

# **TITLE VI – REGULATION OF BUSINESS AND VOCATIONS**

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**TITLE VI – REGULATION OF BUSINESS AND VOCATIONS  
BEER, LIQUOR AND WINE CONTROL**

**CHAPTER 145**

**ALCOHOL CONSUMPTION AND INTOXICATION**

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145.04 Public Consumption or Intoxication  
145.05 Open Container on Streets and Highways

**145.01 - 145.02** (*Reserved*)

**145.03 PERSONS UNDER LEGAL AGE.** As used in this section, “legal age” means twenty-one (21) years of age or more.

1. A person or persons under legal age shall not purchase or attempt to purchase or individually or jointly have alcoholic liquor, wine or beer in their possession or control; except in the case of liquor, wine or beer given or dispensed to a person under legal age within a private home and with the knowledge, presence and consent of the parent or guardian, for beverage or medicinal purposes or as administered to the person by either a physician or dentist for medicinal purposes and except to the extent that a person under legal age may handle alcoholic beverages, wine, and beer during the regular course of the person’s employment by a liquor control licensee, or wine or beer permittee under State laws.

*(Code of Iowa, Sec. 123.47[2])*

2. A person under legal age shall not misrepresent the person’s age for the purpose of purchasing or attempting to purchase any alcoholic beverage, wine or beer from any licensee or permittee.

*(Code of Iowa, Sec. 123.49[3])*

**145.04 PUBLIC CONSUMPTION OR INTOXICATION.**

1. As used in this section unless the context otherwise requires:

A. “Arrest” means the same as defined in Section 804.5 of the *Code of Iowa* and includes taking into custody pursuant to Section 232.19 of the *Code of Iowa*.

B. “Chemical test” means a test of a person’s blood, breath, or urine to determine the percentage of alcohol present by a qualified person using devices and methods approved by the Commissioner of Public Safety.

C. “Peace Officer” means the same as defined in Section 801.4 of the *Code of Iowa*.

D. “School” means a public or private school or that portion of a public or private school which provides teaching for any grade from kindergarten through grade twelve.

2. A person shall not use or consume alcoholic liquor, wine or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place, except premises covered by a liquor control license. A person shall not possess or consume alcoholic liquors, wine, or beer on public school property or while attending any public or private school-related function. A person shall not be intoxicated in a public place.

3. A person shall not simulate intoxication in a public place.

4. When a peace officer arrests a person on a charge of public intoxication under this section, the peace officer shall inform the person that the person may have a chemical test administered at the person's own expense. If a device approved by the Commissioner of Public Safety for testing a sample of a person's breath to determine the person's blood alcohol concentration is available, that is the only test that need be offered the person arrested. In a prosecution for public intoxication, evidence of the results of a chemical test performed under this subsection is admissible upon proof of a proper foundation. The percentage of alcohol present in a person's blood, breath, or urine established by the results of a chemical test performed within two hours after the person's arrest on a charge of public intoxication is presumed to be the percentage of alcohol present at the time of arrest.

*(Code of Iowa, Sec. 123.46)*

**145.05 OPEN CONTAINER ON STREETS AND HIGHWAYS.** *(See Section 62.09 of this Code of Ordinances.)*

**TITLE VI – REGULATION OF BUSINESS AND VOCATIONS  
BEER, LIQUOR AND WINE CONTROL**

**CHAPTER 146**

**LIQUOR LICENSES AND WINE AND BEER PERMITS**

**146.01 License or Permit Required**  
**146.02 General Prohibition**  
**146.03 Investigation**  
**146.04 Action by Council**

**146.05 Prohibited Sales and Acts**  
**146.06 Persons Under Legal Age**  
**146.07 Amusement Devices**  
**146.08 Dancing in Licensed Premises**

**146.01 LICENSE OR PERMIT REQUIRED.** No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

*(Code of Iowa, Sec. 123.22, 123.122 & 123.171)*

**146.02 GENERAL PROHIBITION.** It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations and restrictions enumerated in Chapter 123 of the *Code of Iowa*, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

*(Code of Iowa, Sec. 123.2, 123.39 & 123.50)*

**146.03 INVESTIGATION.** Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises which does not conform to the applicable law and ordinances, resolutions and regulations of the City.

*(Code of Iowa, Sec. 123.30)*

**146.04 ACTION BY COUNCIL.** The Council shall either approve or disapprove the issuance of the liquor control license or retail wine or beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

*(Code of Iowa, Sec. 123.32 [2])*

**146.05 PROHIBITED SALES AND ACTS.** A person or club holding a liquor license or retail wine or beer permit and the person's or club's agents or employees shall not do any of the following:

1. Sell, dispense or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine or beer.

*(Code of Iowa, Sec. 123.49 [1])*

2. Sell or dispense any alcoholic beverage, wine or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a license or permit granted the privilege of selling alcoholic liquor, beer or wine on Sunday may sell or dispense alcoholic liquor, beer or wine between the hours of 8:00 a.m. on Sunday and 2:00 a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine or beer for consumption on the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year's Day.

*(Code of Iowa, Sec. 123.49 [2b and 2k] & 123.150)*

3. Sell alcoholic beverages, wine or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center or events center.

*(Code of Iowa, Sec. 123.49 [2c])*

4. Employ a person under eighteen (18) years of age in the sale or serving of alcoholic liquor, wine or beer for consumption on the premises where sold.

*(Code of Iowa, Sec. 123.49 [2f])*

5. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine or any other beverage in or about the permittee's place of business.

*(Code of Iowa, Sec. 123.49 [2i])*

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

*(Code of Iowa, Sec. 123.49 [2a])*

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

*(Code of Iowa, Sec. 123.49 [2j])*

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Alcoholic Beverages Division.

*(Code of Iowa, Sec. 123.49[2d])*

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package that has been reused or adulterated.

*(Code of Iowa, Sec. 123.49[2e])*

10. Allow any person other than the licensee, permittee, or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container that is designed for the transporting of such beverages, except as allowed by State law.

*(Code of Iowa, Sec. 123.49[2g])*

11. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

*(Code of Iowa, Sec. 123.49[21])*

#### **146.06 PERSONS UNDER LEGAL AGE.**

1. No person or club holding a liquor control license or wine or beer permit which authorizes consumption on the premises, and no agent or employee of any such person shall allow any person under the age for lawful consumption or possession of alcoholic beverages to enter or remain in the licensed or permitted establishment after 9:00 p.m. unless:

A. The licensee or permittee applies for and qualifies for an exception certificate from the Police Chief as follows:

(1) A licensee or permittee whose primary business purpose is not the sale of alcoholic beverages, wine or beer may qualify for an exception upon submission of a verified statement from a certified public accountant or an accountant which establishes that more than 50 percent of the licensee's or permittee's gross sales are from the sale of goods or services other than for the sale of alcoholic beverages, wine or beer which shall not include income from cover charges, entertainment fees, drink mixes or nonalcoholic beverages.

(2) In addition to the statement mentioned in subparagraph (1) of this section, proof of qualification may include State and Federal tax records for the previous year, articles of incorporation, and receipts from specific vendors which itemize goods purchased related to the applicant's primary business purpose from the previous six months as requested by the Police Chief.

The City Council may issue an exception certificate if the licensee or permittee has satisfied the requirements in this subsection. An exception certificate shall be effective for the duration of the alcoholic liquor control license or wine or beer permit.

B. The licensee or permittee applies for a special event exception from the City Council, which may, at its discretion, allow the holder to provide entertainment to persons under legal age as follows:

(1) A licensee or permittee may qualify for a special event exception when an application is submitted to the City Clerk at least forty-five (45) business days prior to the proposed special event. Such application shall include the name and address of the licensed or permitted establishment, the type of event for which an exception is applied, the proposed date for the event and the time of the event.

(2) All alcoholic liquor, wine or beer is removed or stored so that it is not available for sale or consumption during the extended period of the special event.

(3) A special event exception shall be valid through the date of the special event or for the duration of the alcoholic liquor control license or wine or beer permit, whichever is first in time.

(4) Failure to comply with the terms of this special event exception shall result in the revocation or denial of such an exception application for one year.

For special events not exceeding five days in duration where a street closure has been authorized by the City Council and a temporary liquor control license has been issued, the City Council may issue a special exception for the event, such exception to be limited to outdoor areas covered by the temporary liquor control license. The City Council's discretion may include but is not limited to past experience with policing the same event, staffing, and any special difficulties in policing the proposed event.

C. The licensee or permittee posts a current exception certificate at the main entrance in the view of patrons of the licensed or permitted establishment.

No more than four (4) exception certificates per calendar year may be issued under these provisions.

2. No person or club holding a liquor control license or wine or beer permit which authorizes consumption on the premises shall fail to post notices at all entrances to the licensed or permitted premises in the view of patrons of the licensed or permitted establishment that persons under legal age are not allowed in the premises after 9:00 p.m. unless the licensee or permittee has a current exception certificate under this section.

After 9:00 p.m., no person under the age for lawful consumption or possession of alcoholic beverages shall enter into or remain on the premises of a licensed or permitted establishment which authorizes consumption on the premises which does not have a valid exception certificate posted under this section.

**146.07 AMUSEMENT DEVICES.** The following provisions pertain to electronic or mechanical amusement devices, which are allowed only in premises with a liquor control license or beer permit as specifically authorized in Section 99B.10 of the *Code of Iowa*.

*(Code of Iowa, Sec. 99B.10C)*

1. As used in this section an "electronic or mechanical amusement device" means a device that awards a prize redeemable for merchandise on the premises where the device is located and that is required to be registered with the Iowa Department of Inspection and Appeals.

2. It is unlawful for any person under the age of twenty-one (21) to participate in the operation of an electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing an electrical or mechanical amusement device, or an employee of a person owning or leasing an electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of an electrical or mechanical amusement device.

4. It is unlawful for any person to knowingly participate in the operation of an electrical or mechanical amusement device with a person under the age of 21.

**146.08 DANCING IN LICENSED PREMISES.** Dancing is authorized in connection with the operation of a beer, wine or liquor business under a permit or license, provided that:

1. The floor space used for dancing purposes therein contains at least 100 square feet, all of which is on the same general floor level as the place where the beer, wine or liquor is dispensed;
2. The space to be used for dancing is in the same room as or in a room adjacent to and opening directly from the place where beer, wine or liquor is dispensed; and
3. The floor space shall not be obstructed or crossed, in any part or portion, by partitions or other obstructions of any kind except necessary structural posts, pillars or similar supports.

No permittee or licensee, except clubs operating under club permits, shall be entitled to the benefit of the authorization provided in this section unless such permittee or licensee first obtains a public dance license as provided in Chapter 167 of this Code of Ordinances, and any dancing allowed by such permittee or licensee who has not first obtained such license shall be deemed a violation.

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**TITLE VI – REGULATION OF BUSINESS AND VOCATIONS  
FRANCHISES**

**CHAPTER 150**

**CABLE TELEVISION REGULATIONS**

<b>150.01 Purpose and Scope</b>	<b>150.14 Maps, Plats and Reports</b>
<b>150.02 Definitions</b>	<b>150.15 Emergency Use of Facilities</b>
<b>150.03 Compliance with Applicable Law</b>	<b>150.16 Change of Control of Grantee</b>
<b>150.04 Performance Standards</b>	<b>150.17 Inspection of Records</b>
<b>150.05 Operation and Maintenance; Complaints</b>	<b>150.18 Supervision and Inspection</b>
<b>150.06 Program Alteration Prohibited</b>	<b>150.19 Filings and Communications with Regulatory Agencies</b>
<b>150.07 Removal of Existing Antenna</b>	<b>150.20 Discrimination Prohibited</b>
<b>150.08 Safety Requirements</b>	<b>150.21 Other Business Activities Prohibited</b>
<b>150.09 Conditions on Street Use</b>	<b>150.22 Hold Harmless</b>
<b>150.10 Placement and Use of Poles</b>	<b>150.23 Insurance</b>
<b>150.11 Removal of Equipment Upon Expiration</b>	<b>150.24 Bonds</b>
<b>150.12 Service Rules and Regulations</b>	<b>150.25 Payment of Costs</b>
<b>150.13 Rates</b>	

**150.01 PURPOSE AND SCOPE.** The purpose of this chapter is to regulate cable television systems within the City which operate pursuant to City franchise and to so regulate consistent with Federal Communications Commission rules and regulations and other applicable statutes, ordinances or regulations.

**150.02 DEFINITIONS.** Unless otherwise expressly stated or the context clearly indicates a different intention, the following words and phrases, for the purpose of this chapter, shall have the meanings ascribed to them in this section:

1. “Cable television system” means any facility that, in whole or in part, receives directly or indirectly over the air and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations and distributes such signals, and other signals originated or supplied by Grantee or others, by wire or cable, to subscribing members of the public who pay for such services. Such term does not include any facility that serves fewer than fifty subscribers, or any such facility that serves only the residents of one or more apartment dwellings under common ownership, control or management, and commercial establishments located on the premises of such an apartment house.
2. “Channel” means a 3 MHz band for transmission of visual and audio signals for television.
3. “Converter” means a device capable of providing more than the number of channels on a standard television receiver.
4. “Distortion” means the departure, during transmission or amplification, from the received signal waveform from that of the original transmitted waveform.
5. “Existing connection” means the connection of the cable or wire to a television or radio receiver when the house drop has previously been installed.
6. “FCC” means the Federal Communications Commission.

