

ORDINANCE NO. 172

AN ORDINANCE AMENDING ORDINANCE NO. 136
(PLACEMENT AND USE OF PORTABLE TOILETS)

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

University Heights Ordinance No. 136 is amended as follows (with additions indicated by underline and deletions indicated by ~~strike-through~~):

SECTION 3. EXEMPTIONS.

The following are exempt from this ordinance:

- A. **Portable toilets in residential and commercial zones.**
Portable toilets on any property in an R-1 or R-3 Residential Zone (R-1 or R-3) or in a C Commercial Zone where fifteen (15) or more vehicles are parked with the consent of the property owner, persons in possession, or the agents of either during days on which The University of Iowa plays football games in Kinnick Stadium, provided the portable toilets are placed no earlier than 8:00 a.m. on the Thursday immediately before the first game of the season and removed by 5:00 p.m. on the Monday immediately following the last game of the season. All portable toilets placed pursuant to this section must be located so they are not visible from City streets, unless the University Heights City Council grants an exception to this requirement pursuant to Section 4. ~~provided such portable toilets are not visible from City streets.~~ Any portable toilet placed pursuant to this section must be cleaned and serviced before 5:00 p.m. on the Sunday immediately following each game. Failure to comply with the placement, service, and cleaning requirements of this section shall constitute a violation of this ordinance.

SECTION 4. EXCEPTION TO VISIBILITY RESTRICTION.

A. Authority to grant exception. Upon application, the University Heights City Council by majority vote of members voting may grant an exception to the requirement in Section 3(A) that portable toilets be located so they are not visible from City streets. The City Council may grant an exception from that requirement as will not be contrary to the public interest where owing to special conditions a literal enforcement of that requirement will result in an unnecessary hardship and so that the spirit of the ordinance shall be observed and substantial justice done. In determining whether to grant an exception, the City Council may consider the following factors:

1. Any exceptional or unusual dimensional configuration or physical condition of the lot not generally prevalent in the neighborhood that prevents or renders impractical a strict compliance with the requirement.
2. The placement on the lot of any home, garage, or other structure that prevents or renders impractical a strict compliance with the requirement.
3. The configuration and placement of City streets adjacent to and nearby the lot.
4. The agreement or disagreement of neighboring or nearby property owners concerning the requested exception.

B. Application. Applications for an exception pursuant to this section shall be made to the University Heights City Clerk and shall set forth the reasons for the requested exception and include a drawing or depiction of the proposed location of the portable toilet. Applications shall set forth the name, address, phone number, and email address for each applicant. Applications will be considered at the next University Heights City Council meeting, so long as they are received at least five days before such meeting; otherwise, the applications will be considered at the following meeting. Applicants shall certify that they have sent notice of the application to the owners of property within 100 feet of the property the application concerns. The notice shall inform neighboring property owners of the date on which the University Heights City Council will consider the applications.

C. Decision of Council - conditions. The University Heights City Council shall issue a written decision to each applicant. In granting an application, the Council may impose such conditions as it deems fit and appropriate, including, without limitation, the particular location of a portable toilet; and the required efforts to screen the toilet from sight.

Sections 4-7 will be renumbered as Sections 5-8.

SAVING CLAUSE.

In the event any word, phrase, sentence, paragraph or section contained in this ordinance shall be held to be invalid, unlawful, or unconstitutional for any reason, then it is hereby declared that the remaining such portions and provisions of this ordinance would have been enacted and remain in full force and effect.

EFFECTIVE DATE.

This ordinance shall become effective upon its passage and publication as provided by law.

REPEALER.

All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Adopted by the University Heights City Council this 8th day of September, 2009, and approved this 8th day of September, 2009.

____/s/_____
Louise From, Mayor

(SEAL)
ATTEST:

____/s/_____
Christine Anderson, City Clerk

STATE OF IOWA)
) SS:
COUNTY OF JOHNSON)

On this 8th day of September, 2009, before me, a notary public in and for the state of Iowa, personally appeared Louise From and Christine Anderson, to me personally known, and who, being by me duly sworn, did say that they are the Mayor and City Clerk of the City of University Heights, Iowa; that the seal affixed to this instrument is the corporate seal of the city; and that said instrument was signed and sealed on behalf of the city, and that Louise From and Jerry Musser acknowledged the execution of said instrument to be their voluntary act and deed and the voluntary act and deed of the city, by it and by them voluntarily executed.

_____/s/_____
Notary Public in and for the
State of Iowa

STATE OF IOWA)
) SS:
COUNTY OF JOHNSON)

I, Christine Anderson, being first duly sworn, certify that the above ordinance was published in the Iowa City Press-Citizen the 18th day of September, 2009.

_____/s/_____
Christine Anderson, City Clerk

Signed and sworn to before me on the 18th day of September, 2009, by Christine Anderson, Clerk of the City of University Heights.

_____/s/_____
Notary Public in and for the
State of Iowa