

ORDINANCE NO. 136 (as amended)

**AN ORDINANCE RESTRICTING THE PLACEMENT AND USE OF PORTABLE
TOILETS WITHIN THE CITY LIMITS OF UNIVERSITY HEIGHTS AND
PROVIDING PENALTIES**

SECTION 1. PURPOSE.

The purpose of this ordinance is to preserve and protect the rights, privileges, and property of the City of University Heights and its residents, and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of the residents of University Heights.

SECTION 2. PORTABLE TOILETS PROHIBITED.

- A. No person shall display, maintain, utilize, possess, store, place, keep, or permit to be displayed, maintained, utilized, possessed, stored, placed, or kept, any portable toilet within the city limits of the City of University Heights, Iowa.
- B. Nor shall any person, company, business, enterprise or other entity engaged in renting, leasing, chartering, or otherwise providing portable toilets display, maintain, utilize, possess, store, place, keep, or permit to be displayed, maintained, utilized, possessed, stored, placed, or kept, any portable toilet within the city limits of the City of University Heights, Iowa.

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 toilet 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. Any portable toilet places 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.

B. Portable toilets in business zone.

Portable toilets on any property within the B Business Zone where fifteen (15) or more vehicles are parked 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 Friday 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 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. Failure to comply with the service and cleaning requirement 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.

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 who violates any section or provision of this code. Each day the violation occurs shall constitute a separate violation of this ordinance. A violation of this code is punishable by a civil penalty of \$250.00 for a first offense and a civil penalty of \$500.00 for a repeat offense.

SECTION 6. SAVINGS 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.

SECTION 7. EFFECTIVE DATE.

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

SECTION 8. 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 17th day of August, 2004, and approved this 17th day of August, 2004.

 /S/
Gloria Jacobson, Mayor

ATTEST: /S/
Jerry Musser, City Clerk

*The original ordinance is on file with the University Heights City Attorney.

Ordinance No. 160, amending Sections 2, 3 and 4 was passed and approved the 14th day of August, 2007 and published in the Iowa City Press Citizen September 7, 2007. The amendment added Section 2(B), and amended Section 3(B) requiring that toilets must not be placed earlier than 8:00 a.m. on the Friday before the first game of the season and must be removed by the Monday immediately after the last game of the season. It also states that a portable toilet must not be visible from city streets and must be cleaned and serviced before 5:00 p.m. on the Sunday immediately following each game. Section 3(B) added the same language. Section 4 states any violations may be cited as a municipal infraction with a civil penalty of \$250.00 for the first offense and \$500.00 for repeat offenses.

Ordinance No. 163, amending Section 3(A) was passed and approved the 11th day of September, 2007 and published in the Iowa City Press Citizen the 15th day of September, 2007. The amendment changed the days the toilets may be placed in residential and commercial zones to Thursday immediately before the first game of the season and must be removed on the Monday immediately following the last game of the season.

Ordinance No. 172, amending Section 3(A) and adding a new Section 4 was passed and approved the 8th day of September, 2009. The amendment added exceptions to the requirement that portable toilets not be visible from the City streets.