

ORDINANCE NO. 618

**AN ORDINANCE OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, AMENDING
ORDINANCE NO. 255 UNIVERSITY PLACE MUNICIPAL CODE SECTION 4.60 -
ADMISSIONS TAX**

WHEREAS, the City of University Place has had an admissions tax on admissions for entertainment purposes in the City in place since 1999; and

WHEREAS, the UPMC 4.60 - Admissions Tax should be amended to clarify it, to make it more user friendly, and to provide for more efficient administration.

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

Section 1. Amended. Title 4 of University Place Municipal Code entitled "Revenue and Finance," is hereby amended in its entirety as follows:

**Chapter 4.60
ADMISSIONS TAX**

Sections:

<u>4.60.010</u>	Admissions Tax Levied.
<u>4.60.020</u>	Definitions.
<u>4.60.030</u>	Exemptions.
<u>4.60.040</u>	Form of Admission Ticket
<u>4.60.050</u>	Selling Tickets Above Stated Price
<u>4.60.040060</u>	Deductions.
<u>4.60.050070</u>	Collection - Remittance to Finance Director.
<u>4.60.060080</u>	Tax Delinquency - Unlawful Acts, Criminal Penalties.
<u>4.60.070090</u>	Application and Reporting.
<u>4.60.080100</u>	Temporary Special Events - Remittance.
<u>4.60.090110</u>	Record Retention Requirements.
<u>4.60.100120</u>	Quitting, Selling, or Transferring Business.
<u>4.60.110130</u>	Tax Not Exclusive.
<u>4.60.120140</u>	Appeal Procedure.
<u>4.60.130150</u>	Over or Underpayment of Tax.

4.60.010 Admissions Tax Levied.

There is hereby levied a five percent tax on admissions for entertainment purposes in the City of University Place. The tax shall be collected from every person, without regard to age, who pays an admission charge. Such tax shall be measured by applying the five percent tax rate to the admission charge. The tax herein levied shall be paid by the person paying the admission charge and shall be collected and remitted by the person to whom the admission charge is paid.

The tax shall also be assessed on the value of admission where a person is admitted free of charge, but where the person is required to make one or more purchase(s) or a minimum purchase or minimum number of purchases, in which case, the value of the admission is deemed to be the price or cost to the person of the required purchase(s) or minimum purchase(s), and the tax shall be computed on the basis of such cost or price.

No tax shall be levied on any person who is admitted free and from whom no compensating payment is obtained. The tax on reduced admission charges shall be charged on such reduced charge and not the regular admission charge. Such tax is to continue indefinitely or until amended or repealed by the City of University Place City Council.

4.60.020 Definitions.

“Admission charge” In addition to its usual and ordinary meaning is a monetary charge for an event open to the public, including, but not be limited to the following:

A cover charge or a charge made for the use of seats or tables, reserved or otherwise, and similar accommodations;

A charge made for season tickets or subscriptions;

A charge made for food and refreshments in any place where any free entertainment, recreation, or amusement is provided;

A charge made for admission to any theater, dance hall, cabaret, adult cabaret, amphitheater, club, haunted house, auditorium, stadium, athletic pavilion, park or field, baseball or athletic park, circus, amusement ride, or similar place;

A charge made for admission to or rental or use of equipment or facilities to any public golf course, facility, or driving range; if the rental of equipment or facilities is necessary to the enjoyment of the golf course, facility, driving range, at which a general admission is charged, the combined charges shall be considered as the admission charge;

A charge made for automobile parking where the amount of the charge is determined according to the number of passengers in an automobile;

A sum of money referred to as “a donation” or similar payment which must be paid before entrance is allowed;

“Admission charge” does not include public school activities and other non-profit endeavors.

“Non-profit tax-exempt organization” An organization, corporation, or association organized and operated for the advancement, appreciation, public exhibition or performance, preservation, study and/or teaching of the performing arts, visual arts, history, science, or public charity providing human services, or public education, which is currently recognized by the United States of America as exempt from federal income taxation pursuant to Section 501(c)(1) or (3) of the Internal Revenue Code of 1954, as it may be amended or replaced from time to time.

