

364.2 Vesting of power — franchises.

1. A power of a city is vested in the city council except as otherwise provided by a state law.
2. The enumeration of a specific power of a city does not limit or restrict the general grant of home rule power conferred by the Constitution of the State of Iowa. A city may exercise its general powers subject only to limitations expressly imposed by a state or city law.
3. An exercise of a city power is not inconsistent with a state law unless it is irreconcilable with the state law.
4.
 - a. A city may grant to any person a franchise to 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, sewer services, or gasworks, within the city for a term of not more than twenty-five years. When considering whether to grant, amend, extend, or renew a franchise, a city shall hold a public hearing on the question. Notice of the time and place of the hearing shall be published as provided in [section 362.3](#). The franchise may be granted, amended, extended, or renewed only by an ordinance, but no exclusive franchise shall be granted, amended, extended, or renewed.
 - b. Such an ordinance shall not become effective unless approved at an election. The proposal may be submitted by the council on its own motion to the voters at any city election. Upon receipt of a petition meeting the requirements of [section 362.4](#) requesting that a proposal be submitted to the voters, the council shall submit the proposal at the next regular city election or at a special election called for that purpose before the next regular city election. However, the city council may dispense with such election as to the grant, amendment, extension, or renewal of an electric light and power, heating, waterworks, sewer services under [section 357A.23](#), 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. If a majority of those voting approves the proposal, the city may proceed as proposed. The complete text of the ordinance shall be included on the ballot if conventional paper ballots are used. If an optical scan voting system is used, the proposal shall be stated on the optical scan ballot, and the full text of the ordinance posted for the voters pursuant to [section 52.25](#). All absentee voters shall receive the full text of the ordinance.
 - c. Notice of the election shall be given by publication as prescribed in [section 49.53](#) in a newspaper of general circulation in the city.
 - d. The person asking for the granting, amending, extension, or renewal of a franchise shall pay the costs incurred in holding the election, including the costs of the notice. A franchise shall not be finally effective until an acceptance in writing has been filed with the council and payment of the costs has been made.
 - e. The franchise ordinance may regulate the conditions required and the manner of use of the streets and public grounds of the city, and it may, for the purpose of providing electrical, gas, heating, or water service, confer the power to appropriate and condemn private property upon the person franchised.
 - f.
 - (1) (a) A franchise fee assessed by a city may be based upon a percentage of gross revenues generated from sales of the franchisee within the city not to exceed five percent except as provided in subparagraph division (b), without regard to the city's cost of inspecting, supervising, and otherwise regulating the franchise.
 - (b) For franchise fees assessed and collected during fiscal years beginning on or after July 1, 2024, by a city with a population exceeding two hundred thousand, the rate of the franchise fee shall not exceed seven and one-half percent of gross revenues generated from sales of the franchisee in the city, and franchise fee amounts assessed and collected in excess of five percent of gross revenues generated from sales shall be used solely for the purpose specified in [section 384.3A, subsection 3](#), paragraph "j".
 - (2) Franchise fees collected pursuant to an ordinance in effect on May 26, 2009, shall be deposited in the city's general fund and such fees collected in excess of the amounts necessary to inspect, supervise, and otherwise regulate the franchise may be used by the city for any other purpose authorized by law. Franchise fees collected pursuant to an ordinance

that is adopted or amended on or after May 26, 2009, to increase the percentage rate at which franchise fees are assessed shall be credited to the franchise fee account within the city's general fund and used pursuant to [section 384.3A](#). If a city franchise fee is assessed to customers of a franchise, the fee shall not be assessed to the city as a customer. Before a city adopts or amends a franchise fee rate ordinance or franchise ordinance to increase the percentage rate at which franchise fees are assessed, a revenue purpose statement shall be prepared specifying the purpose or purposes for which the revenue collected from the increased rate will be expended. If property tax relief is listed as a purpose, the revenue purpose statement shall also include information regarding the amount of the property tax relief to be provided with revenue collected from the increased rate. The revenue purpose statement shall be published as provided in [section 362.3](#).