7. "Franchise" means a legal contract between the City and a person which contract contains terms and conditions for construction and operating a cable television system.
8. "Ghost images" means weak or shadowy images in the received picture, offset from the primary image.
9. "Grantee" means a person holding a franchise to operate a cable television system.
10. "House drop" means the wire or cable that connects each building or home to the main (trunk) cable.
11. "New connection" means the installation of a house drop and the connection of the cable or wire to a television or radio receiver.
12. "Outlet" means the point of connection of the cable or wire to a television or radio receiver.
13. "Subscriber" means a person who purchases cable television services.

**150.03 COMPLIANCE WITH APPLICABLE LAW.** Grantee shall at all times comply with the rules and regulations of the FCC and shall also comply with all other applicable statutes, ordinances and regulations. FCC rules and regulations shall in all cases be controlling if any part of this chapter or any cable television franchise is in conflict with any FCC rules and regulations.

**150.04 PERFORMANCE STANDARDS.** A grantee shall produce a picture in black and white or in color that is undistorted, free from ghost images and accompanied by proper sound on typical standard production television sets in good repair. A grantee shall also transmit signals of adequate strength to produce good pictures with good sound at all outlets throughout the City without causing cross modulation in the cables or interfering with other electrical or electronic systems.

**150.05 OPERATION AND MAINTENANCE; COMPLAINTS.** In addition to the requirements already imposed, a grantee shall perform the following with regard to the operation and maintenance of a cable television system:

1. Maintain an office in the Metropolitan Omaha-Council Bluffs area which shall be open during all normal business hours. Grantee shall also have a listed telephone number and be so operated that complaints and requests for repairs or adjustments may be received at any time.
2. Limit failures of the system to a minimum and locate and correct all malfunctions involving the house drop and all other malfunctions between the trunk line and the television or radio receiver within 24 hours following notice by a subscriber, whenever possible.
3. Insure the availability of a sufficient number of repairmen between the hours of 8:00 a.m. and 8:00 p.m. daily.
4. Keep service interruptions involving the production and distribution systems as short as practical and, insofar as possible, schedule such interruptions during periods of minimum use of the system and precede them by notice.
5. Upon termination of service to any subscriber, promptly remove all its facilities and equipment from subscriber's premises upon request without charge.

6. Be capable of distributing color television signals. When signals are received in color they shall be distributed in color.

All complaints to the City shall be forwarded to the Mayor. The Mayor shall forward the complaint to the grantee, and the grantee shall satisfy the complaint or advise the Mayor of its refusal or inability to do so within a reasonable time. If the grantee satisfies the complaint, it shall so notify the Mayor. When a complaint has not been satisfied, the Mayor shall notify the complainant that the complainant has 30 days from the receipt of the notice to file a formal complaint with the Council. Upon receipt of a formal complaint, the Council or its designated agent shall ascertain the facts and shall have the power to enforce its decision, if against grantee, by all actions hereunder, including the revocation of the franchise.

**150.06 PROGRAM ALTERATION PROHIBITED.** All programs of broadcasting stations carried by a grantee shall be carried in their entirety as received, with announcements and advertisements and without additions.

**150.07 REMOVAL OF EXISTING ANTENNA.** A grantee shall in no way tamper with or remove an existing television antenna without the subscriber's consent.

**150.08 SAFETY REQUIREMENTS.** A grantee shall at all times employ reasonable care in the installation and maintenance of its cable television system in accordance with commonly accepted good engineering methods and practices. A grantee shall install and maintain its wires, cables, fixtures and other equipment in accordance with the requirements of Article 820 and Section 230.24(b) of the *National Electric Code*. All structures, lines, equipment or connections in, over, under or upon the streets, sidewalks, alleys and public ways or places of the City shall at all times be kept and maintained in a safe condition, free from nuisance, and in good working order and repair and shall not in any way interfere with any installations of the City of any public utility serving the City.

**150.09 CONDITIONS ON STREET USE.**

1. A-1 transmission and distribution structures, lines and equipment erected by the grantee within the City shall be located so as not to interfere with the proper use of the streets, alleys and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the streets, alleys or other public ways and places and not to interfere with existing public utility installations. In all areas of the City where all the cables, wires or other like facilities of public utilities are placed underground, the grantee shall place its cables, wires and other like facilities underground to the maximum extent existing technology permits. The grantee shall furnish to and file with the City maps, plats and permanent records of the locations and character of all facilities constructed, including underground facilities.
2. In the case of any excavation or disturbance of pavement, sidewalks, driveways or other surfacing, the grantee shall be subject to all applicable City ordinances. The grantee shall, at its own expense and in the manner provided by the City, replace and restore all paving, sidewalks, driveway or other surface of the street, alley, or public way or place disturbed.
3. If, at any time during the period of the franchise, the City shall lawfully elect to alter or change the grade or location of any street, alley or public way, the grantee shall, upon reasonable notice by the City, remove, relay and relocate its poles, wires,

cables, underground conduits, manholes and other fixtures at its own expense, and in each instance shall comply with the requirements of the City.

4. The grantee shall not place poles, conduits or other fixtures above or below the ground where the same will interfere with any gas, electric, telephone fixtures, water hydrants or other utility; and all such poles, conduits or other fixtures placed in any street shall be so placed as to comply with all requirements of the City.

5. The grantee shall, on the request of any person, after permission has been granted by the City, temporarily move its wires or fixtures to permit the moving of buildings. The expense of such temporary removal shall be paid by the person requesting the same. The grantee shall be given not less than 48 hours' advance notice.

6. The grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the grantee. All trimming is to be done under the supervision and direction of the City and at the expense and liability of the grantee.

#### **150.10 PLACEMENT AND USE OF POLES.**

1. Where poles or other wire-holding structures already serving the City are available for use by any grantee, but grantee does not make arrangements for such use, the City may require a grantee to use such poles and structures if the City determines that the public convenience would be enhanced thereby and if the terms of the use available to the grantee are just and reasonable.

2. Where the City or a public utility serving the City desires to make use of the poles or other wire-holding structures of a grantee, but agreement with a grantee cannot be reached, the City may require the grantee to permit such use for such consideration and upon such terms as the City shall deem to be just and reasonable, if the City determines that the use would enhance the public convenience and would not unduly interfere with a grantee's operations.

**150.11 REMOVAL OF EQUIPMENT UPON EXPIRATION.** Upon the termination or cancellation of this cable television franchise, grantee shall remove its poles, cable television transmission and distribution systems, and all other appurtenances from the streets, sidewalks and public ways of the City, and shall restore the same to their original condition. If grantee refuses to remove such items or fails to remove such items in a reasonable time after notification by the City, the City shall have the right and authority to remove such poles, cable television transmission and distribution systems, and other appurtenances from the City streets, sidewalks and public ways.

**150.12 SERVICE RULES AND REGULATIONS.** A grantee shall have the right to prescribe a reasonable service rules and regulations regarding access channels not inconsistent with the provisions of the grantee's franchise, this chapter, or of any other ordinances of the City and not inconsistent with the laws of the State of Iowa and the United States. Such rules shall be filed with the City before submission to the FCC. A grantee shall also submit to the City the form of its service agreements between grantee and its subscribers for approval by the City and shall furnish for approval any amendments or alterations to the service agreement.

**150.13 RATES.** All rates for service shall be reasonable, compensatory and nondiscriminatory. Except as may otherwise be provided in a franchise, a grantee shall have the right, privilege and authority to change the rates and charges.

**150.14 MAPS, PLATS AND REPORTS.** A grantee shall submit to the Building Inspector maps and plats showing all existing and proposed cable television installations in the City. A grantee shall submit upon request all business records or reports to the City. Furthermore, a grantee shall make periodic reports, but not less than annually, to the City concerning cable television operations and shall also furnish to the City an annual audit of its accounts by certified public accountants.

**150.15 EMERGENCY USE OF FACILITIES.** In the event of any emergency or disaster, grantee shall, upon the request of the Mayor, make its facilities available to the City for emergency use during the emergency or disaster.

**150.16 CHANGE OF CONTROL OF GRANTEE.** Prior approval of the Council shall be required where ownership or control of more than twenty-five percent of the right of a grantee is acquired by a person or several persons acting in concert, none of whom already own or control twenty-five percent or more of such right of control, singularly or collectively. Any such acquisition occurring without prior approval of the Council shall constitute a violation of a grantee's franchise.

**150.17 INSPECTION OF RECORDS.** The City shall have the right, power and authority to inspect the records of any grantee at the premises of such grantee during the normal business hours of any working day, or at any other reasonable time and place provided that grantee is given no less than seven (7) days' notice.

**150.18 SUPERVISION AND INSPECTION.** The City shall have the right to supervise any construction or installation work performed by any grantee in the City and make such inspections as it finds necessary to insure compliance with the terms of any cable television franchise, this chapter, or other pertinent provisions of the law.

**150.19 FILINGS AND COMMUNICATIONS WITH REGULATORY AGENCIES.** Copies of all petitions, applications, communications and reports submitted by any grantee to the FCC, Securities and Exchange Commission, or any other Federal or State regulatory commission or agency having jurisdiction in regard to any matters affecting cable television shall also be submitted simultaneously to the Council.

**150.20 DISCRIMINATION PROHIBITED.** A grantee shall not, as to rates, charges, services, service facilities, rules and regulations, or in any other respect, make or grant any undue preference or advantage to any person, or subject any person to prejudice or disadvantage. Nothing in this section, however, shall be deemed to prohibit promotional campaigns to stimulate subscriptions to the system or deemed to prohibit the charging of special rates so long as that rate is reasonable, lawful and has received the prior approval of the Council after notice and hearing. A grantee shall not discriminate against any person on the basis of race, disability, religion, creed, color, sex, national origin or ancestry. Furthermore, a grantee shall also take affirmative action to recruit employees from members of minority groups.

**150.21 OTHER BUSINESS ACTIVITIES PROHIBITED.** A grantee shall not engage in the business of selling, repairing or installing television receivers, radio receivers or accessories for such receivers within the City during the term of this cable television franchise, except as provided in grantee's franchise or as provided in this chapter.

**150.22 HOLD HARMLESS.** A grantee shall at all times defend, indemnify, protect and hold harmless the City from and against any and all liability, losses and damage to property or bodily injury or death to any person, including payments made under worker's compensation laws, which may arise out of or be caused by the erection, construction, replacement, removal, maintenance or operation of grantee's cable television system and caused by any act or failure to act on the part of grantee, its agents, officers, servants or employees. A grantee shall hold the City harmless against any damages resulting from legal action which may be brought against it in connection with the establishment or operation of a grantee's cable television system in the City and shall defend at its own expense any action brought against the City by reason of the erection, construction, replacement, removal, maintenance or operation of a grantee's cable television system.

**150.23 INSURANCE.** A grantee shall promptly, after the granting of grantee's franchise, provide liability insurance for personal injuries and/or death growing out of any one accident or other cause in a minimum sum of \$100,000 for one person, and \$500,000 aggregate for each accident. A grantee shall also provide insurance in the amount of \$100,000 for property damage resulting from any one accident. A grantee shall maintain such insurance with insurance underwriters authorized to do business in the State of Iowa satisfactory to the City. All policies shall name the City, its employees, servants, agents and officers as additional named insured parties. In addition, the City shall receive at least ten days' prior written notice of any cancellation or change in any said insurance policy. A grantee shall furnish the City with a certificate of insurance from grantee's carrier indicating that there is such insurance coverage as herein provided for, and if requested by the City, shall submit to the City two (2) certified copies of said policies.

**150.24 BONDS.**

1. Performance Bonds. Upon acceptance of franchise, a grantee shall furnish the City a surety bond in the sum of \$50,000, which bond shall indemnify the City against any loss occasioned by the default of the grantee in the construction of the system. Upon grantee's activating the system, this bond shall be canceled and exonerated. The bond shall be issued by a surety company qualified to do business in the State of Iowa.
2. Surety Bonds. Grantee shall furnish to the City a surety bond in the sum of \$5,000.00 or in an amount at least equal to the sum of the franchise fee paid to the City in the immediately preceding year, whichever is greater, and the bond shall commence at the date of the grantee's placing the system into operation. The bond shall be issued by a surety company qualified to do business in the State of Iowa. The bond shall be conditioned to insure payment of any franchise fee to the City and to insure faithful performance of the Grantee's franchise under the terms of this chapter.

**150.25 PAYMENT OF COSTS.** In the granting of any cable television franchise, the City shall be governed by the applicable provisions of Chapter 364 of the *Code of Iowa* or such other enactments of the General Assembly which might hereafter amend or supersede said chapter. Furthermore, any person asking the Council to initiate the submission of the question

of granting a cable television franchise to the electors of the City or any person petitioning the Council to submit the cable television franchise question shall pay the costs incurred in holding such franchise election.

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**TITLE VI – REGULATION OF BUSINESS AND VOCATIONS  
FRANCHISES**

**CHAPTER 151**

**CABLE TELEVISION FRANCHISE**

**151.01** Term of Franchise  
**151.02** Agreement and Waiver  
**151.03** Nonexclusive Franchise  
**151.04** Subscriber Rates and Charges  
**151.05** Change of Rates and Charges  
**151.06** Rates for New Services

**151.07** Franchise Fee  
**151.08** Observance of FCC Regulations  
**151.09** Complaints  
**151.10** Technical Standards  
**151.11** Transfer of Franchise  
**151.12** Forfeiture and Termination

**151.01 TERM OF FRANCHISE.** Pursuant to full consideration and approval of the grantee’s legal, character, financial, technical and other qualifications, and the adequacy and feasibility of its construction arrangements, and as part of a full public proceedings affording due process, Cox Communications Omaha, L.L.C., its successors and assigns (hereinafter referred to as “Grantee”) are hereby granted the right, franchise, and authority for a period of twenty (20) years,<sup>†</sup> to acquire, construct, and operate a cable television system over, under and upon property of the City and to sell and supply to individuals, firms and corporations, public or private, at any and all places, within the corporate limits of the City, as said limits now are or hereafter may be established, audio, video and data communications services, subject to the conditions and restricted as hereinafter provided, and subject to Chapter 150 of this Code of Ordinances (the “Cable Television Code”).

