured,

c. shall contain a provision that a written notice of cancellation or material change in the policy shall be delivered to the City Clerk thirty (30) days in advance of the effective date thereof, and

d. shall be filed with the City Clerk within ninety (90) days after the execution of a franchise regulated by this ordinance.

A cancellation or lapse of such policy without immediate approved replacement, shall be a material violation of this contract and shall be immediate grounds for revocation of this franchise without further notice, other revocation provisions of this franchise notwithstanding.

6-14-10.8 FORECLOSURE. A foreclosure or other judicial sale of all or part of the system shall be treated as a change in control of the Grantee and the provision of Section 6-10-4.4 of this Ordinance shall apply.

6-14-10.9 RECEIVERSHIP. The City shall have the right to cancel a franchise governed by this ordinance one hundred twenty (120) days after the appointment of a receiver or trustee, to take over and conduct the business of the Grantee, whether in receivership, reorganization, bankruptcy, or other action or proceedings, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) days, or less:

1. Within one hundred twenty (120) days after being elected or appointed, such receiver or trustee shall have fully complied with all provisions of this ordinance and remedied all defaults thereunder; and

2. Shall have executed an agreement, approved by the court having jurisdiction, whereby such receiver or trustee agrees to be bound by this chapter and the franchise granted to the Grantee.

6-14-10.10 PUBLICATION OF NOTICE. Whenever the provisions of this Chapter require that notice be published, such notice shall be prepared and published by the City. The cost of publication will be borne by the Grantee.

6-14-10.11 COST OF PUBLICATION. The Grantor shall assume the costs of publication of this Chapter, the costs of any other legal publication for amendments to this Chapter. Prior to franchise award the Grantee shall pay the costs of publication of any franchise ordinance or legal documents prior to franchise award, and the costs of the special election. The Grantee seeking renewal shall assume the costs of publishing a franchise ordinance governed by this ordinance.

6-14-10.12 TAXES. Subject to Federal and State law, the Grantee shall pay all real estate taxes, special assessments, personal property taxes, license fees, permit fees and other charges of a like nature which may be taxed, charged, assessed, levied, or imposed upon the property of the Grantee and upon any services rendered by the Grantee.

6-14-10.13 NO RECOURSE. The Grantee shall have no recourse whatsoever against the Grantor for any loss, cost, expense, or damage arising out of any provision or requirement of this ordinance or its regulation, or any other ordinance authorized herein, or from the Grantor's exercise of its authority to grant additional franchises. This shall not include negligent acts of the City, its agents or employees which are performed outside the regulatory or franchise awarding authority hereunder.

6-14-10.14 SEVERABILITY. If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the invalidity does not effect other provisions or applications of this ordinance which can be given effect without the invalid provision herein for loss of benefit, and to this end and extent the provisions of this ordinance are severable.

If any provision of this ordinance or franchise regulated by this ordinance becomes invalid and results in a significant loss of benefit to the Grantor or Grantee or both, as determined by either party, the party claiming the loss may demand renegotiation.

Such a demand for renegotiation must be made and delivered to the other party within one (1) year after the date both Grantor and Grantee have received notice of the invalidity. Within fifteen (15) days of receipt of such a demand, both Grantor and Grantee must meet in Preston, Iowa and begin the renegotiations. The renegotiations shall be limited to reforming the franchise and restoring the party suffering the loss to its former position with equivalent benefit.

The reformed ordinance or franchise shall be effective from the date the debilitating invalidity took place, even if such reformation is retroactive and involves a settlement for loss of past services.

The purpose of this section is to maintain the continuity of the contract in conformity with the expressed intentions of the parties when the contract was formed and later amended.

6-14-10.15 NOTICES. Notices to the Grantor shall be sent by registered or certified mail as follows:

City Clerk
City of Preston
Preston City Hall
Preston, Iowa 52069

Special Footnote: The City and Telnet agreed to delete the following section from the Preston Cable Services Franchise that was adopted in 1983 with the understanding the City will have the

option of considering this section during the next franchise renewal. This section was 6-10-4.14 in the 1983 Ordinance and reads:

6-14-10.16 DEREGULATION. If any federal or state power, authority, or jurisdiction over the cable services system is deregulated, withdrawn, or reduced, the Grantor shall have the option to exercise such power, authority, or jurisdiction over the Grantee to the extent such was otherwise exercisable at the time this franchise became effective.

