

ORDINANCE NO. 88

AN ORDINANCE REGULATING EXCAVATIONS ON STREETS, ALLEYS, AND PUBLIC PROPERTY IN THE CITY OF UNIVERSITY HEIGHTS, IOWA.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF UNIVERSITY HEIGHTS, IOWA:

Section 1. This ordinance shall be known as the "Excavation Ordinance" of the City of University Heights, Iowa and shall pertain to any excavation upon any street right-of-way, street, highway, avenue, alley or sidewalk in the City.

Section 2. Definitions. For the purposes of this article, the following words shall have the meaning given:

- a) Director shall mean the City Engineer or such other authorized representative as designated by the Council.
- b) Excavation shall mean any opening in the surface of a public place made by any means.
- c) Public Place shall mean any public street, way, place, alley, sidewalk, park, any city-owned right-of-way or any other public property owned or controlled by the City and dedicated to public use.

Section 3. Permits Required.

No person shall make any excavations upon any public place in the City without first having obtained a written permit from the director or his or her designate. In situations of emergency wherein delay incident to obtaining said written permit would endanger the public health or safety, any excavation necessary may be recommended without said written permit, but such persons shall report their actions as soon as possible and procure a written permit for a continuance of the work no later than the following working day.

Section 4. Application for Permits and Fee.

Permits to make excavations will, at the discretion of the director, be granted upon total completion of a standard application form supplied by the City, compliance with the performance bond or deposit provisions set out at Section 5, and payment of a \$25.00 permit fee.

Section 5. Performance Bond or Deposit and Insurance Requirements.

Any person or company involved in the excavation upon any public place shall obtain and file with the City, on a City-approved form, an individual or blanket performance and maintenance bond in the amount of one Thousand Dollars (\$1,000.00) or a One Thousand Dollars (\$1,000.00) cash deposit for each excavation. Duration of the bond or cash deposit will be for a period of one (1) year commencing with the completion of the excavation and restoration or resurfacing as set out in Section 10. Further, proof of liability insurance or financial responsibility satisfactory in form to the City must be on file with the director during the period of excavation and restoration and/or resurfacing. Deposits shall be used to pay the cost of any work the City performs to restore or maintain the public places in the event the permittee fails to perform the work. The amount released to the permittee shall be reduced by the amount expended by the City for labor, material and overhead expenses. In lieu of the payment of the deposit or the performance bond by utility companies providing gas, electric and phone services, the Council may by resolution accept a written guarantee of the utility company acknowledging the requirements and responsibilities of this ordinance and agreeing to indemnify the City for any costs incurred by the City in enforcing the provisions of this ordinance.

#### Section 6. Traffic Control.

No permittee shall interrupt access to and from private property, block emergency vehicles or block access to fire hydrants, water valves or any other vital equipment as designated by the director. If a street closing is required, the applicant will request assistance and the approval of the director. It shall be the responsibility of the permittee to notify and coordinate all excavations with the police, fire and transit departments. The permittee shall take appropriate measures to assure that traffic conditions as near normal as possible shall be maintained at all times. Proper barricades must be used whenever it is necessary to close a traffic lane or a sidewalk. Barricades are to be supplied by the permittee. If used at night, they must be reflectorized and must be illuminated or have barricade warning lights. The permittee shall illustrate on the excavation permit the warning and control devices proposed for use. At the request of the director such warning and control devices shall be increased, decreased, or modified. Oil flares or kerosene lanterns are not allowed as means of illumination.

#### Section 7. Protection of Paved Surfaces From Equipment Damage.

Backhoe equipment outriggers shall be fitted with rubber pads whenever outriggers are placed on any paved surface. Tracked vehicles are not permitted on paved surfaces unless specific precautions are taken to protect the surface. The permittee will be responsible for any damage to existing pavement caused by operation of such equipment and, upon order of the director, shall repair any surfaces damaged by excavation equipment. Failure to do so will result in use of the performance deposit to repair any damage.

#### Section 8. Protection of Adjoining Property.

The permittee shall protect From injury any adjoining property by providing adequate support and taking other necessary measures. The permittee shall, at his or her own expense, shore up and protect all buildings, walls, fences, or other property likely to be damaged during the excavation work, and shall be responsible for all damage to public or private property or highways, resulting from failure to properly protect and carry out excavation work. Failure to follow the provisions of this section will result in the use of the performance deposit to repair damage.

#### Section 9. Relocation and Protection of Utilities.

The permittee shall notify the owners of all facilities in the excavation area at least one day prior to excavating except as provided in Section 3. The cost of moving facilities shall be paid by the permittee. The permittee shall support and protect all pipes, conduits, poles, wires or other apparatus which may be affected by the excavation work. The permittee shall determine the existence of all underground facilities with the excavation area by exposing prior to machine digging and protect the substructures against damage.

#### Section 10. Restoration and Resurfacing.

The surface and sub-base of any excavation upon any public place will be returned, by the permittee, to a condition equal to or better than prior to the excavation as determined by the director. The preparation of the sub-base shall be inspected and approved in writing by the Director before any pavement is replaced. In the event pavement is replaced without the written authorization of the director, all such pavement shall be removed at the expense of the permittee at the request of the Director, to allow proper inspection of the condition of the sub-base.

#### Section 11. Time of Completion and Requirements.

All excavation and restoration and resurfacing shall be completed in a prompt manner as determined by the director. Upon approved completions of the excavation the cash deposit may be substituted by a one-year maintenance bond and upon satisfactory termination of a one-year period, the City upon request shall release any and all bonds, insurance and deposit requirements.

#### Section 12. Noise, Dust and Debris.

Each permittee shall conduct excavation work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. In performance of the excavation work, the permittee shall take appropriate measures to reduce noise, dust and unsightly debris. No work shall be done between the hours of 9:00 P.M. and 7:00 A.M., except with the express written permission of the director, or in case of an emergency.

#### Section 13. Inspection.

Random inspections may be made of procedures described in this article and the permittee shall correct his or her procedure if so ordered by the director. Failure to do so will result in use of the performance deposit to correct or complete work.

#### Section 14. Clean-up.

As the excavation work progresses, all public rights-of-way and private properties shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris. All clean-up operations shall be done at the expense of the permittee. If the permittee fails to clean up within twenty-four (24) hours after notice, the director shall authorize the work to be done. Such work shall be paid for with the performance deposit.

#### Section 15. Saving Clause.

In the event any section, provision, or part of this Ordinance shall be adjudged by any Court of Competent Jurisdiction to be invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole, or any section, provision or part hereof not adjudged invalid or unconstitutional.

#### Section 16. Effective Date.

This ordinance shall become effective upon its passage and

publication as provided by law.

Passed and Approved this 13<sup>th</sup> day of December, 1983.