**151.02 AGREEMENT AND WAIVER.** Grantee agrees to abide by all provisions of this franchise and all other applicable ordinances of the City, including, but not limited to, the Cable Television Code as presently enacted and as it may hereinafter be amended by the City. Further, Grantee agrees that it will not set up as against the City any claim that the provisions of this franchise or any other applicable ordinances are unreasonable, arbitrary, or void.

**151.03 NONEXCLUSIVE FRANCHISE.** This franchise shall not be exclusive and shall neither restrict the City Council in the exercise of its regulatory power or prevent it from granting any other cable television system franchise or franchises.

**151.04 SUBSCRIBER RATES AND CHARGES.** Grantee shall be allowed to charge the rates and charges for its service as set forth in the Cable Television Code as presently enacted or as it may hereafter be amended.

**151.05 CHANGE OF RATES AND CHARGES.** Any increase in rates and charges shall be made only in accordance with the procedures set forth in the Cable Television Code as presently enacted or as it may hereafter be amended.

**151.06 RATES FOR NEW SERVICES.** To the extent permitted by the Federal Communications Commission (FCC) Rules and Regulations, rates or charges for new services

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<sup>†</sup> **EDITOR’S NOTE:** Ordinance No. 520, adopting a cable television franchise for the City, was passed and adopted on January 18, 2000.

which may be offered in the future by Grantee shall be established by the City upon application of Grantee. Such rates or charges shall be established in accordance with the procedure for rate changes as set forth in Section 151.05 above.

**151.07 FRANCHISE FEE.** A fee shall be paid by the Grantee to the City in accordance with the pertinent provisions of the Cable Television Code as presently enacted and as it may hereafter be amended by the City.

**151.08 OBSERVANCE OF FCC REGULATIONS.** Grantee shall comply with all applicable Rules and Regulations of the FCC which are now in effect or which may hereafter be promulgated. Furthermore, any modifications of Section 76.31 of sub-part C “Federal-State/Local Regulatory Relationships,” of the FCC Rules and Regulations pertaining to cable television systems shall be incorporated into this franchise within one year of the adoption of said modification by the FCC or at the time of any renewal of this franchise, whichever occurs first.

**151.09 COMPLAINTS.** Grantee shall maintain an office within the Omaha/Council Bluffs metropolitan area for the purpose of receiving, investigating, and responding to complaints regarding the quality of service, equipment malfunctions, and other similar matters pertaining to the cable television system. Grantee shall record the date and substance of each complaint received and the date and nature of action taken by Grantee to respond to such complaint.

**151.10 TECHNICAL STANDARDS.** In connection with the operation of a cable television system, Grantee shall render its service in accordance with those technical standards already enacted by the City and those reasonable technical standards and reporting requirements which may hereafter be enacted by the City.

**151.11 TRANSFER OF FRANCHISE.** Grantee shall not sell, transfer or assign the franchise without the prior approval of the City by ordinance.

**151.12 FORFEITURE AND TERMINATION.** If Grantee fails to comply with any of the provisions of this franchise, or default in any of its obligations hereunder, except for causes beyond the reasonable control of Grantee, and fails within thirty (30) days after written notice from the City to commence and, within a reasonable time, complete the correct of such default or noncompliance, the City shall have the right to revoke the franchise and all rights of the Grantee under this chapter. In the event the Grantee is adjudicated bankrupt or placed in receivership, the City may declare the franchise herein granted forfeited and terminated.

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**TITLE VI – REGULATION OF BUSINESS AND VOCATIONS  
FRANCHISES**

**CHAPTER 152**

**ELECTRIC FRANCHISE**

**152.01 Franchise Granted**

**152.02 Construction Maintenance; Indemnification**

**152.03 Meters; Service Lines**

**152.04 Emergencies**

**152.05 System Requirements**

**152.06 Nonexclusive**

**152.07 Service Provided**

**152.08 Term of Franchise**

**152.01 FRANCHISE GRANTED.** There is hereby granted to the Omaha Public Power District, hereinafter referred to as the “Company,” its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City, works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat and power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the transmission of electric current along, under and upon the streets, avenues, alleys and public places in the City; also the right to erect and maintain upon the streets, avenues, alleys and public places, transmission lines through the City, to supply individuals, corporations, communities and municipalities both inside and outside of the City with electric light, heat and power for the period of twenty-five (25) years; also the right to eminent domain as provided in Section 364.2 of the *Code of Iowa*.

**152.02 CONSTRUCTION MAINTENANCE; INDEMNIFICATION.** The poles, wires and appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys and public places in the City or unnecessarily interfere with the proper use of the same, including ordinary drainage or with the sewers, underground pipe and other property of the City, and the Company and its successors and assigns shall hold the City free and harmless from all damages arising from any negligence of the Company in the erection or maintenance of said system.

**152.03 METERS; SERVICE LINES.** The Company, its successors and assigns, shall furnish and install all meters and service wires to buildings at its own expense and the City expressly reserves the right of the Council to carry out any and all powers and duties as provided by law.

**152.04 EMERGENCIES.** In case of fire or other emergencies, the poles, wires and street fixtures of the Company may be cut and moved by order of the Mayor or Fire Chief. The City shall also have the right to place on the poles of the Company wires for fire alarm system, providing however, that the placing of said wires does not interfere with the proper use and maintenance of the Company’s wires.

**152.05 SYSTEM REQUIREMENTS.** The system authorized by this chapter shall be modern and up-to-date and shall be of sufficient capacity to supply all reasonable demands of the City and the inhabitants thereof and shall be kept in a modern up-to-date condition.

**152.06 NONEXCLUSIVE.** The franchise granted by this chapter shall not be exclusive.

**152.07 SERVICE PROVIDED.** Service to be rendered by the Company under this franchise shall be continuous 24-hour service each day of the week unless prevented from so doing by fire, acts of God, unavoidable accidents or casualties, and in such event service shall be resumed as quickly as is reasonably possible.

**152.08 TERM OF FRANCHISE.** The term of the franchise granted by this chapter and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the Company.<sup>†</sup>

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<sup>†</sup> **EDITOR'S NOTE:** Ordinance No. 533, adopting an electric franchise for the City, was passed and adopted on May 21, 2002.

**TITLE VI – REGULATION OF BUSINESS AND VOCATIONS  
FRANCHISES**

**CHAPTER 153**

**NATURAL GAS FRANCHISE**

**153.01 Franchise Granted**

**153.02 Term**

**153.03 Governing Rules and Regulations**

**153.04 Construction and Maintenance of Facilities**

**153.05 Extension of Facilities**

**153.06 Relocation of Facilities**

**153.07 Confidential Information**

**153.08 Force Majeure**

**153.09 Hold Harmless**

**153.10 Non-Waiver**

**153.11 Repeal of Conflicting Ordinances**

**153.12 Default**

**153.13 Franchise Fee**

**153.01 FRANCHISE GRANTED.** The City hereby grants a nonexclusive franchise to Aquila, Inc, d/b/a Aquila Networks, a Delaware corporation (hereinafter called “Grantee”), its lessees, successors, and assigns. Grantee is hereby granted the right, privilege, franchise, permission, and authority to lay, construct, install, maintain, operate, and extend in, along, over, or across the present and future streets, alleys, avenues, bridges, public rights-of-way, and public places as are now within the present or future limits of the City, a natural gas distribution system and all facilities necessary for the purpose of supplying natural gas or processed gas for all purposes to the inhabitants of the City and consumers in the vicinity thereof, and for the distribution of natural gas from or through the City to points beyond the limits thereof. Such facilities include (but are not limited to) all mains, services, pipes, conduits and appliances necessary or convenient for transmitting, transporting, distributing, and supplying natural gas for all purposes for which it may be used, and to do all other things necessary and proper in providing natural gas service to the inhabitants of the City and in carrying on such business.

**153.02 TERM.** The rights and privileges granted by this chapter shall remain in effect for a period of twenty-five (25) years from the effective date of the ordinance codified in this chapter.<sup>†</sup>

**153.03 GOVERNING RULES AND REGULATIONS.**

1. The franchise is granted subject to all conditions, limitations, and immunities now provided for, or as hereafter amended, and applicable to the operations of a public utility, by State or Federal law. The rates to be charged by Grantee for service within the present or future corporate limits of the City and the rules and regulations regarding the character, quality, and standards of service to be furnished by Grantee shall be under the jurisdiction and control of such regulatory body or bodies as may, from time to time, be vested by law with authority and jurisdiction over the rates, regulations and quality and standards of service to be supplied by Grantee. Provided, however, should any judicial, regulatory or legislative body, having proper jurisdiction, take any action that precludes Grantee from recovering from its customers any cost associated with services provided hereunder, then the Grantee and

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<sup>†</sup> **EDITOR’S NOTE:** Ordinance No. 602, adopting a natural gas franchise for the City, was passed and adopted on January 21, 2008.

City shall renegotiate the terms of this chapter in accordance with the action taken, so as to allow Grantee to be made whole economically. In determining the rights and duties of the Grantee, the terms of this chapter shall take precedence over any conflicting terms or requirements contained in any other ordinance enacted by the City.

2. If an energy supplier is unable to furnish an adequate supply of energy due to an emergency, an order or decision of a public regulatory body, or other acts beyond the control of the Grantee, then the Grantee shall have the right and authority to adopt reasonable rules and regulations limiting, curtailing, or allocating extensions of service or supply of energy to any customers or prospective customers, and withholding the supply of energy to new customers, provided that such rules and regulations are uniform as applied to each class of customers or prospective customers, and are non-discriminatory as between communities receiving service from the Grantee.

**153.04 CONSTRUCTION AND MAINTENANCE OF FACILITIES.** Any pavements, sidewalks or curbing taken up and any and all excavations made shall be done in such a manner as to cause only such inconvenience to the inhabitants of the City and to the general public as is reasonably necessary; and repairs and replacements shall be made promptly by Grantee, leaving such properties in as good a condition as existed immediately prior to excavation to the reasonable satisfaction of the City. Grantee agrees that for the term of the franchise, it will use its best efforts to maintain facilities and equipment sufficient to meet the current and future energy requirements of the City, its inhabitants and industries. While maintaining its facilities and equipment, Grantee shall obtain permits as required by ordinance, except that in emergency situations, Grantee shall take immediate unilateral actions as it determines are necessary to protect the public health, safety, and welfare; in which case, Grantee shall notify the City as soon as reasonably possible. The City will give Grantee reasonable notice of plans for street improvements where paving or resurfacing of a permanent nature is involved that affect Grantee's facilities. The notice shall contain the nature and character of the improvements, the rights-of-way upon which the improvements are to be made, the extent of the improvements and the time when the City will start the work, and if more than one right-of-way is involved, the order in which this work is to proceed. The notice shall be given to the Grantee a sufficient length of time, considering reasonable working conditions, in advance of the actual commencement of the work to permit the Grantee to make any additions, alterations, or repairs to its facilities.

**153.05 EXTENSION OF FACILITIES.** Upon receipt and acceptance of a valid application for service, Grantee shall, subject to its own economic feasibility criteria, make reasonable extensions of its distribution facilities to serve customers located within the current or future corporate limits of the City.

**153.06 RELOCATION OF FACILITIES.** If the City elects to change the grade of or otherwise alter any street, alley, avenue, bridge, public right-of-way or public place for a public purpose, Grantee, upon reasonable notice from the City, shall remove and relocate its facilities or equipment situated in the public rights-of-way, if such removal is necessary to prevent interference and not merely for the convenience of the City, at the cost and expense of Grantee. If the City orders or requests Grantee to relocate its facilities or equipment for the primary benefit of a commercial or private project, or as a result of the initial request of a commercial or private developer or other non-public entity, and such removal is necessary to prevent interference and not merely for the convenience of the City or other right-of-way user,

Grantee shall receive payment for the cost of such relocation as a precondition to relocating its facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause Grantee unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for Grantee's facilities. The City shall give Grantee written notice of vacating of a public right-of-way. Vacating of a public right-of-way shall not deprive the Grantee of its right to operate and maintain existing facilities, until the reasonable cost of relocating the same are first paid to the Grantee. Any person or corporation desiring to move a building or other structure along, or to make any unusual use of any street, alley, avenue, bridge, public right-of-way or public place which shall interfere with the facilities or equipment of the Grantee, shall first give notice to the City and the Grantee and pay a sum sufficient to cover the expense and damage incident to the moving of Grantee's facilities and equipment. Grantee, its successors and assigns, shall connect its mains to all qualified applicants for gas under the provisions of this chapter, constructing such service connections from the main to the structure, up to 175 feet, without charge to the applicant. In urban renewal areas established pursuant to law, Grantee agrees, at its sole cost and expense, to disconnect, sever from its system and abandon or salvage, at its option, all existing gas distribution mains, services and appurtenances necessary to the clearing of such areas, under urban renewal plans so long as such areas are or will be, pursuant to the urban renewal plan, devoted to a public purpose; and to furnish in replatted and rebuilt urban renewal areas new or replacement mains and services connected to Grantee's gas distribution system, at the expense of Grantee so long as such areas are devoted to a public purpose; provided, however, if any State or Federal funds should be available which could be obtained by the City or Grantee to defray the expense or costs of such changes, adjustment, installations, or relocations of Grantee's gas distribution system (including, but not restricted to, relocations caused by highway construction within the urban renewal area), the City shall assist Grantee in all efforts to secure the same, as long as City's credits would not thereby be diminished.