If at any time, the powers, or duties of the Grantor or any agent or official of the City are transferred by law to any other board, authority, agent, or official, then such other entity shall have the powers, rights, and duties previously vested under the franchise in the Grantor

TITLE VI, PHYSICAL ENVIRONMENT

CHAPTER 15, FLOOD PLAIN MANAGEMENT

6-15-1	Purpose & Authority	6-15-5	Administration
6-15-2	General Provisions	6-15-6	Non-Conforming Uses
6-15-3	Establishment of Flood Plain District	6-15-7	Penalties for Violation
6-15-4	Standards for Flood Plain District	6-15-8	Definitions

6-15-1 PURPOSE AND AUTHORITY. The legislature of the State of Iowa has, in Chapter 414, Code of Iowa, as amended, delegated the powers to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.

1. The flood hazard areas of Preston are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare of the community.

2. These flood losses, hazards, and related adverse effects are caused by:

a. The occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and,

b. The cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.

3. It is the purpose of this Ordinance to protect and preserve the rights, privileges and property of Preston and its residents and to preserve and improved the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in this Ordinance with provisions designed to:

a. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities.

b. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.

c. Protect individuals from buying lands which may not be suited for intended purposed

because of flood hazard.

d. Assure that eligibility is maintained for property owner in the community to purchase flood insurance through the National Flood Insurance Program.

6-15-2 GENERAL PROVISIONS

1. Lands to Which Ordinances Apply. The provisions of this Ordinance shall apply to all lands within the jurisdiction of the City of Preston which are located within the boundaries of the Flood Plain District as established in Section 6-16-3.

2. Rules for Interpretation of Flood Plain District. The boundaries of the Flood Plain District areas shall be determined by scaling distance on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the City Administrator shall make the necessary interpretation. The Preston City Council shall hear and decide and appeal when it is alleged that there exists an error in requirement, decision, or determination made by the City Administrator in the enforcement or administration of this Ordinance.

3. Compliance. No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance.

4. Abrogation and Greater Restrictions. It is not intended by this Ordinance to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

5. Interpretation. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

6. Warning and Disclaimer of Liability. The standards required by this Ordinance are considered reasonable for regulatory purposes. This Ordinance does not imply that areas outside the designated Flood Plain District areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of Preston or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

7. Severability. If any section clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

6-15-3 ESTABLISHMENT OF FLOOD PLAIN DISTRICT. The areas within the

jurisdiction of the City of Preston having special flood hazards are hereby designated as a Flood Plain District and shall be subject to the standards of the Flood Plain District. The Flood Plain District boundaries shall be as shown on the National Flood Insurance Rate Map (FIRM) for the City of Preston.

6-15-4 STANDARDS FOR FLOOD PLAIN DISTRICT. All uses must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where 100-year flood data has not been provided in the FIRM, the Department of Natural Resources shall be contacted to compute such data.

1. All development within the Flood Plain District shall:
 - a. Be consistent with the need to minimize flood damage.
 - b. Use construction methods and practices that will minimize flood damage.
 - c. Use construction materials and utility equipment that are resistant to flood damage.
 - d. Obtain all other necessary permits from federal, state and local governmental agencies including approval when required from the Iowa Department of Natural Resources.

2. Residential buildings. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the 100 year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one (1) foot above the 100 year flood level and extend at such elevation as least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating, such as piers, may be allowed subject to favorable consideration by the City Council, where topography, street grades, or other factors support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures shall be provided with a means of access which shall be passable by wheeled vehicles during a 100 year flood event.

3. Non-residential buildings. All new or substantially improved non-residential buildings shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the 100 year flood level, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods use are adequate to withstand the flood depths, pressures, velocities, impact, and uplift forces and other factors associated with the 100 year flood event; and that the structure, below the 100 year flood level is watertight with wall substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (related to National Geodetic Vertical Datum) to which any structures are floodproofed, shall be maintained by the Administrator.

4. All new and substantially improved structures shall have fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be certified by a register engineer or meet or exceed the following minimum criteria:

- a. A minimum of two openings having a total net area of not less than one square inch for every foot of enclosed area subject to flooding shall be provided.
- b. The bottom of all openings shall be no higher than one foot above grade.
- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

5. New and substantially improved structures must be designed and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

6. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

7. Factory Built Homes.

- a. All factory built homes, including those placed in existing factory built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100 year flood level.

- b. All factory built homes, including those placed in existing factory built parks or subdivisions, shall be anchored to resist flotation, collapse or lateral movement. The following specific requirements (or their equivalent) shall be met:

- (1) Over the top ties shall be provided at each of the four corners of the factory built home, with two (2) additional ties per side at intermediate locations and factory built homes less than fifty (50) feet long requiring one (1) additional tie per side;

- (2) Frame ties shall be provided at each corner of the home with five (5) additional ties per side at intermediate points and factory built homes less than fifty (50) feet long requiring four (4) additional ties per side;

- (3) All components of the anchoring system shall be capable of carrying a force of 4800 pounds.

