

ORDINANCE NO. 228

AN ORDINANCE REGARDING REMOVAL OF TRASH AFTER GAME DAYS AND THE
PLACEMENT AND USE OF PORTABLE TOILETS DURING FOOTBALL SEASON
(AMENDING ORDINANCE NOS. 71 AND 136)

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

Part I: AMENDMENTS TO ORDINANCE NO. 71:

University Heights Ordinance No. 71 is amended as follows (with
additions indicated by underline; deletions indicated by ~~strike-~~
~~through~~; omissions by "****"):

SECTION III. The following subsections include, but do not limit, the
conditions which are deemed to be nuisances in the City:

- a) Any dead, diseased, or damaged tree or shrubs, which may
harbor serious insect or disease pests or disease injurious
to other trees.

- e) Causing, permitting, or allowing any ~~All~~ filth, excrement,
cans, paper, trash, rubbish, fresh manure, refuse, waste,
offal, fish, putrid meat, entrails, decayed fruit or
vegetables, broken ware, rags, old iron or metal, old wearing
apparel, animal or vegetable matter, all dead animals, or
other offensive or disagreeable substance or ~~thing thrown,~~
~~left, or deposited by any person,~~ to be collected in or upon
any street, avenue, alley, sidewalk, park, public square,
public enclosure, lot, whether vacant or occupied, or upon
any pond or pool of water.

- ~~h) Placing, keeping, or permitting to be placed or kept any
portable toilet except to the extent reasonably necessary to
accommodate construction being performed pursuant to a valid
building permit; provided, however, that this subsection does
not apply to platted lots comprising more than one acre in
total lot area so long as any such portable toilets upon such
property are cleaned out or serviced within 72 hours of any~~

~~day on which The University of Iowa plays football games in Kinnick Stadium.~~

- i)h) The growth of all weed, vines, brush or other vegetation including grasses, weeds and other vegetation having reached a height exceeding ten (10) ~~twelve (12)~~ inches, except for any cultivated agricultural commodities which are planted and harvested within the City, provided the same are regularly maintained and otherwise free from the type of offensive vegetation that would constitute a health, safety or fire hazard pursuant to Ordinance No. 156, and excepting such plantings or hedges as are permitted under Ordinance No. 105.

SECTION V. This Ordinance shall be enforced by the City and City ~~city~~ officials. Should a public nuisance be found to exist, the property owner may be served a notice to abate the nuisance as described below, except as described in subsections d) and e) of this Section.

- d) Should an emergency situation arise, the City may perform the actions necessary to abate the nuisance and assess the costs thereof to the property owner without giving prior notice, pursuant to Iowa Code § 364.12(3)(h).
- e) Any nuisance found to exist pursuant to Section III(e) of this ordinance on any day on which the University of Iowa plays football games in Kinnick Stadium shall be abated by the following day at 12:00 p.m. This ordinance shall serve as notice that if such nuisances are not abated by 12:00 p.m. on the day following a game day at Kinnick Stadium, then the City may perform the actions necessary to abate the nuisance and assess the costs thereof to the property owner without giving further notice, pursuant to Iowa Code § 364.12(3)(h).

Part II: AMENDMENTS TO ORDINANCE NO. 136:

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

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 when The University of Iowa plays football games in Kinnick Stadium so long as they comply with the following restrictions and regulations:

1. Portable toilets not visible from the front street.

a. For purposes of this section, "not visible from the front street" means hidden from view behind foliage, a Dwelling, Garage, Accessory Structure, Garden Structure, Shed, Play Structure, as those terms are defined in the City Zoning Ordinance (No. 79) or such other structure or any other building or structure that complies with the City Zoning Ordinance and City Building Codes (Ordinance 192).

b. Portable toilets not visible from the front street may be provided the portable toilets are placed no earlier than 8:00 a.m. on the Thursday immediately before the first football game of the season and must be removed no later than seventy-two (72) hours by 5:00 p.m. on the Monday immediately following the last game of the season.

c. Any portable Portable toilets placed places pursuant to this section must be cleaned and serviced before no later than 5:00 p.m. on the Sunday immediately following each game.

d. Failure to comply with the placement, visibility, service, cleaning, access, and removal requirements of this section shall constitute a violation of this ordinance.

2. Portable toilets visible from the front street.

a. Portable toilets visible from the front street may be placed no earlier than 8:00 a.m. Friday before the game and must be removed from the property no later

than 5:00 p.m. on the Sunday immediately following the game.

b. Failure to comply with the placement and removal requirements of this section shall constitute a violation of this ordinance.

3. Restrictions on access. Portable toilets placed pursuant to this section shall only be accessible for use and used on game days and shall be secured or locked on non-game days to prevent the access and use of such toilets.

