

**ORDINANCE NO. 123**

**AN ORDINANCE OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, ADOPTING AN IMMEDIATE MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR AND ISSUANCE OF ANY PERMIT OR APPROVAL CURRENTLY REQUIRED FOR TELECOMMUNICATIONS FACILITIES, TO BE EFFECTIVE FOR A PERIOD OF FOUR MONTHS, SETTING A DATE FOR A PUBLIC HEARING ON THE MORATORIUM, DIRECTING DEVELOPMENT OF A COMPREHENSIVE TELECOMMUNICATIONS ORDINANCE, ENCOURAGING REGISTRATION OF TELECOMMUNICATIONS COMPANIES WHO WISH TO PARTICIPATE IN THE DEVELOPMENT OF SUCH ORDINANCE, AND DECLARING AN EMERGENCY.**

WHEREAS, the City Council finds that enactment of this ordinance constitutes an emergency, due to the rapidly changing telecommunications industry and the fact that the current city code and regulations do not adequately address the potential environmental, scientific, economic, infrastructure, aesthetic, and health impacts associated with the type, number and siting of telecommunication facilities and equipment located and likely to be proposed for location within the City of University Place; and

WHEREAS, this emergency is further supported by the unnecessary burden now placed on the telecommunications industry as various companies attempt to process applications under a structure that is ill-suited to review the technological issues involved in such applications; and

WHEREAS, a moratorium on the issuance of permits for telecommunications facilities and equipment is necessary to enable the City Council to formulate a comprehensive permitting process which addresses impacts, mitigation requirements, corridors for preferred siting, and promotes competition to protect and benefit the public interest; and

WHEREAS, the potential adverse impacts on the public health, property, safety and welfare of the City, as discussed above, justify the declaration of an emergency; now therefore,

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

Section 1. Declaration of Moratorium. A moratorium is hereby declared on the acceptance of applications for and the issuance of any permit or approval currently required to construct, install, repair, remove, relocate, or perform any other work on telecommunications equipment and facilities within the City of University Place. This

moratorium includes, but is not limited to, conditional use permits, right-of-way use permits, franchise agreements, building permits and variances.

Section 2. Restrictions on Rights-of-Way. During the moratorium, no person may construct, install, repair, remove, relocate, or perform any other work on telecommunications equipment or any part thereof that is located in, over or under any public right-of-way located within the City of University Place, without the prior approval of the City Council, provided, however, that such work associated with existing telecommunications equipment and facilities that are located in public rights-of-way and owned by holders of existing franchises granted by the City of University Place, or those exempt from the City's franchising authority, may be performed if such work is deemed necessary and in the public interest as determined and subject to conditions imposed by the Public Works Director.

Section 3. Exemptions. This moratorium specifically exempts any radio transmission or receiving antenna or telecommunications device preempted from regulation by the Federal Communications Commission (the "FCC") under PRB-1 or any other federal or state statute or regulation and shall be interpreted to exempt federally-regulated facilities preempted from local regulation.

Section 4. Duration. This moratorium shall be in effect for four (4) months following the effective date of this ordinance.

Section 5. Direction to Develop Comprehensive Telecommunications Ordinance. The City Council hereby directs the City Manager to develop a comprehensive telecommunications ordinance which shall be presented to the City Council's and/or the Planning Commission at the earliest possible date. The City Manager is encouraged to seek input from appropriate city staff, industry representatives, and interested members from the general public. Through this ordinance, the City Council declares its intent to adopt a comprehensive telecommunications permitting process at some point prior to the expiration of this moratorium.

