

TITLE VI - REGULATION OF BUSINESS AND VOCATIONS  
FRANCHISESCHAPTER 150  
USE OF CITY RIGHTS-OF-WAY

## 150.01 Franchises

## 150.02 Licenses

150.01 FRANCHISES

1. Franchise Required. No person or other entity shall erect, maintain and operate plants and systems for electric light and power, heating, telegraph, cable television, district telegraph and alarm, motor bus, trolley bus, street railway or other public transit, waterworks or gasworks within the City without a franchise from the City. *(Ord. 770 - Feb-99 Supp.)*  
(Code of Iowa, Sec. 364.2)

2. User Fees. Any person or other entity operating in violation of Section 150.01(1) hereof shall pay a user fee to the City of three percent (3%) of gross revenue derived from any sales through the distribution system within the City. Said payment is a form of rent and grants no rights to any person or other entity. Any person or other entity (whether paying a user fee or not) may be ejected from public property if operating without a franchise, and in addition, the City reserves to itself all rights and remedies it may have at law, in equity or otherwise against such persons or other entities.

3. Referendum Required. No franchise or permit giving or granting to any person the right or privilege to erect, construct, operate or maintain or use any natural gas pipeline, plant or system or gasworks, or electric light and power system or works or water or cable communications system of any type within the City in order to sell or distribute or provide non-municipal natural gas or electrical power and energy or communications services to any user or consumer within the City or use the streets or alleys of the City for such purpose or to interconnect any building, structure or facility of any kind to any natural gas pipeline or system, or electrical line or system other than to the natural gas or electrical system of the City shall be given or granted unless such franchise or permit be given or granted by ordinance. No such ordinance shall be considered until after the question of the granting of any franchise necessary for such purpose and required by law shall be submitted to and approved by a majority of the qualified electors of the City

at an election held for such purpose at the expense of the applicant for such franchise.  
*(Ord. 770 – Feb-99 Supp.)*

However, the City Council may dispense with such election as to the grant, amendment, extension or renewal of an electric light and power, heating or gasworks franchise unless there is a valid petition requesting submission of the proposal to the voters, or the party seeking such franchise, grant, amendment, extension or renewal requests an election.

(Code of Iowa, Sec. 364.2)

*(Ord. 850 – Sep. 02 Supp.)*

4. Regulatory Provisions. Franchised utilities that pay a franchise fee shall be subject to all regulatory provisions of the City to the extent that such provisions are in addition to and not in conflict with existing franchise agreements.  
*(Ord. 770 – Feb-99 Supp.)*

5. Management Costs. If the City collects a franchise fee or user fee pursuant to this section, under an existing or future franchise, the City shall not also collect a fee for management costs. "Management costs" means the reasonable costs the City actually incurs in managing public rights-of-way, including fees for excavation permits.  
*(Ord. 770 – Feb-99 Supp.)*

6. Franchise Not Required for City Systems. Unless a franchise has been granted under the provisions of Section 150.03 above, no person shall erect, construct, operate or maintain or use any natural gas pipeline, plant or system or gasworks, or electric light and power system or works or water or cable communications system within the City in order to sell or distribute or provide non-municipal natural gas or electrical power and energy or communications services to any user or consumer within the City or use the streets or alleys of the City for such purpose or interconnect any building, structure or facility of any kind to any natural gas pipeline or system or electrical line or system or communications system other than to a system of the City.  
*(Ord. 770 – Feb-99 Supp.)*

7. Enforcement. If any person constructs, operates or maintains any natural gas pipeline, plant or system or gasworks, or electric light and power system or works or water or cable communications system or sells or distributes any natural gas or electricity or communications services within the City or makes any connection with gas or electrical lines or communications systems contrary to the provisions of this chapter, the City Attorney may commence an action in the name and on behalf of the City for suitable and appropriate legal, equitable or other relief. *(Ord. 770 – Feb-99 Supp.)*

150.02 LICENSES.

1. Registration and License Required. When a franchise is not required, is inappropriate because a utility is a non-franchiseable telephone utility including but not limited to municipal telephone utilities, or other private PROW occupiers, including a facility used for furnishing natural gas by piped distribution system, electricity, communications services not including cable television systems, or water by piped distribution system, to the public for compensation, passes through the City without local customers or serves only a small particular portion of the City with only one or a few customers, or places devices in one or a few locations on City right-of-way, easements, structures, buildings or other City property, such as personal communications services antennas and towers or satellite earth station antennas, a license and registration shall be required.

*(Ord. 770 – Feb-99 Supp.)*

2. Any person or other entity operating in violation of Section 150.02(1) hereof shall pay a user fee to the City of three percent (3%) of gross revenue derived from any sales through the distribution system within the City. Said payment is a form of rent and grants no rights to any person or other entity. Any person or other entity (whether paying a user fee or not) may be ejected from public property if operating without a license, and in addition, the City reserves to itself all rights and remedies it may have at law, in equity or otherwise against such persons or other entities.

3. An applicant shall provide information in the form and manner requested by the City. A license shall be granted by resolution of the Council.

4. Fees. Council will determine a reasonable nondiscriminatory fee and conditions for a use license and such compensation will be disclosed in the Council resolution.

A. When management costs cannot be attributed to only one entity, those costs shall be allocated among all users of the public right-of-way, including the City itself.

B. The City, in lieu of a fee imposed under this section, shall not require in-kind services by a public utility right-of-way user, or require in-kind services as a condition of the use of the public right-of-way.

*(Ord. 770 – Feb-99 Supp.)*

5. Conditions shall include without reiteration City responsibility for public places under Iowa Code, Section 364.12, and Chapter 175 for Use and Maintenance of Streets and Chapter 185 Sidewalk Regulations of this Code of Ordinances.