**153.07 CONFIDENTIAL INFORMATION.** The City acknowledges that certain information it might request pursuant to this chapter may be of a proprietary and confidential nature. If Grantee requests that any information provided by Grantee to the City be kept confidential due to such proprietary or commercial value, the City and its employees, agents, and representatives shall maintain the confidentiality of that information, to the extent allowed by law. If the City is requested or required by legal or administrative process to disclose any such confidential information, the City shall promptly notify Grantee of such request or requirement so that Grantee may seek an appropriate protective order or other relief. The City shall use all reasonable efforts to ensure that the confidentiality of Grantee's confidential information is maintained.

**153.08 FORCE MAJEURE.** It shall not be a breach or default under this chapter if either party fails to perform its obligations hereunder due to Force Majeure. Force Majeure includes, but is not limited to, the following: (i) physical events such as acts of God, landslides, lightning, earthquakes, fires, freezing, storms, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery, equipment or distribution or transmission lines; (ii) acts of others such as strikes, work-force stoppages, riots, sabotage, insurrections or wars; (iii) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, executive order, or regulation promulgated by a governmental authority having jurisdiction; and any other causes, whether of the kind herein enumerated or otherwise not reasonably within the control of the affected party to prevent or overcome. Each party shall make reasonable efforts to avoid Force Majeure and to resolve such event as promptly as

reasonably possible once it occurs in order to resume performance; provided, however, this provision shall not obligate a party to settle any labor strike.

**153.09 HOLD HARMLESS.** Grantee, during the term of the franchise, agrees to save harmless the City from and against all claims, demands, losses and expenses, including attorney fees and costs, arising directly out of the negligence of Grantee, its employees or agents, in the constructing, operating, and maintaining of distribution and transmission facilities or appliances of Grantee; provided, however, Grantee need not save harmless the City from claims, demands, losses and expenses arising out of the negligence of the City, its employees or agents.

**153.10 NON-WAIVER.** Any waiver of any obligation or default under this chapter shall not be construed as a waiver of any future defaults, whether of like or different character.

**153.11 REPEAL CONFLICTING ORDINANCES.** This chapter constitutes the entire agreement between the City and the Grantee relating to the franchise, and the same shall supersede all prior ordinances pertaining to the franchise agreement, and any terms and conditions of such prior ordinances or parts of ordinances in conflict herewith are hereby repealed. Ordinance No. 329 of the City is hereby repealed.

**153.12 DEFAULT.** If Grantee shall be in default in the performance of any of the terms and conditions of this chapter and continues in default for more than 30 days after receiving notice from the City of such default, the City may, by ordinance duly passed and adopted, terminate all rights granted under this chapter. The notice of default shall specify the manner in which it is claimed the Grantee is in default. Such notice shall be in writing and served by registered or certified mail.

**153.13 FRANCHISE FEE.** If, during the term of the franchise, there shall be enacted by the Iowa General Assembly a valid taxing statute authorizing the City to collect a tax on the gas revenues received by Grantee from its customers in the City, then if such tax is levied by the City, said Grantee will include such tax as a separate item on its customers' bills and remit the sums collected to the City under the terms and provisions of such enacted statute.

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**TITLE VI – REGULATION OF BUSINESS AND VOCATIONS  
GENERAL**

**CHAPTER 160**

**CIGARETTE AND TOBACCO PERMITS**

**160.01 Definitions**  
**160.02 Permit Required**  
**160.03 Application**  
**160.04 Fees**  
**160.05 Issuance and Expiration**

**160.06 Refunds**  
**160.07 Persons Under Legal Age**  
**160.08 Self-Service Sales Prohibited**  
**160.09 Permit Revocation**

**160.01 DEFINITIONS.** For use in this chapter the following terms are defined:

*(Code of Iowa, Sec. 453A.1)*

1. “Carton” means a box or container of any kind in which ten or more packages or packs of cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition is not to be construed to include cigars.
3. “Package” or “pack” means a container of any kind in which cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.
4. “Place of business” means any place where cigarettes or tobacco products are sold, stored or kept for the purpose of sale or consumption by a retailer.
5. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, irrespective of the quantity or amount or the number of sales or who engages in the business of selling tobacco products to ultimate consumers.
6. “Self-service display” means any manner of product display, placement or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
7. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.

**160.02 PERMIT REQUIRED.**

1. Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

*(Code of Iowa, Sec. 453A.13)*

2. Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco products at any place of business without first having received a permit as a tobacco products retailer for each place of business owned or operated by the retailer.

*(Code of Iowa, Sec. 453A.47A)*

A retailer who holds a cigarette permit is not required to also obtain a tobacco permit. However, if a retailer only holds a cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any cigarettes or tobacco products during such time.

**160.03 APPLICATION.** A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

*(Code of Iowa, Sec. 453A.13 & 453A.47A)*

**160.04 FEES.** The fee for a retail cigarette or tobacco permit shall be as follows:

*(Code of Iowa, Sec. 453A.13 & 453A.47A)*

<b>FOR PERMITS GRANTED DURING:</b>	<b>FEE:</b>
July, August or September	\$ 75.00
October, November or December	\$ 56.25
January, February or March	\$ 37.50
April, May or June	\$ 18.75

**160.05 ISSUANCE AND EXPIRATION.** Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit, and any permit issued, to the Alcoholic Beverages Division of the Department of Commerce within thirty (30) days of issuance.

**160.06 REFUNDS.** A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

*(Code of Iowa, 453A.13 & 453A.47A)*

**160.07 PERSONS UNDER LEGAL AGE.** No person shall sell, give or otherwise supply any tobacco, tobacco products or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing cigarettes or tobacco products from a vending machine. If a retailer or employee of a retailer violates the

provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.
2. For a second violation within a period of two (2) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of thirty (30) days.
4. For a fourth violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of sixty (60) days.
5. For a fifth violation with a period of four (4) years, the retailer's permit shall be revoked.

The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

*(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])*

**160.08 SELF-SERVICE SALES PROHIBITED.** Beginning January 1, 1999, except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36(6) of the *Code of Iowa*, a retailer shall not sell or offer for sale cigarettes or tobacco products, in a quantity of less than a carton, through the use of a self-service display.

*(Code of Iowa, Sec. 453A.36A)*

**160.09 PERMIT REVOCATION.** Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of Iowa* or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Alcoholic Beverages Division of the Department of Commerce within thirty (30) days of the revocation or suspension.

*(Code of Iowa, Sec. 453A.22)*

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**TITLE VI – REGULATION OF BUSINESS AND VOCATIONS  
GENERAL**

**CHAPTER 161**

**PEDDLERS, SOLICITORS AND TRANSIENT  
MERCHANTS**

<b>161.01 Purpose</b>	<b>161.11 Time Restriction</b>
<b>161.02 Definitions</b>	<b>161.12 Revocation of License</b>
<b>161.03 License Required</b>	<b>161.13 Notice</b>
<b>161.04 Application for License</b>	<b>161.14 Hearing</b>
<b>161.05 License Fees</b>	<b>161.15 Record and Determination</b>
<b>161.06 Bond Required</b>	<b>161.16 Appeal</b>
<b>161.07 License Issued</b>	<b>161.17 Effect of Revocation</b>
<b>161.08 Display of License</b>	<b>161.18 Rebates</b>
<b>161.09 License Not Transferable</b>	<b>161.19 License Exemptions</b>
<b>161.10 Shouting, Loudspeaker Systems and Other Noises</b>	<b>161.20 Charitable and Nonprofit Organizations</b>

**161.01 PURPOSE.** The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

**161.02 DEFINITIONS.** For use in this chapter the following terms are defined:

1. “Peddler” means any person carrying 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. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant.

**161.03 LICENSE REQUIRED.** Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

**161.04 APPLICATION FOR LICENSE.** An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant’s name, permanent and local address and business address if any. The application shall also set forth the applicant’s employer, if any, and the employer’s address, the nature of the applicant’s business, the last three places of such business and the length of time sought to be covered by the license. Upon the receipt of such application, the Clerk shall refer the same to the Police

Chief, who shall make such investigation of the character and reputation of the persons who will conduct the business within the City, as the Police Chief deems necessary for the protection of the public good.

**161.05 LICENSE FEES.** The following license fees shall be paid to the Clerk prior to the issuance of any license.

1. Solicitors and Peddlers ..... \$ 25.00 per week;
2. Transient Merchants ..... \$ 50.00 per week.

Any period of seven (7) calendar days or less is considered one week.

**161.06 BOND REQUIRED.** Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.

**161.07 LICENSE ISSUED.** Based on the results of the investigation as to the character and business reputation of the persons who will conduct the business, the Police Chief shall recommend approval or disapproval of the application. If the Police Chief recommends disapproval of the application, the reasons therefor shall be stated. If, as a result of the investigation, the Police Chief finds that the character and business responsibility of all persons who will conduct the business are satisfactory, the Police Chief shall endorse approval upon the application. Upon receipt of the Police Chief's recommendation for approval, as well as the required license fee, the Clerk shall issue the license.

**161.08 DISPLAY OF LICENSE.** Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

**161.09 LICENSE NOT TRANSFERABLE.** Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

**161.10 SHOUTING, LOUDSPEAKER SYSTEMS AND OTHER NOISES.** No licensee hereunder or any person in the licensee's behalf shall shout, blow on a horn, or use any other noise-making device for the purpose of advertising or otherwise announcing or proclaiming wares or business activities except as the same may be permissible under any other ordinance of the City or statute of the State.

**161.11 TIME RESTRICTION.** All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of 8:00 a.m. and sunset.

**161.12 REVOCATION OF LICENSE.** After notice and hearing, the Clerk may revoke any license issued under this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.

3. Endangered Public Welfare, Health or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order or morals.

**161.13 NOTICE.** The Clerk shall send a notice to the licensee at the licensee's local address, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

**161.14 HEARING.** The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

**161.15 RECORD AND DETERMINATION.** The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

**161.16 APPEAL.** If the Clerk revokes or if the Police Chief refuses to approve an application for a license, the Clerk shall make a part of the record the reasons therefor. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify or affirm the decision of the Clerk or Police Chief by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

**161.17 EFFECT OF REVOCATION.** Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

**161.18 REBATES.** Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least five dollars (\$5.00) of the original fee shall be retained by the City to cover administrative costs.

**161.19 LICENSE EXEMPTIONS.** The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the Council Bluffs Community School District conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.

6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

**161.20 CHARITABLE AND NONPROFIT ORGANIZATIONS.** Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 161.04 and 161.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 161.16 of this chapter.

**TITLE VI – REGULATION OF BUSINESS AND VOCATIONS  
GENERAL**

**CHAPTER 162**

**HOUSE MOVERS**

162.01 House Mover Defined  
162.02 Permit Required  
162.03 Application  
162.04 Bond Required  
162.05 Insurance Required  
162.06 Permit Issued

162.07 Public Safety  
162.08 Time Limit  
162.09 Removal by City  
162.10 Protect Pavement  
162.11 Overhead Wires

**162.01 HOUSE MOVER DEFINED.** A “house mover” means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies or any other specialized moving equipment.

**162.02 PERMIT REQUIRED.** It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved.

**162.03 APPLICATION.** Application for a house mover’s permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant’s full name and address and if a corporation the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the Mayor, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

**162.04 BOND REQUIRED.** The applicant shall post with the Clerk a penal bond in the minimum sum of five thousand dollars (\$5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee’s payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

**162.05 INSURANCE REQUIRED.** Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury – \$50,000 per person; \$100,000 per accident.
2. Property Damage – \$50,000 per accident.

**162.06 PERMIT ISSUED.** Upon approval of the application and filing of bond and insurance certificate, the Clerk shall issue a permit. A separate permit shall be required for each house, building or similar structure to be moved.

**162.07 PUBLIC SAFETY.** At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flag persons at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

**162.08 TIME LIMIT.** No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the City.

**162.09 REMOVAL BY CITY.** In the event any building or similar structure is found to be in violation of Section 162.08 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

**162.10 PROTECT PAVEMENT.** It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one (1) inch in width for each one thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

**162.11 OVERHEAD WIRES.** The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

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**TITLE VI – REGULATION OF BUSINESS AND VOCATIONS  
GENERAL**

**CHAPTER 163**

**BUSINESS PERMITS**

*(Chapter Deleted)*

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**TITLE VI – REGULATION OF BUSINESS AND VOCATIONS  
GENERAL**

**CHAPTER 164**

**JUNK AND SALVAGE YARDS**

164.01 Definitions  
164.02 License Required  
164.03 License Fee  
164.04 Premises Inspection  
164.05 Validity; Renewal  
164.06 License Nontransferable

164.07 Access Roads  
164.08 Enclosure Required  
164.09 Sanitary Premises  
164.10 Compliance With Other Provisions  
164.11 Purchase From Minor Unlawful

**164.01 DEFINITIONS.** For the purpose of this chapter, the following terms, words and phrases are deemed to have the following definitions:

1. “Junk dealer” means any person who alone or through agents engages in the business of buying selling, receiving, collecting, or dealing in old iron, lead, brass, steel, copper or other metals, bottles, rags or paper.
2. “Junk or salvage vehicle” means any vehicle, or portion thereof, not in running or operable condition and/or not licensed for the current year as provided by law.
3. “Salvage operator” means any person who engages in the business of a junk dealer, as defined in this section, or who engages in the business of operating a wrecking yard or salvage yard, as defined in this section.
4. “Wrecking yard” or “salvage yard” means any location in the City where used automobiles or other large articles are dismantled, scrapped or junked, or the same are bought or sold for the purpose of dismantling the same for their parts or for the purpose of converting the same into scrap or junk.