- (4) Any additions to factory built homes shall be similarly anchored.

8. Utility and Sanitary Systems:

- a. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

- b. All new and replacement sanitary sewage systems shall be designed to minimize infiltration of flood waters into the system as well as the discharge of effluent into flood water.

Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal or greater than one (1) foot above the 100 year flood elevation.

c. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood water into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one (1) foot above the 100 year flood elevation.

d. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

9. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100 year flood level. Other material and equipment must either be similarly elevated so it is not subject to major flood damage and be anchored to prevent movement due to flood waters, or it must be readily removable from the area within the time available after flood warning.

10. Flood control structural works, such as levees, flood walls shall provide, at a minimum, protection from a 100 year flood level with a minimum of three (3) feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.

11. Watercourse alterations or relocations must be designed to maintain the flood within the altered or relocated portion.

12. Subdivisions shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals shall meet the applicable performance standards of this Ordinance. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by a wheeled vehicle during the 100 year flood. Proposals for subdivision greater than five (5) acres or fifty (50) lots, whichever is less, shall include 100 year flood elevation data for those areas located within the Flood Plain District.

13. Accessory Structures:

a. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 100 year flood elevation requirements where the following criteria are met:

(1) The structure shall not be used for human habitation.

(2) The structure shall be designed to have low flood damage potential.

(3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

(4) The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.

(5) The structure's service facilities such as electrical and heating equipment shall be elevated or flood proofed to at least one (1) foot above the 100 year flood level.

b. Exemption from the 100 year flood elevation requirements for such a structure may result in increase premium rates for flood insurance coverage of the structure and its contents.

14. Recreational Vehicles.

a. Recreational vehicles are exempt from the requirements of this Ordinance regarding anchoring and elevation of factory built homes when the vehicle shall be located on the site for less than 180 consecutive days, and the vehicle is fully licensed and ready for highway use.

b. Recreational vehicles that are located on the site for more than 180 consecutive days and are not ready for highway use must satisfy requirements of 6-15-4.7 of this Ordinance regarding anchoring and elevation of factory built homes.

15. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation or meandering.

6-15-5 ADMINISTRATION

1. Appointment, Duties and Responsibilities of Administrator.

a. The City Administrator is hereby appointed to implement and administer the provisions of this Ordinance and will hereinafter be referred to as the Administrator.

b. The duties of the Administrator shall include, but not limited to the following:

(1) Review all flood plain development permit applications to assure that the provisions of this Ordinance will be satisfied.

(2) Review flood plain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies including approval when required from the Department of Natural Resources for flood plain construction.

(3) Record and maintain a record of the elevation of the lowest floor (including basement) of all new or substantially improved structure in the Flood Plain District.

(4) Record and maintain a record of the elevation to which all new or substantially improved structures have been floodproofed.

(5) Notify adjacent communities and the DNR prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency (FEMA).

(6) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this Ordinance.

2. Flood Plain Development Permit.

a. Permit Required - A Flood Plain Development Permit issued by the Administrator shall be secured prior to any flood plain development including the placement of factory-built homes.

b. Application for Permit - Application shall be made on forms furnished by the

Administrator and shall include the following:

- (1) Description of the work to be covered by the permit for which the application is made.
- (2) Description of the land on which the proposed work is to be done that will readily identify and locate the work to be done.
- (3) Indication of the use or occupancy for which the proposed work is intended.
- (4) Elevation of the 100 year flood.
- (5) Elevation of the lowest floor (including basement) of buildings or of the level to which a building is to be floodproofed.
- (6) For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to improvements.
- (7) Such other site information as the Administrator deems reasonably necessary for the purpose of this Ordinance.

3. Variance.

a. The City Council may authorize upon request in specific cases such variances from the terms of this Ordinance that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship. Variances granted must meet the following applicable standards.

(1) Variance shall only be granted upon a showing of good and sufficient cause and a determination that failure to grant the variance would result in exceptional hardship to the applicant as long as the variance would not result in increase flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

(2) Variances shall not be issued within any designated floodway if any increase in flood levels during the 100 year flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption than an equal degree of development would be allowed for similarly situated lands.

