## **ORDINANCE NO. 737**

## AN ORDINANCE OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, AMENDING CHAPTER 4.35 OF THE UNIVERSITY PLACE MUNICIPAL CODE AND PROVIDING FOR THE POWERS OF REFERENDUM; RELATING TO UTILITY TAXES

WHEREAS, RCW 35A.82.020 authorizes the City of University Place (the City) to impose a utility taxes which are derives from a city's general authority to impose excise taxes on businesses operating within its boundaries and

WHEREAS, the City Council finds in order to provide revenues for the City of University Place, a utility tax should be levied pursuant to the City of University Place's authority to license for revenue; and

WHEREAS, the City Council wishes to extend the utility tax to electrical services, sewerage and water services in the amount of three percent (3%) for the first year of imposition, and six percent (6%) thereafter; and

WHEREAS, this utility tax is also imposed for the privilege of providing utilities within University Place pursuant to RCW 35.21.870; and

WHEREAS, the City of University Place desires to provide for a referendum procedure to apply to this ordinance pursuant to RCW 35.21.706;

## NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Section 4.35.010 of the University Place Municipal Code, titled "Definitions" is amended to read as follows:

Unless the context clearly indicates otherwise, the words, phrases and terms used in this chapter shall have the following meanings:

- A. "Cable television" means a system providing service pursuant to a franchise issued by the City of University Place under the Cable Communications Policy Act of 1984 as amended (Public Law No. 98-549, 47 U.S.C. 521 (Supp.) or any system that employs antennas, microwave, wires, wave-guides, cables, coaxial cables, or other conductors, equipment or facilities designed, construed or used for the purpose of:
- 1. Collecting and amplifying local and distant broadcast television signals and distributing and transmitting them;
- Transmitting original cablecast programming not received through television broadcast signals;
- 3. Transmitting television pictures, film and videotape programs not received through broadcast television signals, whether or not encoded or processed to permit reception by only selected receivers; provided, however, that "cable television service" shall not include entities that are subject to charges as "commercial TV stations" under 47 U.S.C. Section 148.
- B. "Cellular telephone service" means a two-way voice and data telephone/telecommunications system based in whole or substantially in part on wireless radio communications which is not subject to regulation by the Washington State Utilities and Transportation Commission (WUTC). This includes cellular mobile service. The definition of cellular mobile service includes other wireless radio communications services such as specialized mobile radio (SMR), personal communications services (PCS), and any other evolving wireless radio communications technology which accomplishes a purpose similar to cellular mobile service. Cellular telephone service is included within the definition of "telephone business" for the purposes of this chapter.
  - C. "City Manager" means the City Manager of University Place and his or her designees or agents.

- D. "Competitive telephone service" means the providing by any person of telecommunications equipment or apparatus, or service related to that equipment or apparatus such as repair or maintenance service, if the equipment or apparatus is of a type which can be provided by persons that are not subject to regulation as telephone companies under RCW Title 80 and for which a separate charge is made.
- E. "Gross income" means the value proceeding or accruing from the sale of tangible property or service, and receipts (including all sums earned or charged, whether received or not) by reason of investment of capital in the business engaged in (including rentals, royalties, interest and other emoluments however designated excluding receipts or proceeds from the sale or use of real property or any interest therein and the proceeds from the sale of notes, bonds, mortgages, or other evidences of indebtedness, or stocks and the like and without any deduction on account of the cost of the property sold, cost of materials used, labor costs, interest or discount paid, or any expenses whatsoever, and without any deduction on account of losses. Further deductions and exceptions from gross income upon which the fee or tax described in this chapter is computed are set forth in UPMC 4.35.070.
- F. "Person or persons" means persons of either sex, firms, copartnerships, corporations, limited liability companies, and other associations, whether acting by themselves or through servants, agents or employees.

"Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, municipal corporation, political subdivision of the State of Washington, corporation, limited liability company, association, society or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise and the United States or any instrumentality thereof.

- G. "Sanitary Sewer" means a system designed for and used to transport waste discharged from the sanitary plumbing outlets of any building, manufactured home, or enclosure that contains or should contain plumbing facilities for the disposal of sewage, together with other waters which may inadvertently enter the system through ground water infiltration and surface water inflow. Sanitary sewer does not include those municipal storm drainage systems as a public utility owned or operated by the City.
  - HG. "Taxpayer" means any person liable for the license fee or tax imposed by this chapter.
  - IH. "Tax year or taxable year" means:
  - 1. The year commencing January 1st and ending on December 31st of such year; or
- 2. The taxpayer's fiscal year when permission is obtained from the City Manager to use that period as the tax year; or
- 3. The year commencing December 15th and ending on December 14th of the following calendar year when permission is obtained from the City Manager to use that period as the tax year.
- Jt. "Telephone business" means the business of providing access to a local telephone network, local telephone network switching service, toll service or coin telephone services or providing telephonic, video, data or similar communication or transmission for hire, via a local telephone network, toll line or channel cable, microwave, or similar communication or transmission system. The term includes cooperative or farmer line telephone companies or associations operating an exchange. Telephone business also includes cellular telephone service. Telephone business does not include the providing of competitive telephone service, the providing of cable television service, nor the providing of broadcast services by radio and television stations.
- Section 2. Section 4.35.020 of the University Place Municipal Code titled "Utility tax levied Rate." is amended to read as follows:

There is levied on and shall be collected from every person a tax for the act or privilege of engaging in certain business activities, measured by the application of the respective rates against gross income as follows:

A. Telephone Business. Upon every person engaged in or carrying on any telephone business (including cellular telephone service) within the City of University Place a fee or tax equal to six percent of the total gross income from such business in the City of University Place. Tax liability imposed under this

section shall not apply to that portion of gross income derived from charges to another telecommunications company, as defined in RCW 80.04.010, for connecting fees, switching charges, or carrier access charges relating to intrastate toll telephone services, or for access to, or charges for, interstate services, or charges for network telephone service that is purchased for the purpose of resale.

- B. Cable Television. Upon every person engaged in or carrying on the business of transmitting television signals by means of a cable distribution system, commonly known as cable television or "CATV," a tax equal to six percent of the total gross income derived from such business in the City of University Place during the current calendar year for which license is required.
- C. Natural or Manufactured Gas. Upon every person engaged in or carrying on the business of transmitting, distributing, selling and furnishing natural and/or manufactured gas, a tax equal to six percent of the total gross income from such business in the City of University Place.
- D. Solid Waste. Upon every person engaged in or carrying on the business of collecting solid waste, recyclable materials or yard waste, a tax equal to six percent of the total gross income from such business in the City of University Place, but not including income from the sale of recyclable materials or yard waste.
- E. Storm Drainage. Upon the City in respect to the conduct, maintenance, and operation of its municipal storm drainage system as a public utility, a tax equal to six percent effective of the total gross income from such business in the City of University Place during the period for which the tax is due.
- F. Sanitary Sewer. Upon every person engaged in or furnishing sanitary sewer services, a tax equal to three percent of the total gross income until March 31, 2022, and then six percent thereafter, of the total gross subscribers' revenues from such business in the City of University Place. Unless otherwise directed by the City Council in its budget process, the total of these tax revenues will be allocated to the street fund.
- G. Electrical. Upon every person, firm or corporation engaged in furnishing, for a monetary consideration, the city and the inhabitants thereof with electricity and electrical energy for lighting, heating, power and other public purposes, within or partly within the city limits, an annual tax for the privilege of so doing, such tax to be equal to three percent until March 31, 2022, and then six percent thereafter, of the total gross subscribers' revenues from business and residential electrical power service in the City. Unless otherwise directed by the City Council in its budget process, the total of these tax revenues will be allocated to the general fund.
- H. Water. Upon every person, firm or corporation engaged in carrying on the business of selling or furnishing water, for domestic or industrial consumption, within or partly within the city limits, a fee or tax equal to three percent until March 31, 2022, and then six percent thereafter, of the total gross subscribers' revenues from such business and residential water service in the City. Unless otherwise directed by the City Council in its budget process, the total of these tax revenues will be allocated to the public safety fund.
- Section 3. <u>Referendum Procedure</u>. A referendum petition with respect to this ordinance may be filed with the City Clerk within seven days of the passage of this ordinance. The referendum procedures set forth in RCW 35.17.240 through 35.17.360, as hereafter amended, shall apply, with the following additions and amendments as required by RCW 35.21.706:
- A. Within ten days of the filing of the petition, the City Clerk will confer with the petitioner concerning the form and style of the petition, issue and identification number, and secure an accurate, concise and positive ballot title from the City Attorney;
- B. The petitioner shall have thirty days in which to secure the signatures of not less than 15% of the registered voters of the City of University Place, as of the last municipal general election, upon petition forms which contain the ballot title and full text of this ordinance; and

- C. The City Clerk shall verify the sufficiency of the signatures on the petition, and if sufficient valid signatures are properly submitted, shall certify the referendum measure to the next election ballot within the City of University Place, or at a special election as provided pursuant to RCW 35.17.260(2).
- Section 4. Upon approval of the City Attorney, the City Clerk or the Code Reviser are authorized to make the necessary corrections to this ordinance as follows:
- A. Correct clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering;
- Section 5. <u>Severability</u>. The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the ordinance, or the validity of its application to other persons or circumstances.
- Section 6. <u>Publication and Effective Date</u>. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect five days after publication, except Sections 1 and 2, which pursuant to RCW 35.21.865 shall take effect, provided sixty (60) days have expired after publication of the ordinance summary, on April 1, 2021.

PASSED BY THE CITY COUNCIL ON NOVEMBER 2, 2020.

Caroline Belleci, Mayor

ATTEST:

melita J. Genetia, City Clerk

APPROVED AS TO FORM:

Matthew S. Kaser, City Attorney

Publication Date: 11/04/20 Effective Date: 11/09/20