**164.02 LICENSE REQUIRED.** It is unlawful for any person to engage in the business of being a salvage operator, as defined in this chapter, without having first obtained a license from the City to do so. Any person desiring to engage in the business of salvage operator in the City must first make application for a license to do so, on a form to be furnished for such purpose by the office of the Clerk. The application shall contain the following information:

1. The name and place of residence of the applicant, as well as the business address, if any.
2. If the applicant is a firm, partnership, corporation or other legal entity, the names and addresses of all associates, partners or officers thereof shall be set forth. If the applicant is a foreign corporation, adequate proof of authority to conduct business within the State must be attached to or included in the application.
3. The address of the proposed business location of the applicant where such salvage operations are to be conducted, giving the street address, legal description and the total area in square feet available for use in such operation.

4. A statement as to whether retail sales will be made on the premises wherein such salvage operations are to be conducted.

**164.03 LICENSE FEE.** The annual fee for a salvage operator's license shall be \$250.00 which shall accompany the application therefor at the time it is filed in the office of the Clerk. In the event the application is denied by the Council, the sum of \$250.00 shall be returned to the applicant within 30 days from the date of such denial. The application shall be filed with the Clerk not less than ten days prior to any Council meeting held wherein the same shall be considered, in the manner hereinafter set forth. The fee may be prorated for the initial application upon approval of the Council.

**164.04 PREMISES INSPECTION.** Subsequent to the filing of the application for a salvage operator's license, the Clerk shall refer the same to the Fire Chief and the Building Inspector, each of whom shall cause the premises proposed to be used in such salvage operations to be inspected, and following such inspections, each shall submit written recommendations to the Council in connection therewith. Thereafter, the Council shall at either the next regular meeting or at a special meeting either grant or deny the application.

**164.05 VALIDITY; RENEWAL.** The license issued under the terms of this chapter shall be valid for a term of one year and shall expire on December 31 of the year in which same has been issued. Request by the licensee for renewal thereof shall be subject to the same procedure as that prescribed for initial issuance. The fee for such renewal shall be one hundred dollars (\$100.00) for the ensuing year.

**164.06 LICENSE NONTRANSFERABLE.** A salvage operator's license shall be required for each separate location at which salvage operations are proposed to be conducted, and the fee required shall be commensurate therewith. The license shall be nontransferable, and in the event of the discontinuance of such operations by the licensee, either voluntarily or involuntarily, no refund for the unused portion of the period for which same was issued shall be granted.

**164.07 ACCESS ROADS.** There shall be on site access road or paths to provide adequate entrances and exits for fire and emergency vehicles.

**164.08 ENCLOSURE REQUIRED.** The operations of a wrecking yard or salvage yard shall be carried on within a fully enclosed building, except that such operations may be conducted outside a building but within the premises of the licensee, provided the premises are fully surrounded and enclosed by a fence not less than eight feet high, constructed of solid covered fencing materials. The fence may be constructed on the property line. The requirement as to the type and kind of fencing shall not be applicable to fencing surrounding the premises of a wrecking yard or salvage yard in existence at the time of the enactment of the ordinance codified by this chapter; provided, however, that at such time as the repair to an existing fence shall exceed twenty-five percent (25%) of the total fence in place, such repair shall be in accordance with and meet the requirements of this section as to such fence construction. It is unlawful for any junk, salvage vehicles, wrecking materials or equipment to be stored or parked on any portion of the City's public street right-of-way or parking area thereof, or for the same to be stored or parked outside on private property unless in a fully enclosed building or fence as prescribed in this section.

**164.09 SANITARY PREMISES.** The holder of a license granted under the terms of this chapter shall maintain the premises in and upon which such person's business operations are

conducted in as sanitary a manner and condition as are reasonable and consistent therewith, but in no event shall the licensee permit or suffer any condition to exist which by its nature constitutes a health or safety hazard to surrounding property or persons.

**164.10 COMPLIANCE WITH OTHER PROVISIONS.** The provisions of this chapter in no way relieve the holder of a license issued under this chapter from compliance with other provisions, rules or regulations of the City, to which the licensee may be subject, nor shall said person be relieved from the necessity of procuring such other licenses as may required by the City by reason of the nature and extent of the operations of the licensee.

**164.11 PURCHASE FROM MINOR UNLAWFUL.** It is unlawful for any salvage operator, as defined in this chapter, to purchase any goods or materials or vehicles of any kind or nature whatsoever from a minor without having secured the written consent of one of the parents or the legal guardian of the minor.

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**TITLE VI – REGULATION OF BUSINESS AND VOCATIONS  
GENERAL**

**CHAPTER 165**

**MASSAGE PARLORS**

165.01 Definitions	165.14 Change of Location
165.02 Permit Required	165.15 Employees
165.03 Exceptions	165.16 Inspections
165.04 Application and Fee	165.17 Place of Business
165.05 Contents of Application	165.18 Hours of Operation
165.06 Facilities Necessary	165.19 Name of Business
165.07 Permit Procedures	165.20 Revocation and Suspension
165.08 Inspection of Premises	165.21 Sale or Transfer
165.09 Issuance of Permit	165.22 Applicability
165.10 Appeal	165.23 Unlawful Activities
165.11 Permit Not Transferable	165.24 Practice Without Permit Unlawful
165.12 Display of Permit	165.25 Responsibility of Owner
165.13 Validity and Renewal of Permit	165.26 Nuisance Declared

**165.01 DEFINITIONS.** For the purpose of the provisions regulating bath, sauna baths, massage establishments and similar businesses set forth in this chapter, the following words and phrases have the meanings set forth in this section, unless it is apparent from the context that a different meaning is intended:

1. “Massage” means a method of procedures upon the external parts of the body, consisting of rubbing, stroking, kneading or tapping with the hand or any instrument.
2. “Massage establishment” means an establishment having a fixed place of business where any person engages in, conducts or carries on or permits to be engaged in, conducted or carried on, any business of giving Turkish, Russian, Swedish, vapor, sweat, electric, salt or any other kind or character of baths, where alcohol rub, fomentation, baths, manipulation of the body or similar procedures are given.
3. “Massage technician” or “technician” means any person, male or female, who administers to another person, for any form of consideration, a massage alcohol rub, fomentation, bath or electric massage procedure, manipulation of the body or other similar procedure.

**165.02 PERMIT REQUIRED.** It is unlawful for any person to engage in, conduct or carry on or to permit to be engaged in, conducted or carried on, in or upon any premises within the City, the business of a massage establishment or to render, or permit to be rendered massage services at a location removed from a massage establishment within the City in the absence of a permit issued pursuant to the provisions set forth in this chapter.

**165.03 EXCEPTIONS.** The requirements of this chapter shall have no application and no effect upon and shall not be construed as applying to any persons who are required to be licensed by the Iowa State Department of Health under Chapters 147 - 158 of the *Code of Iowa*. Persons who administer massage in conjunction with and on behalf of a school athletic department need not secure the permit required in Section 165.02 in order to perform such function for the school athletic department.

**165.04 APPLICATION AND FEE.** Any person desiring to obtain a permit to operate a massage establishment shall make application to the Clerk, who shall refer all such applications to the Police Chief for an investigation and recommendation. A nonrefundable fee of one hundred fifty dollars (\$150.00) shall accompany the submission of each application, to defray in part the costs of investigation and report. Any person desiring to obtain a permit to perform massage services or to act as a massage technician's aide shall make application to the Clerk, who shall refer all such applications to the Police Chief for an investigation and recommendation. A nonrefundable fee of thirty-five dollars (\$35.00) shall accompany the submission of each application, to defray in part the costs of investigation and report. A permit to perform massage services does not authorize the operation of a massage establishment. Any person permitted to perform massage services who desires to operate a massage establishment must separately apply for a permit therefor.

**165.05 CONTENTS OF APPLICATION.** Any applicant for a permit shall submit the following information:

1. The full name and present address of applicant;
2. The two previous addresses immediately prior to the present address of applicant, and the dates of residence at each;
3. Written statements of at least five bona fide adult residents of the City that the applicant is of good moral character;
4. Written proof that the applicant is over the age of eighteen (18);
5. Applicant's height, weight, color of eyes and hair;
6. Two recent color portrait photographs at least two inches by two inches, taken within the last six months;
7. Business, occupation or employment history of the applicant for the three years immediately preceding the date of the application;
8. The business license history of the applicant; whether such person, in previously operating in the City or another city or state under license has had such license revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation;
9. All convictions and the reasons therefor;
10. A certificate from a medical doctor stating that the applicant has within thirty days immediately prior thereto been examined and found to be free of any contagious or communicable disease;
11. Such other identification and information as the Police Department may require in order to discover the truth of the matters specified as required to be set forth in the application.

Nothing contained in this chapter shall be construed to deny to the Police Department of the City the right to take the fingerprints and additional photographs of the applicant, nor shall anything contained in this chapter be construed to deny the right of the department to confirm the height and weight of the applicant.

**165.06 FACILITIES NECESSARY.** No permit to conduct a massage establishment shall be issued unless an inspection by the City reveals that the establishment complies with each of the following minimum requirements:

1. A recognizable and legible sign shall be posted at the main entrance identifying the establishment as a massage establishment.
2. Minimum lighting shall be provided in accordance with the *Uniform Building Code* and, in addition, at least one artificial light of not less than forty watts shall be provided in each room or enclosure where massage services are performed on patrons.
3. Minimum ventilation shall be provided in accordance with the *Uniform Building Code*.
4. Adequate equipment for disinfecting and sterilizing instruments used in performing the acts of massage shall be provided.
5. Hot and cold running water shall be provided at all times.
6. Closed cabinets shall be provided which cabinets shall be utilized for the storage of clean linen.
7. In any establishment in which massage services are rendered only to members of the same sex at any one time, such persons of the same sex may be placed in a single separate room or the operators of the massage establishment may elect to place such persons of the same sex in separate enclosed rooms or booths having adequate ventilation to an area outside the room or booth while massage services are being performed.
8. Adequate bathing, dressing, locker, and toilet facilities shall be provided for patrons. A minimum of one tub or shower, one dressing room containing a separate locker for each patron to be served, which locker shall be capable of being locked, and a minimum of one toilet and one wash basin shall be provided by every massage establishment; provided, however, if male and female patrons are to be served simultaneously at the establishment, a separate massage room or rooms, separate dressing facilities and separate toilet facilities shall be provided for male and female patrons.
9. All walls, ceiling, floors, pools, showers, bathtubs, steam rooms, and all other physical facilities for the establishment must be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms or steam or vapor cabinets, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use.
10. Clean and sanitary towels and linens shall be provided for each patron of the establishment. No common use of towels or linens shall be permitted.
11. A minimum of one separate wash basin shall be provided in each massage establishment for the use of employees of any such establishment, which basin shall provide soap or detergent and hot and cold running water at all times and shall be located within or as close as practicable to the area devoted to the performing of massage services. In addition, there shall be provided at each wash basin sanitary towels placed in permanently installed dispensers.
12. Proof of compliance with all applicable provisions of this Code of Ordinances shall be provided.

**165.07 PERMIT PROCEDURES.** Any applicant for a permit to operate a massage establishment, pursuant to these provisions, shall personally appear at the police station of the City and produce proof to the Police Department that the one hundred fifty dollar (\$150.00)

application fee has been paid to the Clerk, and thereupon the applicant shall present to the Police Department the application containing the information described in Section 165.05. The Police Chief shall have a reasonable time, not to exceed thirty days, within which to investigate the application and the background of the applicant. Based on such investigation the Police Chief shall render a recommendation as to the approval or denial of the permit to the Mayor. Any applicant for a permit to perform massage services or to act as a massage technician's aide, pursuant to these provisions, shall personally appear at the Police Department of the City and produce proof to the Police Department that the thirty-five dollar (\$35.00) application fee has been paid to the Clerk, and thereupon the applicant shall present to the Police Department the application containing the information described in Section 165.05. The Police Chief shall have a reasonable time, not to exceed thirty days, within which to investigate the application and the background of the applicant. Based on such investigation the Police Chief or representative shall render a recommendation as to the approval or denial of the permit to the Mayor.

**165.08 INSPECTION OF PREMISES.** The Building Inspector and the Fire Department shall inspect the premises proposed to be devoted to the massage establishment and shall make separate recommendations to the Mayor concerning compliance with the provisions of this chapter.

**165.09 ISSUANCE OF PERMIT.** The Mayor, after receiving the recommendations of the Building Inspector and Fire Department, shall grant a permit to the establishment if all requirements for a massage establishment described in this chapter are met and shall issue a permit to all persons who have applied to perform massage services or to act as aides unless it appears that any such person has deliberately falsified the application or unless it appears that the record of such person reveals a conviction of a felony or a crime involving moral turpitude.

**165.10 APPEAL.** Any person denied a permit pursuant to these provisions by the Mayor may appeal to the Council in writing within ten days from the action, stating reasons why the permit should be granted. The Council may grant or deny the permit and such decision shall be final upon the applicant. Also, the Council may elect on its own motion to review any determination of the Mayor granting or denying a permit. The Council shall hear the appeal not less than seven or more than twenty-one days following the filing of the appeal.

**165.11 PERMIT NOT TRANSFERABLE.** All permits issued under this chapter are nontransferable; provided, however, a change of location of a massage establishment may be permitted pursuant to the provisions of Section 165.14.

**165.12 DISPLAY OF PERMIT.** Every person to whom or for which a permit has been granted shall display the permit in a conspicuous place so that the same may be readily seen by persons entering the premises where the massage, bath, or treatment is given.

**165.13 VALIDITY AND RENEWAL OF PERMIT.** A permit shall be valid for a period of one year, unless suspended or revoked pursuant to the provisions of this chapter. The fee for renewal shall be one hundred dollars (\$100.00).