Section 6. Subjects for Consideration. Without limitation, the City Manager is directed to consider the following subjects in preparing the City's comprehensive telecommunications ordinance: Mandates contained in the Federal Telecommunications Act of 1996; mapping current and potential telecommunications facilities and equipment; registration requirements; revenue impacts; new or different permit and/or approval processes for different telecommunication facilities and site conditions; occupancy charges/fees for siting in public areas; identifying preferred corridors in which to locate various types of equipment; inspection requirements; costs; right-of-way use restrictions; notice requirements; city-wide telecommunication infrastructure needs; undergrounding requirements; accelerated deterioration of public property and rights-of-way likely to be caused by increased use; relocations necessary to serve a public purpose; reasonable notice and response requirements; insurance and bonding requirements; removal/repair guidelines; nuisance and abatement procedures for obsolete; unused or abandoned.

equipment; aesthetic concerns; use of "stealth" technology; co-location issues; promoting competition amongst providers; "late-comer" issues for companies entering the market; and similar regulations in other jurisdictions, particularly neighboring cities.

Section 7. Registration of Telecommunications Companies. To provide a meaningful opportunity for regulated parties to participate in developing a comprehensive telecommunications permitting process for the City, any and all telecommunications companies or other parties which now provide, or at some point intend to provide, telecommunications service for a fee directly to a person, either within the City of University Place, or outside the City from a telecommunications facility within the City, are encouraged to register with the City as provided below on forms to be provided by the City Clerk. Companies and parties that are encouraged to register with the City include, without limitation, those that provide, or at some point intend to provide, analog, coaxial cable, digital, fiber optic, internet, open video system (OVS), personal communication (PCS), and/or wireless communication technology services within or from within the City of University Place.

The telecommunications registration form shall include the following:

- (1) The identity and legal status of the registrant, including and affiliates;
- (2) The name, address and telephone number of the officer, agent or employee responsible for the accuracy of the registration statement and the designated contact for City notices, if different;
- (3) Locations or planned locations of telecommunications equipment or facilities within one thousand feet (1,000') of the City boundary or planning area;
- (4) A description of the registrant's existing or proposed telecommunications facility(ies) or equipment within the City, including a description of the type, size, and number of telecommunications facilities or equipment the registrant anticipates locating within the City;
- (5) A description of the telecommunications services that the registrant offers or provides or intends to offer or provide to persons, firms, businesses or institutions within the City;
- (6) A description of the telecommunications services that the registrant offers or provides or intends to offer or provide from facilities or equipment located within the City to persons, firms, businesses or institutions outside the City;
- (7) Graphics and technical information demonstrating the need for such facilities at specific locations to provide minimum service levels provided for under the 1996 Federal Telecommunications Act;

(8) Copies of any necessary licensing, certification, or approvals from federal and state regulatory bodies, including the FCC and the Washington Utilities and Transportation Commission; and

(9) Such other information as the City Clerk may reasonably require.

Section 8. Registration Fee. Each registration of a telecommunications company or provider shall be accompanied by a fee of fifty dollars (\$50.00). The purpose of the registration fee is to provide the City with accurate and current information concerning present and future providers of telecommunications services within and from within the City as well as present any future telecommunications facilities and equipment within the City. In return for the fee, registrants shall be provided with written notices of public meetings conducted to develop or update City codes and regulations regarding telecommunications services, facilities and equipment. Summaries of materials to be considered in such public meetings will also be made available to registrants.

Section 9. Public Hearing Required. As required by RCW 35A.63.220 and RCW 36.70A.390, within sixty (60) days of the passage of this ordinance the City Council will hold a public hearing on this moratorium and consider administration's progress report on developing a telecommunications permitting process. The City Clerk is directed to provide notice of such public hearing as required by law.


Section 10. Emergency Declared--Immediate Effect. For the reasons set forth above, and to promote the objectives stated herein, the City Council finds that a public emergency exists, necessitating that this ordinance take effect immediately upon its passage by a majority plus one of the whole membership of the Council in order to protect the public health, safety, property and general welfare.

Section 11. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

(2) If the provisions of this ordinance are found to be inconsistent with other provisions of the City of University Place Municipal Code, this ordinance is deemed to control.


**PASSED BY THE CITY COUNCIL ON NOVEMBER 18, 1996.**

  
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Ronald L. Williams, Mayor

**ATTEST:**

  
Susan Matthew, City Clerk

**APPROVED AS TO FORM:**

  
Timothy X. Sullivan, City Attorney

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**Effective Date:** 11/18/96