~~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.~~

B. Portable toilets in business or commercial zone.

Portable toilets on any property within the B Business Zone or in a C Commercial Zone where fifteen (15) or more vehicles are parked during days on which when The University of Iowa plays football games in Kinnick Stadium so long as they comply with the following restrictions and regulations:

1. Portable toilets may be placed no earlier than 8:00 a.m. on the Thursday immediately before the first football game of the season and must be removed no later than seventy-two (72) hours by 5:00 p.m. on the Monday immediately following the last game of the season.

2. Portable toilets placed pursuant to this section must be cleaned and serviced no later than 5:00 p.m. on the Sunday immediately following each game.

3. Portable toilets placed pursuant to this section shall only be accessible for use and used on game days and shall be secured or locked on non-game days to prevent the access and use of such toilets.

4. Property owners shall make best reasonable efforts to ensure portable toilets are not visible from public streets.

5. Failure to comply with the timing of placement, service, cleaning, access, and removal requirements of this section shall constitute a violation of this ordinance.

~~provided the portable toilets are placed no earlier than 8:00 a.m. on the ~~Fri~~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 provided such portable toilets are not visible from City streets. Any portable toilet placed pursuant to this section must be cleaned and serviced before no later than 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.~~

C. Construction activities.

Any portable toilet(s) reasonably necessary to accommodate construction being performed pursuant to a valid building permit, provided the portable toilet(s) are cleaned and serviced once a week. This exemption applies only to portable toilets used by persons performing construction at the time such persons are actually performing construction. Portable toilets placed pursuant to this section shall only be accessible for use and used when persons performing construction are actually performing construction and shall be secured or locked at all other times. Failure to comply with the service, cleaning, and access requirements of this section shall constitute a violation of this ordinance.

SECTION 4. PRIOR EXCEPTIONS VOIDED-EXCEPTION TO VISIBILITY RESTRICTION.
Any prior exception to the requirement that portable toilets be located so they are not visible from City streets granted to a property owner by the City Council is null and void upon the passing of this ordinance and shall not transfer to subsequent owners of the property.

~~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.~~

SECTION 5. ENFORCEMENT AND PENALTIES FOR VIOLATION.

Any violation of this code may be cited as a municipal infraction. The University Heights City Clerk, the Clerk's duly authorized agent, and any officer, including reserve officers, of the University Heights Police Department is authorized to enforce this code and may issue a civil citation to anyone property owner who violates any section or provision of this code. Each day the violation occurs shall constitute a separate violation of this ordinance and each portable toilet shall constitute a separate violation of this ordinance. A violation of this code is punishable by a civil penalty of \$250.00 per portable toilet

~~per day for a first offense and a civil penalty of \$500.00 for a repeat offense.~~

PART III: EFFECTIVE DATE:

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

PART IV: REPEALER:

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

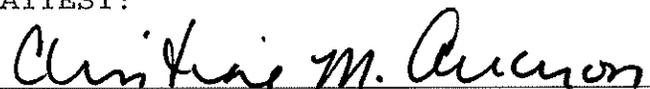
Adopted by the University Heights City Council this ^{21st} ~~10th~~ day of ~~July~~, 2018, and approved this ^{21st} ~~10th~~ day of ~~July~~, 2018.
~~August,~~ ~~August,~~



Louise A. From, Mayor

(SEAL)

ATTEST:



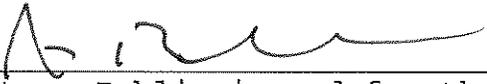
Christine M. Anderson, City Clerk

STATE OF IOWA)
)
COUNTY OF JOHNSON)

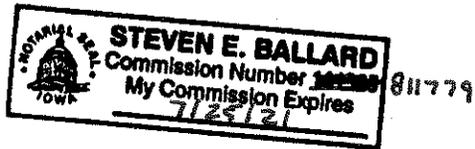
SS:

On this ^{21st} ~~10th~~ day of ^{August,} ~~July,~~ 2018, before me, a notary public in and for the state of Iowa, personally appeared Louise A. From and Christine M. 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 the instrument was signed and sealed on behalf of the city, and that Louise A. From and Christine M. Anderson 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.



Notary Public in and for the
State of Iowa



STATE OF IOWA)
) SS:
COUNTY OF JOHNSON)

I, Christine M. Anderson, being first duly sworn, certify that the above ordinance was published in the Iowa City Press-Citizen the 29th day of August, 2018.

Christine M. Anderson
Christine M. Anderson

Signed and sworn to before me on the 11th day of September, 2018, by Christine M. Anderson, Clerk of the City of University Heights, Iowa.

[Signature]
Notary Public in and for the
State of Iowa