“Secondary or elementary school” Any public or private primary, middle, junior high school, high school, or any accredited college, junior college, university, or the recognized student body association thereof.

“Special Temporary Event” Any spectator sporting event, entertainment event or activity, or construction, craft, or trade show that is open to the public in the City of University Place for less than 52 consecutive weeks shall be considered to be a special temporary event.

“Subject to Admissions Tax” For purposes of illustration only, the following table provides examples of activities subject to the admissions tax (this list is not all inclusive):

Taxable

1. for-profit theater
2. movie theater
3. cover charge in restaurant lounge
4. charge for admittance to adult entertainment cabaret

5. charge for entrance to a nonprofit organization's trade show, which is open to the public
6. charge for a golf course, which is open to the public

Not Taxable

1. annual dinner of a nonprofit organization, which is open to members only
2. tickets to a show performed for employees only of a for-profit company
3. Chamber of Commerce business fair, which is open to members only

4.60.030 Exemptions.

The following shall be exempt from any tax imposed under this ordinance:

~~A. Admission charges for any activity of any elementary or secondary school.~~

~~B. Events sponsored by non-profit tax exempt organizations as defined in UPMC 4.60.020.~~

~~1. The admission tax levied and imposed pursuant to UPMC 4.60.020 shall not apply to any person paying an admission charge to an event that is sponsored by a non-profit tax-exempt organization, as defined in UPMC 4.60.020, when the conditions of both of the following are met:~~

~~a. The non-profit tax-exempt organization:~~

~~i. Publicly sponsors and through its members, representatives or personnel, promotes and publicizes the event; or~~

~~ii. Publicly sponsors the event and:~~

~~1. Performs a major portion of the performance; or~~

~~2. Supplies a major portion of the materials on exhibit; or~~

~~3. When the event is part of a season or series of performances or exhibitions, performs the major portion of the performances or exhibitions in the season or series or supplies a major portion of the materials on exhibit.~~

~~b. The non-profit tax-exempt organization receives the use and benefits of the admission charges collected.~~

~~2. The exemption to the admission tax provided in this ordinance shall not apply to:~~

~~a. An event sponsored by a non-profit tax-exempt organization in which the fee paid for any one for-profit contract is greater than eighty percent (80%) of anticipated gross proceeds.~~

~~b. An event in which a non-profit tax-exempt organization lends its name as an endorsement to an ineligible person or organization for the purpose of invoking the tax exemption provided by this ordinance.~~

The admission tax is not imposed:

A. when the admission charge, either for a single event or by prorating a season ticket or subscription price, is ten cents or less;

B. upon a person paying an admission charge to an activity of an elementary or secondary school where the school or school district is the sponsor;

C. where no admission charge or compensating payment is made, other than as provided in this Chapter;

D. upon a person paying an admission charge to an activity or performance of a nonprofit arts organization furnishing evidence of tax-exempt status under the Internal Revenue Code Section 501 (c)(3); provided:

1. this exemption applies only if the artistic performance or activity represents examples of the arts organization's primary purpose, whereas this exemption does not apply when the arts organization merely sponsors or promotes an attraction or professional engagement; and
 2. the City Finance Department receives a written notice, including proof of tax-exempt status, for this exemption at least fifteen days prior to the event;
- E. upon a person paying an admission charge to an activity or performance of a nonprofit organization furnishing evidence of tax-exempt status under the Internal Revenue Code Section 501 (C) (3); provided:
1. For each nonprofit organization this exemption applies only to the first twenty-five thousand dollars of gross ticket sales generated from its event within each calendar year; and
 2. The City Finance Department receives a written notice, including proof of tax-exempt status, for this exemption at least fifteen days prior to the event; and
 3. The City Finance Department receives a properly completed tax return within three business days or other time set by the office, following an event, showing proof of gross ticket sales and other information requested by the office.