(3) Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this Ordinance, the applicant shall be notified in writing by the Administrator that the issuance of the variance will increase premium rates for flood insurance and that such construction increases risks to life and property.

b. Factors Upon Which the Decision of the Council Shall be Based - In passing upon applications for variances, the Council shall consider all relevant factors specified in other sections of the Ordinance and:

(1) The danger to life and property due to increased flood heights or velocities caused by encroachments.

(2) The danger that materials may be swept on to other land or downstream to the injury of others.

(3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

- (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (5) The importance of the services provided by the proposed facility to the City.
- (6) The requirements of the facility for a flood plain location.
- (7) The availability of alternative locations not subject to flooding for the proposed use.
- (8) The compatibility of the proposed used to the comprehensive plan and flood plain management program for the area.
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood water expected at the site.
- (11) The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities, facilities, streets, and bridges.
- (12) Such other factors which are relevant to the purposes of this Ordinance.

c. Conditions Attached to Variances - Upon consideration of the factors listed above, the Council may attach such conditions to the granting of variances as it deems necessary to further the purpose of this Ordinance. Such conditions may include, but not necessarily be limited to:

- (1) Modification of waste disposal and water supply facilities
- (2) Limitation of periods of use and operation.
- (3) Imposition of operation controls, sureties, and deed restrictions.
- (4) Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the DNR and are deemed the only practical alternative to achieving the purpose of this Ordinance.
- (5) Floodproofing measures.

6-15-6 NONCONFORMING USES

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance, but which is not in conformity with the provisions of this Ordinance, may be continued subject to the following conditions:

- a. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this Ordinance.
- b. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty percent (50%) of the market value of the structure before the damage occurred, except unless it is reconstructed in conformity with the provisions of this Ordinance. This limitation does not include the cost of any alteration to comply with the existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

6-15-7 PENALTIES FOR VIOLATION. Violations of the provisions of this Ordinance or failure to comply with any of the requirements shall constitute a municipal infraction subject to the penalties invoked in 1-3-1 and 2 of this Ordinance. Nothing herein contained shall prevent the City of Preston from taking such other lawful action as may be necessary to prevent or remedy violation.

6-15-8 DEFINITIONS. Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

1. "Base Flood" means a flood having one percent (1%) chance of being equaled or exceeded in any given year.

2. "Basement" means any enclosed area of a building which has its floor or lowest level below ground level on all sides.

3. "Development" means any man-made change to improved or unimproved real estate, including but not limited to, building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

4. "Existing Construction or Structure" means any structure for which the "start of construction" commenced before the effective date of the community's Flood Insurance Rate Map.

5. "Factory Built Home" means any structure, designed for residential use, which is wholly of in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. In this Ordinance, factory built homes shall also mean mobile homes, manufactured homes, and modular homes as well as recreational vehicles placed on a site for more than 180 consecutive days and not fully licensed and ready for highway use.

6. "Flood" means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

7. "Flood Elevation" means the elevation floodwaters would reach at a particular site during the occurrence of a specific flood.

8. "Flood Insurance Rate Map (FIRM)" means the official map prepared as part of, but separately published from, the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

9. "Flood Plain" means any land area susceptible to being inundated by water as a result of a flood.

10. "Flood Plain Management" means an overall program of corrective and preventative measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, floodproofing and flood plain management regulations.

11. "Floodproofing" means any combination of structural and nonstructural additions, changes or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.

12. "Floodway" means the channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to carry and discharge flood waters so that the confinement of flood waters to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.

13. "Floodway Fringe" means those portions of the flood plain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.

14. "Lowest Floor" means:

a. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of this Ordinance.

b. The enclosed area is unfinished (not carpeted or drywalled) and used solely for low damage potential uses such as building access, parking or storage.

c. Machinery and service equipment such as water heater, furnace, electrical service contained in the enclosed area are located at least one (1) foot above the 100 year flood level.

d. The enclosed area is not a "basement" as defined in this section.

15. "New Construction" means those structures or developments for which the start of construction commenced on or after the effective date of the Flood Insurance Rate Map.

16. One Hundred (100) Year Flood means a flood, the magnitude of which has a one percent (1%) chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every one hundred (100) years.

17. "Recreational Vehicle" means a vehicle built on a single chassis with four hundred (400) square feet or less of interior space designed to be self-propelled or permanently towable and intended for use as temporary living quarters while camping, travelling, or seasonal use.

18. "Special Flood Hazard Area" means the land within a community subject to the 100 year flood and is identified as Zone A on the FIRM.

19. "Structure" means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, factory built homes, storage tanks,

and other similar uses.

20. "Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its condition before damage would exceed fifty percent (50%) of the market value of structure before the damage occurred.