**165.14 CHANGE OF LOCATION.** A change of location of any premises may be approved by the Police Chief and the Building Inspector, provided all ordinances and regulations of the City are complied with and the change of location fee of fifty dollars (\$50.00) is deposited with the City.

**165.15 EMPLOYEES.** It is the responsibility of the holder of the permit for the massage establishment or the employer of any persons purporting to act as massage technicians to insure that each person employed as a massage technician shall first have obtained a valid permit pursuant to this chapter. No registered massage technician aide may independently practice the acts of massage, but said person may as a massage technician aide, assist a technician in the acts constituting the practice of massage under the immediate personal supervision and employment of a registered massage technician, but such aide may assist only while the massage technician is personally present with the patron, and such aide may not perform massage services. Any massage technician aide shall comply with the requirements of Section 165.05.

**165.16 INSPECTIONS.** The Building Inspector and Fire Department shall from time to time and at least twice each year make an inspection of each massage establishment in the City for the purpose of determining that the provisions of this chapter are complied with.

**165.17 PLACE OF BUSINESS.** A person holding a permit under this chapter may perform the functions of a massage technician only in a massage establishment for which a permit has been secured according to the provisions of this chapter. Violations of this provision shall constitute a misdemeanor.

**165.18 HOURS OF OPERATION.** A massage establishment shall not be operated between the hours of 11:00 p.m. and 9:00 a.m. Violation of this provisions shall constitute a misdemeanor.

**165.19 NAME OF BUSINESS.** No person authorized to do business as provided in this chapter shall operate under any name or conduct business under any designation not specified in the permit.

**165.20 REVOCATION AND SUSPENSION.** No permit shall be revoked until after a hearing has been held before the City Council to determine just cause for such revocation; provided, however, the Mayor may order any permits suspended pending such hearing, and it is unlawful for any person to carry on the business of a massage technician or to operate as a massage establishment depending upon the particular type of permit which as been suspended until the suspended permit has been reinstated by the Council. Notice of such hearing shall be given in writing and served at least five days prior to the date of the hearing thereon. The notice shall state the grounds of the complaint against the holder of such permit, or against the business carried on by the permittee at the massage establishment, and shall state the time and place where such hearing will be held. The notice shall be served upon the permit holder by delivering the same to such person or by leaving such notice at the place of business or residence of the permit holder in the custody of a person of suitable age and discretion. In the event the permit holder cannot be found, and the service of such notice cannot be made in the manner provided in this section, a copy of such notice shall be mailed, postage fully prepaid, addressed to the permit holder at the place of business or residence at least five days prior to the date of such hearing.

**165.21 SALE OR TRANSFER.** Upon the sale or transfer of any interest in a massage establishment, the permit shall be null and void. A new application shall be made by a person desiring to own or operate the massage establishment. A fee of five dollars (\$5.00) shall be payable for each such application involving sale or other transfer of any interest in an existing massage establishment. The provisions of this chapter shall apply to any person applying for a massage establishment permit for premises previously used as such establishment. Any such

sale or transfer of any interests in an existing massage establishment or any application for an extension or expansion of the building or other place of business of the massage establishment shall require inspection and shall require compliance with the provisions of this chapter.

**165.22 APPLICABILITY.** The provisions of this chapter shall be applicable to all persons and businesses described in this chapter whether the described activities were established before or after June 14, 1976.

**165.23 UNLAWFUL ACTIVITIES.** It is unlawful for any person to massage any other person or give or administer any bath or baths in such a manner as to commit a lewd act. "Lewd" means acts of masturbation, homosexuality, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if the person is female, breast. Any violation of this provision shall be deemed grounds for the revocation of the permit granted under this chapter.

**165.24 PRACTICE WITHOUT PERMIT UNLAWFUL.** Every person, except those persons who are specifically exempt by this chapter, whether acting as an individual, owner, employee of the owner, operator or employee of the operator or whether acting as a mere helper for the owner, employee or operator or whether acting as a participant or worker in any way who gives massages or conducts a massage establishment or room, or who gives or administers or who practices the giving or administering of steam baths, electric light baths, electric tub baths, shower baths, sponge baths, vapor baths, fomentation, sun baths, mineral baths, alcohol rubs, Russian, Swedish or Turkish baths, or any other type of baths, salt glows or any type of therapy or who does or practices any of the other things or acts mentioned in this chapter without first obtaining a permit to do so from the City or shall violate any provisions of this chapter is guilty of a misdemeanor.

**165.25 RESPONSIBILITY OF OWNER.** Any owner, operator, manager or permittee in charge or in control of a massage establishment who knowingly employs a person performing as a massage technician as defined in this chapter who is not in possession of a valid permit or who allows such an employee to perform, operate or practice within such a place of business is guilty of a misdemeanor.

**165.26 NUISANCE DECLARED.** Any massage establishment operated, conducted or maintained contrary to the provisions of this chapter shall be and the same is declared to be unlawful and a public nuisance and the City Attorney may, in addition to or in lieu of prosecuting a criminal action under this chapter, commence an action or actions, proceeding or proceedings, for the abatement, removal and enjoinder thereof, in the manner provided by law; and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such massage establishment and restrain and enjoin any person from operating, conducting or maintaining a massage establishment contrary to the provisions of this chapter.

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**TITLE VI – REGULATION OF BUSINESS AND VOCATIONS  
GENERAL**

**CHAPTER 166**

**SEXUALLY ORIENTED BUSINESSES**

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**166.01 JURISDICTION.** The provisions of this chapter apply to all of the territory of the City.

**166.02 DEFINITIONS.** For purposes of this chapter, the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context.

1. “Adult bookstore,” “adult novelty store” or “adult video store” means a commercial establishment that has a significant or substantial portion of its stock in trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space to the sale or rental, for any form of consideration, of any one or more of the following:

A. Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides, or other visual representations that are characterized by their emphasis upon the exhibition or description of “specified sexual activities” or “specified anatomical areas”;

B. Instruments, devices, or paraphernalia that are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

The terms “adult bookstore,” “adult novelty store” or “adult video store” also include a commercial establishment that regularly maintains one or more “adult arcades.” “Adult arcade” 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 or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized

by their emphasis upon matter exhibiting or describing “specified sexual activities” or “specified anatomical areas.”

2. “Adult cabaret” means a nightclub, bar, juice bar, restaurant, bottle club, or business or entity that is operated with the emphasis on observation or viewing of nude or semi-nude performances – whether the performers receive compensation or not and whether or not alcoholic beverages are served – that regularly feature persons who appear nude or semi-nude.

3. “Adult motel” means a motel, hotel, or similar commercial establishment that:

A. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, other photographic reproductions, or live performances that are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; and that advertises the availability of such material by means of a sign visible from the public right-of-way, or by means of any on- or off-premises advertising, including but not limited to newspapers, magazines, pamphlets or leaflets, radio, or television; or

B. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

C. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

4. “Adult motion picture theater” means a commercial establishment in which films, motion pictures, videocassettes, slides, or similar photographic reproductions that are characterized by their emphasis upon the exhibition or description of “specified sexual activities” or “specified anatomical areas” are regularly shown for any form of consideration.

5. “Controlling interest” means the power, directly or indirectly, to direct the operation, management, or policies of a business or entity, or to vote twenty percent (20%) or more of any class (or combination of multiple classes that aggregate in amount of 20% or greater) of voting shares of a business. The ownership, control, or power to vote 20% or more of any class of voting shares of a business (or a combination of multiple classes that aggregate in an amount of 20% or greater) shall be presumed, subject to rebuttal, to be the power to direct the management, operation or policies of the business.

6. “Distinguished or characterized by an emphasis on” means the dominant or principal theme of the object described by such phrase. For instance, when the phrase refers to films that are distinguished or characterized by an emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas, the films so described are those whose dominant or principal character and theme are the exhibition or description of specified anatomical areas or specified sexual activities. Similarly, when the phrase refers to a performance that is distinguished or characterized by an emphasis upon the exhibition or showing of specified sexual activities or specified anatomical areas, the performance so described is one whose dominant or principal character and theme are the exhibition or showing of specified anatomical areas or specified sexual activities.

7. “Employ,” “employee” and “employment” describe and pertain to any person who performs any service on the premises of a sexually oriented business, 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” means and includes any of the following:
  - A. The opening or commencement of any sexually oriented business as a new business.
  - B. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or
  - C. The addition of any sexually oriented business to any other existing sexually oriented business.
9. “Licensee” means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed on an application for a sexually oriented business license. In case of an “employee,” it means the person in whose name the sexually oriented business employee license has been issued.
10. “Nudity” or “state of nudity” means 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.
11. “Operate” or “cause to operate” means to cause to function or to put or keep in a state of doing business. “Operator” means any person on the premises of a sexually oriented business who is authorized to exercise overall operational control of the business or who causes to function or who puts or keeps in operation the business. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner or licensee of the business.
12. “Regularly features” or “regularly shows” means a consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the sexually oriented business.
13. “Semi-nude” or “state of semi-nudity” means a state of dress in which opaque clothing covers no more than the genitals, anus, anal cleft, cleavage, pubic area, vulva, as well as the nipple and areola of the female breast, as well as portions of the body covered by supporting straps or devices. This definition does not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided that the areola and nipple are not exposed in whole or in part.
14. “Semi-nude model studio” means any place in which a person regularly appears in a state of semi-nudity and is provided money or any other form of consideration to be so observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons. It is a defense to prosecution for any violation of this chapter that a person appearing in a state of semi-nudity did so in a modeling class operated:

- A. By a college, junior college, or university supported entirely or partly by taxation;
  - B. By a private college or university that 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) That has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and
    - (2) Where, in order to participate in a class, a student must enroll at least three days in advance of the class.
15. “Sexually oriented entertainment activity” means the sale, rental or exhibition, for any form of consideration, of books, films, videocassettes, magazines, periodicals, or live performances that are characterized by any emphasis on the exposure or display of specific sexual activity or specific anatomical areas.
16. “Specified anatomical areas” means human genitals, pubic region, anus, cleft of the buttocks or the nipple or areola of the female breast.
17. “Specified criminal activity” means any of the following offenses:
- A. Section 728.2<sup>†</sup> (dissemination and exhibition of obscene materials to minors); Section 728.3 (admitting minors to premises where obscene matter is exhibited); Section 728.4 (rental or sale of hard core pornography); Section 728.5 (public indecent exposure in certain establishments); Section 728.12 (sexual exploitation of a minor); Section 709.2-4 (sexual abuse); Section 709.8 (lascivious acts with a child); Section 709.9 (indecent exposure); Section 709.12 (indecent contact with a child); Section 709.14 (lascivious conduct with a minor); Section 709C.1 (criminal transmission of human immunodeficiency virus); Section 711.4 (extortion); Section 725.1-4 (prostitution, pimping, pandering, leasing premises for prostitution); or criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses or offenses in other jurisdictions that, if the acts would have constituted any of the foregoing offenses if the acts had been committed in Iowa, for which:
    - (1) Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
    - (2) Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or
    - (3) Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

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<sup>†</sup> All citations refer to sections in the *Code of Iowa*.

The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

18. "Specified sexual activity" means any of the following:
  - A. Sex acts, normal or perverted, including intercourse, oral copulation, masturbation or sodomy; or
  - B. Fondling, caressing, or other erotic touching either by the individual or anyone else of the specific anatomical areas specified herein; or
  - C. Exposure of the specific anatomical areas; or
  - D. Excretory functions as a part of or in connection with any of the activities described in A, B or C above.
19. "Transfer of ownership or control" (of a sexually oriented business) means any of the following:
  - A. The sale, lease, or sub-lease of the business;
  - B. The transfer of shares that constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
  - C. The establishment of a trust, gift, or other similar legal device that 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.
20. "Video room" means the room, booth, or area where a patron of sexually oriented business would ordinarily be positioned while watching a film, videocassette, or other video reproduction.

**166.03 CLASSIFICATIONS.** Sexually oriented businesses shall be classified as follows:

1. Adult bookstores, adult novelty stores, adult video stores;
2. Adult cabarets;
3. Adult motels;
4. Adult motion picture theaters;
5. Semi-nude model studios.

**166.04 LICENSE REQUIRED; TEMPORARY LICENSE.**

1. It is unlawful for any person to operate a sexually oriented business in the City without a valid sexually oriented business license.
2. It is unlawful for any person to be an "employee," as defined in this chapter, of a sexually oriented business in the City without a valid sexually oriented business employee license.
3. An applicant for a sexually oriented business license or a sexually oriented business employee license shall file in person at the office of the City Building Inspector a completed application made on a form provided by the Building Inspector. The application shall be signed by the applicant and notarized. An application shall be considered complete when it contains the information required in Paragraphs A through F as follows:

- A. The applicant's full true name and any other names used in the preceding five (5) years.
- B. Current business address or another mailing address of the applicant.
- C. Written proof of age, in the form of a copy of a birth certificate and a picture identification document issued by a governmental agency.
- D. If the application is for a sexually oriented business license, the business name, location, legal description, mailing address, and phone number of the sexually oriented business.
- E. If the application is for a sexually oriented business license, the name and business address of the statutory agent or other agent authorized to receive service of process.
- F. A statement of whether the applicant has been convicted or has pled guilty or *nolo contendere* to any "specified criminal activity" as defined in this chapter, and if so, the specific criminal activity involved, including the date, place and jurisdiction of each, as well as the dates of conviction and release from confinement, where applicable.

The information provided pursuant to Paragraphs A through F of this subsection shall be supplemented in writing by certified mail, return receipt requested, to the Building Inspector within ten (10) working days of a change of circumstances that would render the information originally submitted false, incomplete or reasonably misleading.