4.60.040 - Form of Admission Ticket

- A. A person may not sell or offer for sale an admission ticket, card or similar device, which does not have the name of the place of the ticketed event and the total admission price, which shall include the admissions tax, conspicuously and indelibly printed, stamped, or written on that part of the ticket which is to be taken up by the management of the place at the time of admission.
- B. All tickets, cards or similar devices sold must be consecutively numbered or reflect house seat locations to allow the City taxes and licenses office to verify the number of tickets sold.

4.60.050 - Selling Tickets Above Stated Price

- A. No person may sell an admission ticket, card or similar device at a price in excess of the price printed, stamped, or written thereon, as required in Section 4.60.040.
- B. This section does not forbid a ticket agent, duly authorized to sell tickets by the event presenter, from collecting a reasonable handling charge from the purchaser, in addition to the disclosed ticket price, consistent with general marketing practices in the Puget Sound area. The handling charge is not part of the admission charge for purposes of the City admissions tax.

4.60.040060 Deductions.

In computing the tax imposed by this ordinance, the following amounts may be deducted from the measure of the tax:

Amounts derived from business, which the City is prohibited from taxing under the Constitution of this State or the Constitution or laws of the United States.

4.60.050070 Collection - Remittance to Finance Director.

A. The tax imposed hereunder shall be collected from the person paying the admission charge at the time the admission charge is paid, and such taxes shall be remitted by the person collecting the tax to the Finance Director in monthly remittances on or before the last day of the month succeeding the end of the monthly period in which the tax is collected or received, and accompanied by such reports as the Finance Director shall require.

B. Any person receiving any payment for admissions shall make out a return upon such forms and setting forth such information as the Finance Director may require, showing the amount of the tax

upon admissions for which he or she is liable for the preceding monthly period, and shall sign and transmit the same to the Finance Director with a remittance for the amount; provided, that the Finance Director may at his or her discretion require verified annual returns from any person receiving admission payments setting forth such additional information as he may deem necessary to determine correctly the amount of tax collected and payable.

C. Whenever any theater, circus, show, exhibition, entertainment or amusement makes an admission charge which is subject to the tax herein levied, and the same is of a temporary or transitory nature or there exists a reasonable question of financial responsibility, of which the Finance Director shall be the judge, the report and remittance of the admission tax may be required immediately upon the collection of the same, at the conclusion of the performance or exhibition, or at the conclusion of the series of performances or exhibitions.

D. Every person liable for the collection and payment of the tax imposed by this chapter shall keep and preserve for a period of five years all unused tickets, ticket manifests, books and all other records from which can be determined the amount of admission tax which he was liable to remit under the provisions of this chapter, and all such tickets, books and records shall be open for examination and audit at all reasonable times by the Finance Director or his or her duly authorized agent.

4.60.060080 Tax delinquency – Unlawful acts, criminal penalties.

If the return provided for herein is not made and transmitted and the tax is not collected and remitted to the City by the last day of the month succeeding the end of the month in which the tax was collected, the Finance Director shall add a penalty as outlined below for each month overdue, which shall be added to the amount of the tax due, and remitted in the same manner.

A. Penalties and Interest. For each payment due, if such payment is not made by the due date thereof, there shall be added penalty and interest as follows:

1. If paid one to 10 days late, there shall be a penalty of 10 percent added to the amount of tax due.
2. If paid 11 to 20 days late, there shall be a penalty of 15 percent added to the amount of tax due.
3. If paid 21 to 30 days late, there shall be a penalty of 20 percent added to the amount of tax due.
4. If paid 31 to 60 days late, there shall be a penalty of 25 percent added to the amount of tax due.
5. In addition to the above penalty, the City of University Place shall charge the taxpayer interest on all taxes due at the rate of one percent per month or portion thereof that said amounts are past due.
6. The tax imposed by this chapter, and all penalties and interest thereon, shall constitute a debt to the City of University Place, and may be collected by court proceedings in the same manner as any other debt which remedy shall be in addition to all other available remedies. Any judgment entered in favor of the City of University Place may include an award to the City of University Place of all court and collection costs including attorney's fees to the extent permitted by law. Amounts delinquent more than 60 days may be assigned to a third party for collection, in which case the amount of any collection charges shall be in addition to all other amounts owed. Amounts due shall not be considered paid until the City of University Place has received payment for the full amount due or has discharged the amount due and not paid.