21. Substantial Improvement" means:

a. Any repair, reconstruction, or improvement of a structure, the cost of which exceeds fifty percent (50%) of the market value of the structure prior to the improvement or repair. This does not include any project for improvement to comply with existing state or local health, sanitary, or safety code requirements to assure safe conditions for existing use.

b. Any addition which increases the original floor area of the structure by twenty five percent (25%) or more. Any additions constructed after March 1, 1994 shall be added to this proposed addition in computation of the total increase in original floor area.

TITLE VI, PHYSICAL ENVIRONMENT

CHAPTER 16, TERRACE AND DRIVEWAY REGULATIONS

6-16-1	Purpose	6-16-4	Alley Repair
6-16-2	Definitions	6-16-5	Terrace Repair
6-16-3	Driveways - Existing	6-16-6	New Street Projects

6-16-1 PURPOSE. The purpose of this chapter is to provide a uniform and consistent procedure for removal, repair, replacement, or restoration of driveways, terraces, and alleys.

6-16-2 DEFINITIONS. As used in this chapter, the following terms have these meanings:

1. "Curb Line" means the back or outside edge of a concrete curb and gutter or the outside edge of surfaced or travelled portion of a street without curb and gutter.

2. "Terrace" means the area of street right-of-way between a sidewalk, or property line where there is no sidewalk, and the curb line.

3. "Driveway" means the surface area of the terrace suitable for vehicular access to a street.

6-16-3 DRIVEWAYS - EXISTING The City will furnish suitable gravel with transportation for repair when necessary or will remove material from the driveway in preparation for asphaltic or portland concrete surfacing. Hard surface installation will be at the sole expense of the adjoining property owner.

6-16-4 ALLEY REPAIR The City will furnish gravel with transportation at requesting or adjoining property owner expense. Quarry cost for the gravel will be paid directly to the quarry. Any repair or restoration must not alter surface water movement in or along the alley. Rock will be provided to alleys only if they are extremely bad (this is based on the city employee's discretion), otherwise, it will be the homeowner's responsibility.

(Amended during 2021 codification)

6-16-5 TERRACE REPAIR The City will furnish suitable gravel with transportation for repair when necessary. If requested by adjoining property owner, quarry cost for the gravel will be paid by the property owner directly to the quarry. Any repair or modification in the terraces must not alter surface water movement in or along the streets.

6-16-6 NEW STREET PROJECTS When a street is being reconstructed or resurfaced, the City will furnish material and labor to restore existing driveways. A property owner wishing to upgrade a driveway at that time shall do so at his own expense except that the City shall provide fill sand.

TITLE VI, PHYSICAL ENVIRONMENT

CHAPTER 17, SUMP PUMP DRAINAGE

6-17-1 Sump Pump Drainage

6-17-1 SUMP PUMP DRAINAGE. It is unlawful for the owner of any property to discharge sump pump drainage in the sanitary sewer system. It is further unlawful for the owner of any property abutting a public way to allow a sump pump to discharge line to drain on to the street or alley except as provided for by the following sub-sections:

1. Except as hereafter provided, existing sump pump discharge lines that drain on to a public street or alley, may be allowed to continue draining to the street or alley contingent upon the Public Works Director issuing a Permit to discharge on to a public street if, in the opinion of the Public Works Director, a) the public storm sewer or collection line is not within a reasonable proximity to the property; b) the discharge does not create a traffic or pedestrian hazard; and c) there is adequate surface draining capacity available.

2. The Public Works Director (Council Committee Members) may revoke the Permit for violation of the Section or for any other reason which, in the Street Superintendent's sole discretion, adversely affect the health or safety of the citizens or becomes a public nuisance. The revocation shall be effective within ten days from the date notice is served on the owner personally or by certified mail, return receipt.

3. Any person found to be violating any provision of this ordinance shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall have 30 days to permanently cease all violations. If violations are not ceased and or corrected, it shall constitute a Nuisance as provided in Title III, Chapter 2 of this Code, and abatement proceedings may be instituted as proscribed in that Chapter.

4. This Chapter applies to occupants and tenants as well as owners of real property, residential and commercial. Liability for compliance and for penalties shall be joint and several as between the owner and occupant or tenant.

5. The Public Works Director, or other duly authorized employees of the city bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this ordinance. The Public Works Director or his/her representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(Ord., Passed May 10, 2010)

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 18 OUTDOOR FURNACES

6-18-1 Purpose

6-18-1 The City of Preston does not allow outdoor furnaces after July 1, 2021.

