

ORDINANCE NO. 132

**AN ORDINANCE OF THE CITY OF UNIVERSITY PLACE,
WASHINGTON, ADOPTING FINDINGS OF FACT IN SUPPORT
OF ORDINANCE NO. 123 WHICH ESTABLISHED A FOUR-
MONTH MORATORIUM ON THE ACCEPTANCE OF
APPLICATIONS FOR AND ISSUANCE OF ANY PERMIT OR
APPROVAL CURRENTLY REQUIRED FOR TELECOMMUNI-
CATIONS FACILITIES**

WHEREAS, the City Council of the City of University Place, Washington, on November 18, 1996 in Ordinance No. 123, declared an emergency and adopted an immediate moratorium on the acceptance of applications for and issuance of any permit or approval currently required for telecommunications facilities; and

WHEREAS, Ordinance No. 123 made the moratorium effective for a period of four months, set a date for a public hearing on the moratorium, directed development of a comprehensive telecommunications ordinance, encouraged registration of telecommunications companies who wish to participate in the development of such ordinance, and declared an emergency; and

WHEREAS, in accordance with RCW 35A.63.22 and RCW 36.70A.390, the City of University Place City Council scheduled a public hearing to be held within sixty (60) days of the date of passage of Ordinance No. 123; and

WHEREAS, notice of the public hearing was given to the public in accordance with law, and a public hearing is to be held January 6, 1997, and all persons wishing to be heard will be heard; NOW THEREFORE,

**THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE,
WASHINGTON, DOES ORDAIN AS FOLLOWS:**

Section 1. Adopting Findings of Fact. Based on the evidence submitted at the public hearing regarding the moratorium, the City of University Place City Council adopts the following Findings of Fact in support of the moratorium adopted on November 18, 1996.

1. On November 18, 1996, the City of University Place City Council unanimously approved Ordinance No. 123, establishing a four-month moratorium with respect to the issuance of any permit or approval required for telecommunications equipment and facilities within the City of University Place and declaring an emergency.

2. Consistent with direction from the City Council, city staff has developed a work plan which provides for the development of a comprehensive telecommunications ordinance at some point prior to the expiration of the moratorium.

3. The work plan ensures that the public will have an adequate opportunity to participate in the development of a comprehensive telecommunications ordinance.

4. City staff will implement a registration process for telecommunications companies which will provide registrants a meaningful opportunity to participate in developing the City's comprehensive telecommunications ordinance.

5. The City's Interim Comprehensive Plan, zoning, and development codes were created prior to and without consideration of the Federal Telecommunications Act of 1996.

6. The moratorium will afford the City with an opportunity to thoughtfully evaluate policies related to its role as a telecommunications regulator, facilitator, and possibly a service provider, which will promote the public's many interests and ensure a competitive market in our community.

7. The moratorium will allow the city to identify and revise any codes or regulations which have the effect of discouraging competition, which is in direct contravention of the Telecommunications Act.

8. Placement, design and general aesthetics associated with various telecommunications equipment must be properly planned to avoid a reduction in values for properties located near telecommunications equipment and facilities.

9. Public Works Department codes and policies, including fee schedules and right-of-way regulations, were created prior to and without consideration of impacts that might flow from the Federal Telecommunications Act.

10. Increased demand to perform work on, under, or above City streets and rights-of-way is likely to occur as the telecommunications industry expands its services and facilities in the City of University Place.

11. Finance Department forecasts, especially City revenue projections, do not reflect the impacts that might result from rapid changes that could occur based on the Telecommunications Act.

12. The moratorium is necessary to afford the City adequate time to update, review and develop policies, codes and regulations to reflect changes mandated, and likely to flow from, the Federal Telecommunications Act.

13. The public health, safety, property, and general welfare would be adversely affected without well-conceived telecommunications policies and regulations.

14. The moratorium will protect current property values from negative impacts that could occur prior to adoption of a comprehensive telecommunications ordinance.

15. The moratorium provides the City with the time necessary to establish appropriate standards and conditions for siting and developing telecommunications facilities or equipment in the City of University Place.

16. As directed by the City Council in adopting Ordinance No. 123, the moratorium will afford city staff an opportunity to thoughtfully consider the following subjects in preparing the City's Comprehensive Telecommunications Ordinance:

- a. Mapping current and potential telecommunications facilities and equipment;
- b. Registration requirements;
- c. Revenue impacts;
- d. New or different permit and/or approval processes for different telecommunication facilities and site conditions;
- e. Occupancy charges/fees for siting in public areas;
- f. Identifying preferred corridors in which to locate various types of equipment;
- g. Inspection requirements, costs;
- h. Right-of-way use restrictions, notice requirements;
- i. City-wide telecommunication infrastructure needs;
- j. Undergrounding requirements;
- k. Accelerated deterioration of public property and rights-of-way likely to be caused by increased use;
- l. Relocations necessary to serve a public purpose;
- m. Reasonable notice and response requirements;
- n. Insurance and bonding requirements;
- o. Removal/repair guidelines;

- p. Nuisance and abatement procedures for obsolete, unused or abandoned equipment;
- q. Aesthetic concerns, use of "stealth" technology;
- r. Co-location issues;
- s. Promoting competition amongst providers;
- t. Late-comers issues for companies entering the market; and
- u. Regulations in other jurisdictions, particularly neighboring cities.

17. Applications and approvals for telecommunications equipment and facilities that might occur before the City has an opportunity to adopt its Comprehensive Telecommunications Ordinance would be harmful to the public's interests.

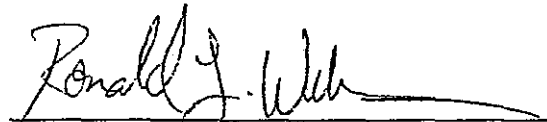
18. Washington's permissive "vested rights doctrine," which allows land use applicants to vest under land use regulations which are in effect early in an application process, could enable applicants for telecommunications facilities to vest under the City's current, inadequate regulations while the City is in the process of developing a Comprehensive Telecommunications Ordinance, thereby undermining effective city planning for these facilities.

19. The moratorium on accepting as well as processing applications for telecommunications equipment and facilities is necessary to protect the public health, safety, property and general welfare because the City needs adequate time to study and formulate policies and regulations related to the topics discussed in the Findings provided above.

Section 2. Severability. If any section, sentence, or phrase adopted by this ordinance should be held invalid by a court of competent jurisdiction, such invalidity shall not affect the validity of any other section, sentence or phrase.

Section 3. Effective Date and Publication. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall be effective five days after its publication.

PASSED BY THE CITY COUNCIL ON JANUARY 6, 1997.



Ronald L. Williams, Mayor

ATTEST:


Susan Matthew, City Clerk

APPROVED AS TO FORM:


Timothy X. Sullivan, City Attorney

Published: January 10, 1997
Effective Date: January 15, 1997