- 4. An application for a sexually oriented business license shall be accompanied by 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 (6) inches. Applicants who are required to comply with Sections 166.14 and 166.17 of this chapter shall submit a diagram meeting the requirements of those sections.
- 5. If a person who wishes to operate a sexually oriented business is an individual, such person shall sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each officer, director, general partner, each other person who will manage, supervise, or control the premises, and each other person who will participate in decisions relating to management and control of the business shall sign the application for a license as applicant. Each applicant must be qualified under Section 166.05 and each applicant shall be considered a licensee if a license is granted.
- 6. The information provided by an applicant in connection with an application for a license under this chapter shall be maintained by the Building Inspector on a confidential basis, except that such information may be disclosed to law enforcement agencies in connection with a law enforcement or public safety function, or as may be required by governing law or court order.

#### **166.05 ISSUANCE OF LICENSE.**

- 1. Upon the filing of a completed application under Section 166.04(3) for a sexually oriented business license, the Building Inspector shall immediately issue a

temporary license to the applicant, which temporary license shall expire upon the final decision of the City to deny or grant the license. Within twenty (20) days of the initial filing date of the completed application, the Building Inspector shall issue a license to the applicant or issue to the applicant a letter of intent to deny the application. The Building Inspector shall approve the issuance of a license unless:

- A. An applicant is less than eighteen (18) years of age.
- B. An applicant has failed to provide information as required by Section 166.04 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 Section 166.06 has not been paid.
- D. An applicant has been found guilty of a violation of Section 166.07(1), Section 166.10(2), or Section 166.17(1), (2) or (3) of this chapter within the previous year.
- E. The sexually oriented business premises is not in compliance with the interior configuration requirements of this chapter or is not in compliance with locational requirements established in this chapter and the applicable Zoning Code provisions.
- F. An applicant has been convicted of a “specified criminal activity,” as defined in this chapter.

2. Upon the filing of a completed application for a sexually oriented business employee license, the Building Inspector shall issue a temporary license to the applicant, which temporary license shall expire upon the final decision of the City to deny or grant the license. Within twenty (20) days of the initial filing date of the receipt of a completed application, the Building Inspector shall either issue a license or issue a written notice of intent to deny a license to the applicant. The Building Inspector shall approve the issuance of a license unless one or more of the following is found to be true.

- A. An applicant is less than eighteen (18) years of age.
- B. An applicant has failed to provide information required by Section 166.04 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 Section 166.06 has not been paid.
- D. An applicant has been shown to have committed a violation of Section 166.07(1), Section 166.10(2) or Section 166.17(1), (2) or (3) of this chapter within the previous year.
- E. An applicant has been convicted of a “specified criminal activity” as defined in this chapter.

3. The license, if granted, shall state on its face the name of the person to whom it is granted, the number of the license issued to the licensee, the expiration date, and, if the license is for a sexually oriented business, the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time. A sexually oriented business employee shall keep the employee’s

license on his or her person or on the premises where the licensee is then working or performing and shall produce such license for inspection upon request by a law enforcement officer or other City official performing functions connected with the enforcement of this chapter.

**166.06 FEES.** A filing fee in accordance with the following fee schedule shall be charged for each application for initial license and annual renewals to assist in deferring the cost of the administrative review. The applicant shall be held responsible for submitting the required fees upon submission of the completed application. No action shall be taken on any application until the required fee is paid in full. The fee schedule is as follows:

Sexually Oriented Business License, Initial License.....	\$300.00
Sexually Oriented Business License, Annual Renewal.....	\$300.00
Sexually Oriented Business Employee’s License, Initial License.....	\$100.00
Sexually Oriented Business Employee’s License, Annual Renewal....	\$100.00

Whether the request is granted or denied, the applicant shall not be entitled to a refund of the fee paid.

**166.07 PERIODIC INSPECTION.**

1. Sexually oriented businesses and sexually oriented business employees shall permit agents of the City to inspect from time to time on an occasional basis the portions of the sexually oriented business premises where patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this chapter, during those times when the sexually oriented business is occupied by patrons or is open for business. A licensee’s knowing or intentional refusal to permit such an inspection shall constitute a violation of this section for purposes of license denial, suspension or revocation. 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.
2. The provisions of this section do not apply to areas of an adult motel that are currently being rented by a customer for use as a permanent or temporary habitation (of a duration of longer than ten (10) consecutive hours).

**166.08 EXPIRATION 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 166.04 and Section 166.06.
2. Application for renewal should be made at least ninety (90) days before the expiration date, and when made less than ninety (90) days before the expiration date, the expiration of the license will not be affected.

**166.09 CAUSE FOR SUSPENSION.**

1. The City shall issue a written letter of intent to suspend a sexually oriented business license for a period not to exceed thirty (30) days if the sexually oriented business licensee has violated this chapter or has knowingly allowed an employee to violate this chapter.

2. The City shall issue a written letter of intent to suspend a sexually oriented business employee license if the employee has violated this chapter.

#### **166.10 CAUSE FOR REVOCATION.**

1. The City shall issue a letter of intent to revoke a sexually oriented business license or a sexually oriented business employee license if the respective licensee commits two or more violations within a 12-month period.
2. The City shall issue written intent to revoke a sexually oriented business license or a sexually oriented business employee license if:
  - A. The licensee has knowingly given false information in the application for a sexually oriented business license or a sexually oriented business employee license.
  - B. The licensee has knowingly allowed or engaged in possession, use, or sale of controlled substances on the premises.
  - C. The licensee has knowingly allowed or engaged in prostitution on the premises.
  - D. The licensee knowingly operated the sexually oriented business during a period of time when the license was suspended.
  - E. The licensee has knowingly allowed or engaged in any specified sexual activity in or on the licensed premises.
  - F. The licensee has knowingly allowed or engaged in behavior that negatively affects the health, safety or welfare of the residents of the City or otherwise in violation of this chapter.
3. A business licensee shall be liable for the acts of an employee only pursuant to the standard established in Section 166.18.
4. When, after the notice and hearing procedure described in Section 166.11, the Building Inspector revokes a license, the revocation shall continue for two (2) years and the licensee shall not be issued a sexually oriented business license or sexually oriented business employee license for two (2) years from the date revocation becomes effective, provided that, if the conditions of Section 166.11(3) are met, a provisional license will be granted pursuant to that section. If, subsequent to revocation, the Building Inspector finds that the basis for the revocation based on paragraph 2A of this section has been corrected or abated, the applicant shall be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective. If the license was revoked under paragraphs B, C, D or E of subsection 2 of this section, an applicant may not be granted another license until at least two years have elapsed.

#### **166.11 RIGHT TO HEARING; PROMPT JUDICIAL REVIEW; PROVISIONAL LICENSE.**

1. If facts exist that warrant the denial, suspension or revocation of a license under this chapter, the Building Inspector shall notify the applicant or licensee (respondent) in writing of the intent to deny, suspend or revoke the license, including the grounds thereof, by personal delivery or by certified mail. The notification shall be directed to the most current business address or other mailing address on file with the Building Inspector for the respondent. Within ten (10) working days of the receipt

of such notice, the respondent may submit a request to the Building Inspector for a hearing before the Council to refute the grounds alleged by the City for denial, suspension or revocation of the license.

2. Within five (5) days of the receipt of respondent's written response, the Building Inspector shall notify respondent in writing of the hearing date on respondent's denial, suspension or revocation proceeding. Such hearing date must be held within twenty (20) working days of the receipt of respondent's written response. The Council shall conduct said hearing, at which respondent shall have the opportunity to present respondent's arguments, be represented by counsel if desired (at the respondent's own expense), present evidence and witnesses on his or her behalf, and cross examine any of the City's witnesses. The Building Inspector shall 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 to meet the requirements of due process and the proper administration of justice. The Council shall issue a written decision within five (5) business days after the hearing. If the decision is to deny, suspend or revoke the license, it shall state the reasons for such action, and the denial, suspension or revocation shall become final for purposes of appeal immediately, but shall not take effect or be enforced until thirty (30) days thereafter. If the decision is to grant the license, the City shall immediately issue a license to the respondent.

3. An applicant or licensee (aggrieved party) whose application for a license has been denied or whose license has been suspended or revoked shall have the right to challenge or appeal such action or seek a declaration of rights concerning such action concerning this chapter, upon factual grounds or constitutional grounds or both, to a court of law within thirty (30) days after issuance of the Council's written decision. Upon the filing of any court action to appeal, challenge, restrain or otherwise enjoin or seek a declaration of rights concerning this chapter or the City's denial, suspension or revocation of a license issued pursuant to this chapter, the City shall immediately issue the aggrieved party a provisional license. The City shall supply the court with any documents, reports or transcripts relevant to the lawsuit within fifteen (15) days after receiving notice of the lawsuit. The provisional license shall allow the aggrieved party to operate or continue operation of the sexually oriented business or to be employed or continue employment as a sexually oriented business employee, and will expire only upon the court's entry of a judgment on the merits of the aggrieved party's action to appeal, challenge, restrain or otherwise enjoin or seek a declaration of rights concerning this chapter or the City's denial, suspension or revocation of a license under this chapter.

4. If, in the alternative, the aggrieved party does not wish to bear the burden of initiating a court action, such person may, within thirty (30) days after the Council's written decision is issued, elect to require the City to file a declaratory action in a court of competent jurisdiction, seeking a declaration that the denial, suspension or revocation is valid and that this chapter is constitutionally sound. Such an election must be made in writing and be delivered to the City Attorney's Office within thirty (30) days of issuance of the Council's written decision. Upon the delivery of the election notice to the City Attorney's Office, the City shall immediately issue the aggrieved party a provisional license. The provisional license shall allow the aggrieved party to operate or continue operation of the sexually oriented business or to be employed or continue employment as a sexually oriented business employee, and

will expire only upon the court's entry of a judgment on the merits of the validity of this chapter and the City's denial, suspension or revocation decision.

5. This section shall be liberally construed to permit the uninterrupted operation of the sexually oriented business or the uninterrupted employment of the sexually oriented business employee under the terms and conditions of this chapter during the course of any court action challenging this chapter or an adverse licensing decision under this chapter until the court of law rules upon all of the aggrieved party's factual or constitutional claims.

**166.12 TRANSFER OF LICENSE.** A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the sexually oriented business license application.

**166.13 HOURS OF OPERATION.** No sexually oriented business, except for an adult motel, shall be or remain open for business between 2:00 a.m. and 6:00 a.m. on a weekday, or between 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a sexually oriented business that holds a liquor license or retail beer permit entitling the holder to sell alcoholic liquor or beer on Sunday may remain open between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday.

**166.14 REGULATIONS REGARDING EXHIBITION OF SEXUALLY EXPLICIT FILMS ON THE PREMISES.**

1. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, that exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette or other video characterized by an emphasis on the display of "specified sexual activities" or "specified anatomical areas" shall comply with the requirements contained in Section 166.04 of this chapter.

2. It is unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

**166.15 LOITERING; EXTERIOR LIGHTING AND MONITORING REQUIREMENTS.** It shall be the duty of the operator of a sexually oriented business to: (a) post conspicuous signs stating that no loitering is permitted on such property; (b) designate one or more employees to monitor the activities of persons on such property by visually inspecting such property at least once every two hours or inspecting such property by use of video cameras and monitors; and (c) provide lighting of the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. If used, video cameras and monitors shall operate continuously at all times that the premises is open for business. The monitors shall be installed within a manager's station or at a cash register where an employee is regularly present. It is unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

**166.16 APPLICABILITY TO EXISTING BUSINESSES.** The provisions of this chapter apply to the activities of all sexually oriented businesses and sexually oriented business employees described herein, whether such businesses or activities were established or commenced before, on, or after the effective date of the ordinance codified in this chapter.

**166.17 LIVE PUBLIC NUILITY ON PREMISES.**

1. It is a violation of this chapter for a licensee required to obtain a sales tax permit to knowingly or intentionally violate Section 728.5 of the *Code of Iowa*. It is a violation for any person to knowingly or intentionally, in a sexually oriented business, appear in a state of nudity.
2. It is a violation of this chapter for any employee to knowingly and intentionally appear semi-nude in a sexually oriented business unless the employee, while semi-nude, is at least six (6) feet from any patron or customer and on a stage at least two (2) feet from the floor.
3. It is a violation of this chapter for an employee, while semi-nude in a sexually oriented business, to knowingly or intentionally receive any pay or gratuity directly from any patron or customer or for any patron or customer to knowingly or intentionally pay or give any gratuity directly to any employee, while said employee is semi-nude in a sexually oriented business.
4. It is a violation of this chapter for an employee, while semi-nude in a sexually oriented business, to knowingly or intentionally touch a customer or the clothing of a customer or for a customer to knowingly and intentionally touch an employee or the clothing of an employee, while said employee is semi-nude in a sexually oriented business.
5. A sign in a form to be prescribed by the Building Inspector and summarizing the provisions of subsections 1 through 4 of this section shall be posted near the entrance of the sexually oriented business in such a manner as to be clearly visible to patrons upon entry into the inside of the building.

**166.18 SCIENTER REQUIREMENT TO PROVE VIOLATION OR LIABILITY.**

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 sexually oriented business 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 business premises, knew or reasonably should have known that such act was occurring and failed to prevent such act. It shall be a defense to liability under this chapter that the person to whom the violation is imputed was powerless to prevent the act.