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 19 RESERVED

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 20 DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE PRESTON URBAN RENEWAL AREA

6-20-1 Purpose	PROPERTY IN THE 2016 PRESTON
6-20-2 Definitions	URBAN RENEWAL AREA ADDITION
6-20-3 Provisions for Division of Taxes Levied on Taxable Property in the Urban Renewal Area	6-20-4 Purpose
	6-20-5 Definitions
PROVISION FOR THE DIVISION OF TAXES LEVIED ON TAXABLE	6-20-6 Provisions for Division of Taxes Levied on Taxable Property in the 2016 Urban Renewal Area Addition

6-20-1 PURPOSE. The purpose of this ordinance is to provide for the division of taxes levied on the taxable property in the Preston Urban Renewal Area, each year by and for the benefit of the state, city, county, school districts or other taxing districts after the effective date of this ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to or indebtedness, including bonds proposed to be issued by the City of Preston to finance projects in such area.

6-20-2 DEFINITIONS. For use within this ordinance the following terms shall have the following meanings:

1. "City" shall mean the City of Preston, Iowa.
2. "County" shall mean Jackson County, Iowa.
3. "Urban Renewal Area" shall mean the Preston Urban Renewal Area, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the City Council by resolution adopted on November 23, 2015:

Economic Development Legal Description:

Part of Section 29 and the Original Town of Preston, Iowa all in Township 84 North, Range 5 East of the 5th P.M., City of Preston, Jackson County, Iowa, described as follows:

Beginning at the northwest corner of Block 22 in said Original Town of Preston, Iowa;
Thence South 87 degrees 29 minutes 48 seconds West, 385.00 feet to the northwest corner of Block 23 in said Original Town;

Thence South 02 degrees 30 minutes 12 seconds East, 29.24 feet to the southerly right-of-way line of State Highway 64;

Thence northwesterly along said State Highway 64 the following courses and distances:

Along a curved path concave to the northeast 631.25 feet, having a radius of 1985.00 feet and a central angle of 18 degrees 13 minutes 14 seconds which chord bears North 75 degrees 12 minutes 08 seconds West, 628.59 feet;

North 66 degrees 05 minutes 32 seconds West, 829.44 feet to the west line of the southeast quarter of said Section 29;

Thence North 02 degrees 26 minutes 55 seconds West along said line, 167.40 feet to the northerly right-of-way line of said State Highway 64, said point being South 02 degrees 26 minutes 55 seconds East, 339.89 feet (339.57 Deed) south of the Center of said Section 29;

Thence northwesterly along said State Highway 64 the following courses and distances:

North 66 degrees 05 minutes 30 seconds West, 541.03 feet;

Along a curved path concave to the southwest 644.67 feet, having a radius of 1985.00 feet and a central angle of 18 degrees 36 minutes 29 seconds which chord bears North 75 degrees 23 minutes 46 seconds West, 641.84 feet;

South 88 degrees 15 minutes 06 seconds West, 219.05 feet;

Thence North 02 degrees 21 minutes 50 seconds West, 1171.53 feet to the centerline of Copper Creek as described in Book 220 Page 276 in the Jackson County Recorder's office;

Thence along said centerline of Copper Creek the following courses and distances:

South 38 degrees 01 minute 10 seconds East, 70.75 feet;

North 48 degrees 33 minutes 30 seconds East, 96.00 feet;

North 03 degrees 57 minutes 00 seconds East, 182.36 feet;

North 57 degrees 08 minutes 40 seconds East, 97.92 feet;

South 69 degrees 19 minutes 00 seconds East, 240.74 feet;

South 01 degree 26 minutes 20 seconds West, 44.77 feet;

South 50 degrees 35 minutes 30 seconds West, 99.55 feet;

South 08 degrees 52 minutes 40 seconds West, 94.06 feet;

North 75 degrees 44 minutes 00 seconds East, 140.17 feet;

North 87 degrees 21 minutes 45 seconds East, 178.75 feet;

South 37 degrees 51 minutes 40 seconds East, 42.19 feet;

South 02 degrees 19 minutes 50 seconds West, 200.08 feet;

South 36 degrees 35 minutes 05 seconds East, 59.89 feet;

South 68 degrees 11 minutes 50 seconds East, 75.48 feet;

South 77 degrees 42 minutes 20 seconds East, 81.68 feet;

South 58 degrees 50 minutes 10 seconds East, 157.25 feet;

South 65 degrees 09 minutes 00 seconds East, 114.90 feet;

South 77 degrees 15 minutes 30 seconds East, 123.42 feet;

South 54 degrees 00 minutes 30 seconds East, 53.45 feet;

South 41 degrees 24 minutes 10 seconds East, 118.75 feet;