(3) When considering whether to amend an ordinance imposing a franchise fee to increase the rate of the fee, and after preparation of the revenue purpose statement under subparagraph (2), a city shall hold a public hearing on the question. Notice of the time and place of the hearing shall be published as provided in [section 362.3](#). If a city adopts, amends, or repeals an ordinance imposing a franchise fee, the city shall promptly notify the director of revenue of such action.

g. If a city grants more than one cable television franchise, the material terms and conditions of any additional franchise shall not give undue preference or advantage to the new franchisee. A city shall not grant a new franchise that does not include the same territory as that of the existing franchise. A new franchisee shall be given a reasonable period of time to build the new system throughout the territory.

h. (1) When a person requests a franchise for a merchant line as defined in [section 478.6A](#) and that requester possesses a franchise issued by the Iowa utilities commission outside of a city, and when the proposed merchant line is more than fifty miles in total length within the state and will be underground within the limits of the city, all of the following apply:

(a) A person shall submit a written franchise request including the proposed terms and conditions of the franchise.

(b) Upon receipt of the franchise request for a merchant line, a city shall conduct a hearing pursuant to [this subsection](#). The city and the person may negotiate the terms of a franchise prior to the approval of an ordinance. A city may not unreasonably refuse to grant a franchise for a merchant line. If the city denies the franchise request, the city shall provide the person with a written denial of the franchise based on substantial evidence in the record demonstrating that the proposed transmission line would have a significant adverse impact on the health or safety of the city's residents or public facilities that would not have been considered by the Iowa utilities commission.

(c) If the city has not held the required hearing or has not acted on a request for a franchise for a merchant line within ninety days of the receipt of the request, notwithstanding any other terms of the Code, the franchise is deemed approved by the city. If a request is timely denied, the person may seek a certiorari judicial review by filing a petition either in Polk county district court or in the district court for the county in which the petitioner resides or the principal place of the requester for the merchant line.

(d) [This subsection](#) applies to eligible merchant lines for which a franchise has been granted pursuant to [chapter 478](#) prior to the effective date of this subsection.

(2) This paragraph is repealed effective January 1, 2026.

5. If provided by ordinance, a city may enter into a [chapter 28E](#) agreement for the collection of delinquent parking fines by a county treasurer pursuant to [section 321.40](#) at the time a person applies for renewal of a motor vehicle registration, for violations that have not been appealed or for which appeal has been denied. The city may pay the treasurer a reasonable fee for the collection of such fines, or may allow the county treasurer to retain a portion of the fines collected, as provided in the agreement.

6. A city council may by ordinance or resolution prohibit or limit the use of consumer fireworks, display fireworks, or novelties, as described in [section 727.2](#).

[C51, §664; R60, §1047, 1056, 1057, 1090, 1094, 1095; C73, §454 – 456, 471, 473, 474, 517, 523, 524; C97, §695, 720 – 722, 775, 776; S13, §695, 720 – 722, 776; C24, 27, 31, 35, §5738, 5904, 5904-c1, 5905 – 5909, 6128, 6131 – 6134; C39, §5738, 5904, 5904.1, 5905 – 5909, 6128,

6131 – 6134; C46, 50, §368.1, 386.1 – 386.7, 397.2, 397.5 – 397.8; C54, 58, 62, 66, §368.2, 386.1 – 386.7, 388.5 – 388.9, 397.2, 397.5 – 397.8; C71, 73, §368.2, 386.1 – 386.7, 397.2, 397.5 – 397.8; C75, 77, 79, 81, §364.2]

83 Acts, ch 127, §5; 93 Acts, ch 143, §49; 98 Acts, ch 1123, §15; 98 Acts, ch 1148, §1, 9; 2001 Acts, ch 82, §1; 2001 Acts, ch 98, §1; 2005 Acts, ch 54, §11, 12; 2006 Acts, ch 1010, §96; 2007 Acts, ch 190, §42; 2009 Acts, ch 57, §89; 2009 Acts, ch 179, §228, 231; 2012 Acts, ch 1110, §24; 2013 Acts, ch 140, §148, 150; 2015 Acts, ch 118, §1; 2017 Acts, ch 29, §104; 2017 Acts, ch 50, §1, 2; 2017 Acts, ch 115, §8, 12; 2023 Acts, ch 71, §60, 62; 2024 Acts, ch 1108, §1; 2024 Acts, ch 1170, §369

Referred to in §306.46, 357A.23, 358C.13, 364.3, 364.4, 384.3A, 403.7, 476.84, 477A.2, 477A.5, 480A.6, 714H.4

2023 amendment to subsection 4, paragraph f, subparagraph (1), subparagraph division (b), effective July 1, 2024; 2023 Acts, ch 71, §62

Code editor directive applied

Subsection 4, paragraph f, subparagraph (1), subparagraph division (b) amended

Subsection 4, NEW paragraph h