

ORDINANCE NO.49

AN ORDINANCE GRANTING TO IOWA-ILLINOIS GAS AND ELECTRIC COMPANY AND TO ITS SUCCESSORS AND ASSIGNS THE RIGHT AND FRANCHISE TO ACQUIRE, ERECT, MAINTAIN AND OPERATE IN THE CITY OF UNIVERSITY HEIGHTS, IOWA, A GAS PLANT OR PLANTS FOR THE PRODUCTION, STORAGE, TRANSMISSION, DISTRIBUTION, SALE, DELIVERY OR FURNISHING OF GAS FOR PUBLIC AND PRIVATE USE IN THE CITY OF UNIVERSITY HEIGHTS AND ELSEWHERE AND TO USE THE STREETS, AVENUES, ALLEYS AND PUBLIC GROUNDS AND BRIDGES IN THE CITY OF UNIVERSITY HEIGHTS FOR THE PURPOSE OF LAYING, CONSTRUCTING, MAINTAINING, REPLACING AND SUBSTITUTING MAINS, PIPES, CONDUITS AND OTHER FACILITIES FOR THE TRANSMISSION, DISTRIBUTION, SALE, DELIVERY OR FURNISHING OF GAS FOR PUBLIC AND PRIVATE USE IN THE CITY OF UNIVERSITY HEIGHTS AND ELSEWHERE.

BE IT ORDAINED by the City Council of the City of University Heights, Iowa:

Section 1. There is hereby granted to Iowa-Illinois Gas and Electric Company, an Illinois corporation authorized to do business in the state of Iowa, hereinafter called the "Company", and to its successors and assigns for a period of twenty-five years from and after the effective date of this ordinance the right and franchise to acquire, erect, maintain and operate in the City of University Heights, Iowa, a gas plant or plants for the production, storage, transmission, distribution, sale, delivery or furnishing of gas, either, natural or manufactured or mixed natural and manufactured, for public and private use in the City of University Heights and elsewhere and to use the streets, avenues, alleys and public grounds and bridges in the City of University Heights for the purpose of laying, constructing, maintaining, replacing and substituting mains, pipes, conduits and other facilities for the transmission, distribution, sale, delivery or furnishing of gas for public and private use in the City of University Heights and elsewhere.

Section 2. The rights and privileges herein granted are subject to the restrictions and limitations of Chapter 397 and of Chapter 490A of the Code of Iowa 1973 and this franchise shall not be exclusive.

Section 3. The Company shall have the right to excavate in any public street for the purpose of laying, re-laying, repairing or extending gas pipes, mains, conduits and other facilities provided that the same shall be so located and maintained as to make no unnecessary obstruction of any drains or sewers or the flow of water therefrom, which have been or may hereafter be located by authority of said city.

Said gas pipes, mains, conduits and other facilities shall be so located and maintained in the streets, avenues, alleys and public places of said city as to make no unnecessary obstruction therein to the use thereof by the public.

Section 4. In making excavations of any streets, avenues, alleys and public places for the installation of gas pipes, conduits or apparatus, the Company shall not unnecessarily obstruct the use of the streets, and shall replace the surface, restoring the original condition as nearly as practicable; and in laying, repairing and replacing mains and pipes, the Company shall conform to all reasonable regulations prescribed by the city to prevent injury to the pavement, streets, alleys and public places, and the Company shall not unnecessarily interfere with, injure or change any pavement, water pipes, drains or sewers of said city, either public or private.

Section 5. The Company, its successors and assigns, shall hold said city free and harmless from all damages arising on account of any negligence of said Company, its successors and assigns, in the construction, operation and maintenance of said systems.

Section 6. The Company, its Successors and assigns, shall extend its mains and pipes to any part of said city provided said Company shall not be required to extend said mains and pipes on any public street except there shall be upon such public street at least one consumer for each 100 lineal feet on the average of such extension who shall first agree in writing to use and pay for gas furnished by the Company upon the completion of such extension.

Section 7. The said Company, its successors and assigns, so long as it shall operate under the terms of this franchise shall furnish such quantities of gas of good quality as the city and the inhabitants thereof may reasonably demand, subject to the regulation of rates and services by the Iowa State Commerce Commission.

Section 8. The Company is authorized to impose reasonable terms and conditions upon the furnishing of gas service and reasonable rules and regulations in the operation and conduct of its business including, but not limited to, the requiring of a reasonable deposit of any customer as a condition of furnishing gas to such consumer.

Section 9. All proper and necessary police regulations shall be adopted and enforced by the City of University Heights, Iowa, for the protection of the pipes, mains, conduits, meters and other apparatus of the Company and its successors and assigns.

Section 10. Upon this ordinance becoming effective, Ordinance

No. 6 passed by the City Council on January 29, 1951, is hereby repealed. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 11. This ordinance, and the rights and privileges herein granted, shall not become effective or binding until this ordinance shall have been submitted to and approved by a majority of the electors of the said City of University Heights, Iowa, voting at the next general or municipal election or at a special election called for that purpose. The cost and expense of the election relating to the franchise provided for herein shall be paid by the Company.

Section 12. The Company and its successors and assigns, within thirty days after the approval of this ordinance by a vote of the people, shall file in the office of the clerk of said city its acceptance in writing of all the terms and provisions of this ordinance.

Section 13. This ordinance shall become effective upon passage by the City Council, the approval of the voters as provided in Section II hereof, and acceptance by the Company as provided in Section 12 hereof.

PASSED AND APPROVED this 12th day of March 1974.