South 83 degrees 14 minutes 15 seconds East, 84.80 feet;

South 38 degrees 44 minutes 15 seconds East, 220.90 feet;

South 67 degrees 14 minutes 15 seconds East, 247.20 feet;

South 57 degrees 51 minutes 15 seconds East, 72.10 feet;

South 87 degrees 02 minutes 15 seconds East, 126.70 feet;

South 71 degrees 09 minutes 15 seconds East, 154.30 feet;

South 02 degrees 32 minutes 15 seconds East, 80.00 feet;

South 24 degrees 11 minutes 15 seconds East, 84.10 feet;
North 68 degrees 06 minutes 45 seconds East, 144.30 feet;
North 82 degrees 18 minutes 45 seconds East, 422.20 feet;

Thence South 02 degrees 44 minutes 15 seconds East, 124.86 feet to the northwest corner of Block 34 in said Original Town;

Thence South 01 degree 46 minutes 58 seconds East, 972.03 feet to the southwest corner of Block 24 in said Original Town;

Thence North 87 degrees 29 minutes 48 seconds East, 385.00 feet to the southwest corner of Block 25 in said Original Town;

Thence South 02 degrees 30 minutes 12 seconds East, 60.00 feet to the Point of Beginning containing 67.86 acres more or less.

All subject to Survey.

Blighted Area Legal Description

Part of the Original Town of Preston, Iowa all in Township 84 North, Range 5 East of the 5th P.M., City of Preston, Jackson County, Iowa, described as follows:

Beginning at the northwest corner of Block 22 in the Original Town of Preston, Iowa

Thence South 02 degrees 30 minutes 12 seconds East, 180.00 feet to the northwest corner of Lot 1 in Block 22 of said Original Town;

Thence North 87 degrees 29 minutes 48 seconds East, 120.00 feet to the northeast corner of Lot 2 in said Block;

Thence South 02 degrees 30 minutes 12 seconds East, 120.00 feet to the southeast corner of said Lot 2;

Thence South 87 degrees 29 minutes 48 seconds West, 120.00 feet to the southwest corner of said Lot 1 in Block 22 of said Original Town;

Thence South 02 degrees 30 minutes 12 seconds East, 327.19 feet to the southwest corner of Lot 2 in Block K of said Original Town;

Thence North 68 degrees 54 minutes 54 seconds East along the South line of said Lot 2 in Block K, 95.52 feet;

Thence North 05 degrees 50 minutes 58 seconds West, 112.05 feet ;

Thence North 68 degrees 54 minutes 53 seconds East, 183.11 feet;

Thence South 17 degrees 11 minutes 34 seconds East, 108.37 feet;

Thence South 02 degrees 30 minutes 12 seconds East, 210.68 feet to the North line of Railroad Block of said Original Town;

Thence North 68 degrees 54 minutes 54 seconds East along last named line, 430.61 feet;

Thence North 19 degrees 56 minutes 31 seconds West, 128.42 feet;

Thence North 68 degrees 54 minutes 54 seconds East, 77.65 feet;

Thence South 02 degrees 30 minutes 12 seconds East, 30.00 feet;

Thence North 68 degrees 54 minutes 54 seconds East, 168.46 feet to the West right-of-way line of Main Street;

Thence North 02 degrees 30 minutes 12 seconds West along last named line, 73.88 feet;
Thence North 83 degrees 31 minutes 04 seconds East, 80.19 feet to the southwest corner of Block 19 of said Original Town;
Thence North 68 degrees 54 minutes 54 seconds East along the South line of said Block 19, 157.08 feet;
Thence South 21 degrees 05 minutes 06 seconds East, 99.77 feet to the North line of the Replatted East Railroad Block of said Original Town;
Thence South 68 degrees 54 minutes 54 seconds West, 140.96 feet to the northwest corner of Lot 15 in said Replatted East Railroad Block;
Thence South 21 degrees 05 minutes 06 seconds East, 120.00 feet to the southwest corner of said Lot 15;
Thence South 68 degrees 54 minutes 54 seconds West, 90.00 feet to the southwest corner of said Replatted East Railroad Block;
Thence South 02 degrees 30 minutes 12 seconds East, 409.77 feet to the southwest corner of Lot 6 in Block 12 of said Original Town;
Thence South 87 degrees 29 minutes 48 seconds West, 968.00 feet to the southwest corner of Lot 6 in Block 9 of said Original Town;
Thence South 02 degrees 30 minutes 12 seconds East, 600.00 feet to the southwest corner of Block 7 of said Original Town;
Thence South 87 degrees 29 minutes 48 seconds West, 385.50 feet to the southwest corner of Block 8 of said Original Town;
Thence North 02 degrees 30 minutes 12 seconds West, 180.00 feet;
Thence North 87 degrees 29 minutes 48 seconds East, 205.50 feet to the southwest corner of Lot 7 in said Block 8;
Thence North 02 degrees 30 minutes 12 seconds West, 120.00 feet to the northwest corner of Lot 8 in said Block 8;
Thence North 87 degrees 29 minutes 48 seconds East, 120.00 feet to the northeast corner of said Block 8;
Thence North 02 degrees 30 minutes 12 seconds West, 1,296.06 feet to the northeast corner of Block 23 of said Original Town;
Thence North 87 degrees 29 minutes 48 seconds East, 60.00 feet to the Point of Beginning, containing 14.65 acres, more or less.

