

ORDINANCE NO. 102

AN ORDINANCE GRANTING FOR A PERIOD OF TWENTY (20) YEARS TO UNION ELECTRIC COMPANY, A CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, PERMISSION AND AUTHORITY TO CONSTRUCT, RECONSTRUCT, EXCAVATE FOR, PLACE, MAINTAIN, OPERATE, AND USE ITS POLES, TOWERS, WIRES, CONDUITS, CONDUCTORS, MANHOLES, UNDERGROUND VAULTS, AND OTHER EQUIPMENT, AND APPLIANCES IN CONNECTION THEREWITH, IN, ALONG, ACROSS OVER AND UNDER THE STREETS, ROADS, ALLEYS, SIDEWALKS, SQUARES, BRIDGES, AND OTHER PUBLIC PLACES IN THE CITY OF FORTAGE DES SIOUX AND AREAS DEDICATED TO THE CITY FOR PUBLIC UTILITY USE, FOR THE PURPOSE OF TRANSMITTING, FURNISHING AND DISTRIBUTING ELECTRICITY FOR LIGHT, HEAT, POWER AND OTHER PURPOSES WITHIN AND THROUGH SAID CITY, PRESCRIBING THE TERMS AND CONDITIONS OF SUCH GRANT, IMPOSING CERTAIN OBLIGATIONS UPON THE GRANTEE, ITS SUCCESSORS AND ASSIGNS SUCCESSIVELY, IN CONNECTION THEREWITH, AND PROVIDING THAT THIS ORDINANCE SHALL NOT BE EFFECTIVE UNLESS AND UNTIL SUCH GRANT BE APPROVED BY A MAJORITY OF THE ELECTORS VOTING THEREON AT A SPECIAL ELECTION CALLED FOR THAT PURPOSE.

Be it ordained by the board of Aldermen of the City of Fortage Des Sioux, Missouri, as follows:

SECTION I

The right, permission and authority is hereby granted to, and vested in Union Electric Company, a Missouri corporation, its successors and assigns, hereinafter called "Company" to construct, reconstruct, excavate for, place, maintain, operate and use all necessary or appropriate poles, towers, wires, conduits, conductors, manholes, underground vaults, and other equipment, with all necessary or appropriate appurtenances and appliances in connection therewith, in, along, across, over and under the streets, roads, alleys, sidewalks, squares, bridges and other public places within the corporate limits of the City of Fortage Des Sioux, as now fixed and as hereafter extended, and areas dedicated to the City for public utility use, for the purpose of furnishing and distributing electricity for light, heat, power and other purposes within said City and in territory adjacent to

said City, and for the purpose of transmitting electricity through said City; all such equipment, appliances and apparatus to be installed and maintained with due regard to the rightful use by other persons, with vehicles and otherwise, of the streets, roads, alleys, sidewalks, squares, bridges and other public places, and areas dedicated to the City for public utility use, and Company's exercise of the rights, permission and authority hereby granted shall at all times be subject to proper regulation by the City in the exercise of its police powers.

SECTION II

All facilities of Company in said City shall be installed and maintained in accordance with the applicable rules and regulations of the Missouri Public Service Commission.

SECTION III

In order for Company to render efficient and continuous electrical service it will be necessary for Company to trim the trunks and branches of trees along or over the streets, sidewalks, alleys, avenues, squares, bridges and other public places in said City, and areas dedicated to the City for public utility use, wherever the same are likely to come in contact with its equipment; therefore, Company is hereby granted the right to trim such trees, including the trunks, branches and all parts thereof, so as to enable it to erect and maintain its equipment in a regular and consistent form and manner and to enable it to provide the most efficient and continuous service that the circumstances will permit; provided, however, that Company shall exercise proper care and discretion in cutting and trimming said trees and all parts thereof, and provided further that, except in cases of emergency, Company shall first notify the City of

intention to do such work so that the City may, if it so elects, supervise and superintend such tree trimming.

SECTION IV

The rights, privileges and authority hereby granted shall inure to and be vested in Company, its successors and assigns, successively, subject to all of the terms, provisions and conditions herein contained, and each of the obligations hereby imposed upon Company shall devolve and be binding upon its successors and assigns, successively, in the same manner.

SECTION V

This Ordinance shall not be effective unless and until the grants of rights, permission and authority herein contained be approved by a majority of the electors voting thereon at a special election to be held for that purpose, pursuant to another ordinance providing for such an election. If such grant be so approved at such election, this Ordinance, and the grant herein contained, shall be and continue in force and effect for a period of twenty (20) years from the date of such election. Provided, however, that said Company, its successors or assigns, shall, within sixty (60) days after the date of such approval at such special election, file with the City Clerk an acceptance of the provisions of this Ordinance, and provided further that if such acceptance be not so filed within said period of sixty (60) days all rights, privileges and authority herein granted shall become null and void.

SECTION VI

Neither acceptance of, nor compliance with, the provisions of this Ordinance shall in any way impair or affect, or constitute or be construed as a relinquishment or waiver of, any right, permission or authority which Company, its successors or assigns,

of public property or places in the City of Fortage Des Sioux, as authorized by this Ordinance, or service rendered by said Company, its successors or assigns, in said City, be treated as use solely of the rights, permission and authority provided for by this Ordinance or as service referable solely to this Ordinance or to any obligation of service consequent upon acceptance thereof or as in any way indicating non-use of, or non-compliance with any obligation incident to, any right, permission or authority vested in said Company, its successors or assigns, independently of this Ordinance; and the acceptance provided for in Section 5 of this Ordinance, and each and every compliance with the provisions of this Ordinance or with any obligation arising from acceptance thereof, shall be subject to, and conditioned by, the provisions of this Section 6 with the same force and effect as though each of the provisions of this section were expressly incorporated in such acceptance and expressly declared by the acceptor, its successor or assign, at and prior to the time of such compliance by it, as conditions of such compliance.

SECTION VII

All ordinances and parts of Ordinances in conflict with this Ordinance or with any of its provision are, to the extent of such conflict, hereby repealed.

SECTION VIII

If any provision of this Ordinance or the application of such provision to particular circumstances, shall be held invalid, the remainder of this Ordinance, or the application of such provision to circumstances other than those as to which it is held invalid, shall not be affected thereby.

Passed and approved this 11th day of February, 1975.

Mayor

Attest:

Clerk

STATE OF MISSOURI)
) SS
COUNTY OF ST. CHARLES)

I, David S. Kemp, City Clerk within and for the City of Portage Des Sioux, in the State and County aforesaid, do hereby certify that the foregoing constitutes a full, true and correct copy of the Ordinance No. 102 of said City as passed by the Board of Aldermen and approved by the Mayor on the 11th day of February, 1975 as fully as the same appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of Portage Des Sioux, Missouri, at my office in said City, this 11th day of February, 1975

City Clerk