**166.19 SITING CRITERIA.**

1. A person commits a violation of this chapter if that person operates or causes to be operated a sexually oriented business in any zoning district other than C-1, as defined and described in the Carter Lake Zoning District Regulations.
2. A person commits an offense if the person operates or causes to be operated a sexually oriented business within two thousand (2,000) feet of:
  - A. A church, synagogue, mosque, temple or building that is used primarily for religious worship and related religious activities.
  - B. A public or private educational facility, including child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; ("school" includes

- any school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school);
- C. A public park, public playground, public plaza or cemetery; or
  - D. Another sexually oriented business.
3. A person commits an offense if the person operates or causes to be operated a sexually oriented business within five hundred (500) feet of a residential “R” district, as defined in the Carter Lake Zoning District Regulations.
4. For the purpose of subsection 2 of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest property line of the premises where a sexually oriented business is conducted to the nearest property line of the premises of a use listed in such subsection. The presence of a county, city or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.
5. For purpose of paragraph D of subsection 2 of this section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.
6. Any sexually oriented business lawfully operating on the effective date of the ordinance codified in this chapter<sup>1</sup> that is in violation of subsection 1 through 4 of this section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed one (1) year from the date of enactment of this chapter, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within two thousand (2,000) feet of one another and otherwise in a permissible location, the sexually oriented business that was first established and continually operating at a particular location is the conforming use and the later established business is nonconforming.
7. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a use listed in subsection 2 of this section within two thousand (2,000) feet of the sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application is made for a license after the applicant’s previous license has expired or been revoked.

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<sup>1</sup> **EDITOR’S NOTE:** The effective date of this chapter is January 3, 2005.

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**TITLE VI – REGULATION OF BUSINESS AND VOCATIONS  
GENERAL**

**CHAPTER 167**

**PUBLIC DANCES**

167.01 Compliance Required  
167.02 License Required  
167.03 License Application  
167.04 License Fee  
167.05 Restrictions  
167.06 License Not Assignable

167.07 Display Of License  
167.08 Standards For Dance Premises  
167.09 Description of Premises  
167.10 Disorderly Conduct  
167.11 Hours of Operation  
167.12 Suspension or Revocation of License

**167.01 COMPLIANCE REQUIRED.** Any dance held within the City to which the public may gain admission, with or without payment of a fee, shall be subject to supervision and regulation as required by this chapter.

**167.02 LICENSE REQUIRED.** No person shall conduct, host, organize or sponsor a dance open to the public without first obtaining a license as provided in this chapter. This chapter, however, shall not be deemed to apply to dance clubs with a specific membership or to persons conducting dance classes.

**167.03 LICENSE APPLICATION.** All applicants for a public dance license shall apply in writing to the Clerk. The Clerk shall forward the application to the appropriate departments for inspections. All applications shall be made in the name of the owner of the business, whether an individual, a partnership, or a corporation, and shall contain the following:

1. The full name, residence address, business address, date of birth and social security number of the applicant, and when the applicant is a partnership or corporation, of the partners and officers.
2. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation, together with the names and residence addresses of each of the officers, directors and each stockholder holding more than ten percent of the stock of the corporation. If the applicant is a partnership, the application shall set forth the name and the residence address of each of the partners, including limited partners. If one or more of the partners is a corporation, the subsections of this section pertaining to a corporate application apply.
3. The name and address of the owner of the building where such dance will be located.

Upon receipt of departmental inspections and if the Clerk finds that the applicant has fully complied with all requirements of this chapter and all applicable ordinances and codes regulating fire, buildings, health and zoning, and that the applicant is of good moral character, the Clerk shall approve the application and shall authorize the issuance of a license to conduct public dances.

**167.04 LICENSE FEE.** A license fee of \$50.00 per dance shall be collected prior to the issuance of a license, to all for-profit businesses.

**167.05 RESTRICTIONS.** Every annual or occasional license authorized under this chapter shall be limited to a single property or place designated in the license. No dance shall be held by the licensee at any place other than so designated. For the purpose of this chapter, a single property or place shall include the dance room, check room, lounge or other room constituting a suite in connection therewith.

**167.06 LICENSE NOT ASSIGNABLE.** The licenses granted under this chapter shall be personal to the licensee and shall not be assignable.

**167.07 DISPLAY OF LICENSE.** No public dance shall be conducted unless the license required therefor is conspicuously displayed on the walls of the place designated therein so that all persons visiting the premises may readily see it.

**167.08 STANDARDS FOR DANCE PREMISES.**

1. The premises for any public dance shall provide for actual dancing a floor space of at least 100 square feet. The room where dancing is conducted shall be illuminated to a minimum of two foot-candles, as measured by a photometer at a plane 30 inches above the floor, at any point in the room. Such building or structure shall also be equipped with two exits that will furnish ample protection in case of fire, and all materials used for interior decoration shall be fire resistant or so chemically treated as to be fire resistant.
2. The premises of a beer or wine permit holder or liquor license holder, where public dancing is permitted, shall be subject to other structural requirements as may be required by the provisions of this Code of Ordinances<sup>†</sup> or State law.

**167.09 DESCRIPTION OF PREMISES.** The premises used for a public dance shall be described in the license by street name and number or other definite description.

**167.10 DISORDERLY CONDUCT.** No dance licensee or employee or agent thereof shall permit such licensed premises to become disorderly. The term “disorderly” as used in this section shall have the meaning contained in Section 45.05 of this Code of Ordinances.

**167.11 HOURS OF OPERATION.** No person shall permit any public dance to remain open or permit any public dancing between the hours of 2:00 a.m. and 6:00 a.m., Monday through Saturday, and between the hours of 2:00 a.m. and 8:00 a.m. on Sunday.

**167.12 SUSPENSION OR REVOCATION OF LICENSE.** Any license issued pursuant to this chapter may be suspended or revoked for violations of this chapter or any other chapter of this Code of Ordinances.

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<sup>†</sup> **EDITOR’S NOTE:** See Section 146.08 for additional regulations for dances on premises where beer, wine or liquor is sold.

**TITLE VI – REGULATION OF BUSINESS AND VOCATIONS  
GENERAL**

**CHAPTER 168**

**INTRUSION ALARMS**

<b>168.01</b> Definitions	<b>168.06</b> Term of Permit and Renewal
<b>168.02</b> Alarm System Requirements Generally	<b>168.07</b> Inspection of Alarm System
<b>168.03</b> Permits Required	<b>168.08</b> False Alarm Fees
<b>168.04</b> Applications; Fee For Permit	<b>168.09</b> Suspension of Permits
<b>168.05</b> Issuance of Permit	<b>168.10</b> Reinstatement After Suspension

**168.01 DEFINITIONS.** As used in this chapter, unless the context otherwise requires:

1. “Agent” means a natural person who is designated by the principal to be responsible for premises protected by an alarm system during the principal’s absence or unavailability.
2. “Alarm business” means the business of any person selling, monitoring, leasing, maintaining, servicing, repairing, altering, replacing, moving or installing any alarm system or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved or installed any alarm in or on any building, structure or facility.
3. “Alarm system” means any assembly of equipment, mechanical or electrical, arranged to designate the occurrence of an entry or attempted entry into the area protected by the system, resulting in a signal to which the police would be expected to respond.
4. “Alarm user” means the person in control of any building, structure or facility who purchases, leases, contracts for or otherwise obtains an alarm system and thereafter contracts with or hires an alarm business to monitor and/or service the alarm device.
5. “Annunciator” means that part of an alarm system which communicates the fact that the system has been triggered.
6. “False alarm” means an alarm signal eliciting an urgent response by police when a situation requiring an urgent response does not, in fact, exist, but does not include an alarm signal caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to control by the alarm business or alarm user. The burden of proving that such alarm was not a false alarm shall be on the alarm business or alarm user.
7. “Local alarm system” means an alarm system which, when activated, causes an audible and/or visual signaling device to be activated and is intended to be seen and/or heard by others outside of the protected premises.
8. “Permit term” means a twelve-month period beginning on the date of issuance of the alarm permit and ending twelve calendar months thereafter.

9. "Principal" means the person whose premises are protected by an alarm system. In the event that a building having more than one tenant is protected by a single alarm system, the term "principal" means the building owner.

**168.02 ALARM SYSTEM REQUIREMENTS GENERALLY.**

1. No alarm system shall be installed, used or maintained in violation of any of the requirements of this chapter.
2. The holder of an alarm system permit shall be responsible for training and retraining all employees, family members and other persons who may make regular use of the protected premises and who may, in the normal course of their activities, be in a position to accidentally trigger a sensor. Such training shall include procedures and practices to avoid accidental alarms and steps to follow in the event the system is accidentally triggered.
3. The holder of an alarm system permit shall be responsible, at all times, for the proper maintenance and repair of the system and for the repair or replacement of any component, method of installment, design feature or like condition which may give rise to a false alarm.
4. Each alarm system shall be so programmed that each audible annunciator will automatically silence within fifteen minutes after being activated, and will not sound again unless a new act or circumstance triggers a sensor.
5. No test of an alarm system incorporating an audible annunciator shall be conducted between the hours of 8:00 p.m. of any day and 7:00 a.m. of the following day.
6. The application for an alarm system permit shall list the name and phone number of three agents having access to the premises who may be notified and assist the police in the event the alarm is activated.

**168.03 PERMITS REQUIRED.** It is unlawful for any person to use or operate any alarm system without a current, valid permit therefor.

**168.04 APPLICATIONS; FEE FOR PERMIT.** Each application for an alarm system permit or renewal shall be made on a form prescribed by the Clerk and shall contain the following information:

1. The name, address and telephone number of the principal of the protected premises.
2. The type of premises (home, office, variety store, etc.) and any business name by which the premises is known.
3. The address of the protected premises, including, if it is in a residential, commercial or industrial complex (office building, apartment house, shopping center, etc.) any name by which the complex is commonly known.
4. The names, addresses and telephone numbers, including home phone numbers, of three agents.

The fee for the permit shall be as established by resolution of the Council.

**168.05 ISSUANCE OF PERMIT.** Upon receipt by the Clerk of the permit application and fee, the Police Chief or an individual designated by the Police Chief shall undertake

whatever investigation deemed necessary with respect to the permit. If it appears to the Police Chief that the proposed system will comply with the provisions of this chapter, the Clerk shall issue to the applicant a permit setting forth the expiration date of the permit. The City shall not, by the issuance of any alarm system permit, be obligated to respond or accord any priority to an alarm from such system.

**168.06 TERM OF PERMIT AND RENEWAL.**

1. Alarm system permits shall be for a one-year period from and after the date of their issuance; permits may be renewed for a consecutive additional permit term in the same manner as original permits were obtained.
2. An alarm system permit shall automatically terminate upon any change of principal or protected premises. No permit shall be transferred to another principal or protected premises. No refunds will be given on termination or suspension of any permit for any reason.
3. Renewal permits shall be dated on the date of issue.

**168.07 INSPECTION OF ALARM SYSTEM.** Prior to issuing an alarm system permit, and at any time thereafter during the term thereof, the Police Chief may inspect any alarm system for which a permit is required.

**168.08 FALSE ALARM FEES.** As a condition of any alarm system permit issued under the provisions of this chapter, the permittee shall pay to the City within thirty (30) days of invoice for any false alarm generated by the permittee's alarm system a fee in an amount established by resolution of the Council.

**168.09 SUSPENSION OF PERMITS.** The following shall be grounds for suspension by the Police Chief of any permit issued pursuant to this chapter.

1. Any false or incomplete statement made on the permit application;
2. Failure to pay a false alarm fee within the time required by Section 168.08;
3. Installation or use of any alarm system in violation of any requirement of this chapter;
4. Failure to provide current information as required in this chapter.

If the Police Chief determines that there is cause for the suspension of a permit, the Police Chief shall mail a notice of suspension to the principal, stating that the suspension will be effective fifteen (15) days after the date of mailing.

**168.10 REINSTATEMENT AFTER SUSPENSION.** Except as otherwise provided herein, a principal whose alarm system permit has been suspended may have a permit reinstated upon payment of a reinstatement fee in an amount established by resolution of the Council.

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**TITLE VI – REGULATION OF BUSINESS AND VOCATIONS  
GENERAL**

**CHAPTER 169**

**LICENSING OF TRADESMEN**

**169.01 License Required**  
**169.02 Definitions**

**169.03 Proof of Licensure and Insurance/Bond**

**169.01 LICENSE REQUIRED.** No tradesmen shall be entitled to perform services on properties located within the City limits without first being licensed in their profession either by the City of Council Bluffs, Iowa, or the City of Omaha, Nebraska. Each tradesman shall provide proof of said licensure to the City Building Inspector of Carter Lake and shall provide proof of insurance before any building permit may be issued to the homeowner or to the contractor or tradesman for the work intended to be performed within the City. This chapter applies to and covers the following trades:

1. Air conditioning commercial master
2. Air conditioning residential master / journeyman
3. Apprentice of the mechanical trade
4. Boiler master
5. Gas master
6. HARV master
7. HARV “C” master
8. HARV journeyman
9. Licensed mechanical journeyman
10. Mechanical contractor
11. Mechanical master
12. Pipefitter journeyman
13. Pipefitter master
14. Refrigeration journeyman
15. Refrigeration master
16. Registered air conditioning commercial master
17. Registered air conditioning residential master
18. Registered mechanical journeyman
19. Registered limited master
20. Registered mechanical master
21. Registered sheet metal master
22. Sheet metal journeyman
23. Sheet metal master
24. Unlimited master.

**169.02 DEFINITIONS.** The definitions of the trades listed above will be recognized as the definitions used by the City of Council Bluffs, Iowa, or the City of Omaha, Nebraska, in their licensing procedures.

**169.03 PROOF OF LICENSURE AND INSURANCE/BOND.** If the proposed tradesman cannot provide the proof of licensure and insurance/bond, the Building Inspector shall not issue a building permit for the work to be performed.

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