All subject to Survey.

6-20-3 PROVISIONS FOR DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE URBAN RENEWAL AREA. After the effective date of this ordinance, the taxes levied on the taxable property in the Urban Renewal Area each year by and for the benefit of the State of Iowa, the City, the County and any school district or other taxing district in which the Urban Renewal Area is located, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of

loans, advances, indebtedness, or bonds payable from the special fund referred to in paragraph (b) below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area on the effective date of this ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

2. that portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Area, and to provide assistance for low and moderate-income family housing as provided in Section 403.22, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Section 298.2 of the Code of Iowa, taxes for the instructional support levy program of a school district imposed pursuant to Section 257.19 of the Code of Iowa, and taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this ordinance. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in subsection (a) of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. the portion of taxes mentioned in subsection (b) of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area.

4. as used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

(Ord. 11-2015, Passed November 23, 2015)

PROVISION FOR THE DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE 2016 PRESTON URBAN RENEWAL AREA ADDITION.

6-20-4 PURPOSE. The purpose of this ordinance is to provide for the division of taxes levied on the

taxable property in the 2016 Preston Urban Renewal Area Addition of the City of Preston, Iowa, each year by and for the benefit of the state, city, county, school districts or other taxing districts after the effective date of this ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to or indebtedness, including bonds proposed to be issued by the City of Preston to finance projects in such area.

6-20-5 DEFINITIONS. For use within the remainder of this ordinance the following terms shall have the following meanings:

1. “City” shall mean the City of Preston, Iowa.
2. “County” shall mean Jackson County, Iowa.
3. “2016 Urban Renewal Area Addition” shall mean the 2016 Preston Urban Renewal Area Addition of the City of Preston, Iowa, the legal description of which is set out below, approved by the City Council by resolution adopted on the 28th day of November, 2016, as amended September 24, 2018:

Certain real property situated in the City of Preston, Jackson County, State of Iowa more particularly described as follows:

a. Parcel “X”, a 12.73 acre tract of land located in the North Half of the North Half of Section 32, Township 84 North, Range 5 East of the 5th Principal Meridian, Jackson County, Iowa, as shown on Plat of Survey filed February 5, 2016, Document No. 16-385, containing 13.00 acres, more or less. Together with all easements and servient estates appurtenant thereto, but subject to all easements and restrictions of record.

4. “Urban Renewal Area” shall mean the entirety of the Preston Urban Renewal Area as amended from time to time.

(Ord. 2018-6, Passed September 24, 2018)

6-20-6 PROVISIONS FOR DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE 2016 URBAN RENEWAL AREA ADDITION. After the effective date of this ordinance, the taxes levied on the taxable property in the 2016 Urban Renewal Area Addition each year by and for the benefit of the State of Iowa, the City, the County and any school district or other taxing district in which the 2016 Urban Renewal Area Addition is located, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the 2016 Urban Renewal Area Addition, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in paragraph (b) below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the

purpose of allocating taxes levied by or for any taxing district which did not include the territory in the 2016 Urban Renewal Area Addition on the effective date of this ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the 2016 Urban Renewal Area Addition to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed areas.

2. that portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Area , and to provide assistance for low and moderate-income family housing as provided in Section 403.22, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Section 298.2 of the Code of Iowa, taxes for the instructional support program levy of a school district imposed pursuant to Section 257.19 of the Code of Iowa and taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this ordinance. Unless and until the total assessed valuation of the taxable property in the 2016 Urban Renewal Area Addition exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in subsection (a) of this section, all of the taxes levied and collected upon the taxable property in the 2016 Urban Renewal Area Addition shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the 2016 Urban Renewal Area Addition shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. the portion of taxes mentioned in subsection (b) of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area.

4. as used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

(Ord. 3-2016, Passed November 28, 2016)