B. Unlawful Acts. It is unlawful for any person liable for the tax imposed by this chapter to fail to pay the tax when due or for any person, firm, or corporation to make any false or fraudulent return or any false statement in connection with the return.

C. Criminal Penalties. Any person who intentionally violates any provision of this chapter shall be guilty of a misdemeanor and upon conviction thereof punished pursuant to State law or City ordinance.

1. Violation a Misdemeanor. Each violation of or failure to comply with the provisions of this chapter constitutes a separate offense and is a misdemeanor.
2. Collection of Tax by Civil Action. Any fee or tax due and unpaid and delinquent under the provisions of this chapter and all penalties thereon may be collected by civil action, which remedies shall be in addition to any and all other existing remedies.
3. Violators Designated. Any person who directly or indirectly performs or omits to perform any act in violation of the provisions of this chapter, or aids or abets the same, whether present or absent, and every person who directly or indirectly counsels, encourages, hires, commands, induces or otherwise procures another to commit such violation is and shall be a principal under the terms of this chapter and may be proceeded against as such.

4.60.070090 Application and reporting.

A. Any person, firm or corporation conducting or operating any place for entrance to which an admission charge is made shall procure from the City an annual certificate of registration, the fee for which shall be \$10.00, and it shall be posted in a conspicuous place where tickets of admission are sold or the activity occurs. This charge will be in addition to any regular business license that may be required. Annual renewals will be provided without a fee.

B. The applicant for a certificate of registration shall furnish the Finance Director with the application, with the name and address of the owner, lessee or the custodian of the premises upon which the amusement is to be conducted; and such owner, lessee or custodian shall be notified of the issuance of such certificate and of his or her joint liability for collection and remittance of such tax.

C. The Finance Director shall have the power to adopt rules and regulations not inconsistent with the terms of this chapter for carrying out and enforcing the payment, collection and remittance of the tax herein levied; and a copy of the rules and regulations shall be on file and available for public examination in the City Clerk's office.

4.60.080100 Temporary special events – Remittance.

A. Immediate Remittance. Whenever any special temporary event makes an admission charge which is subject to the tax herein levied, the Finance Director may require the return and remittance of the admission tax immediately upon its collection, at the conclusion of the series of performances or exhibitions or at such other times as the Finance Director shall determine.

B. Liability of Owner of Premises Where Special Temporary Events Are Held. For special temporary events, the owner, lessee or custodian shall be responsible for payment of this tax if the person conducting the event fails to do so.

4.60.090110 Record retention requirements.

It shall be the duty of every person required to obtain an occupation license and liable for payment of any tax imposed by this chapter to keep and preserve for a period of five years such books and records as will accurately reflect the amount of gross income from the business, and from which can be determined the amount of any tax for which the person may be liable under the provisions of this chapter. The term "books and records" as used in this section includes but is not limited to copies of the taxpayer's Federal income tax returns, Federal excise tax returns, State of Washington excise tax returns, and copies of income tax and excise tax audits made by the United States or the State of Washington and furnished to

such person. The taxpayer books and records shall be available for examination at all reasonable times by the Finance Director and his or her duly authorized designee.

In the case of any taxpayer that does not keep the necessary books and records within the City of University Place for examination, it shall be sufficient if such person produce the same within the City of University Place as instructed or required by the Finance Director.

Any taxpayer who fails, neglects, or refuses to produce such books and records in accordance with this chapter, or fails to file a return, in addition to being subject to other civil and criminal penalties provided by this chapter, is subject to a tax assessment in an amount determined by the Finance Director in accordance with the provisions of this chapter, which tax assessment shall be deemed prima facie correct and shall be the amount of fee or tax owing to the City of University Place by the taxpayer unless the person can prove otherwise by competent evidence. The taxpayer shall be notified by mail by the Finance Director of the amount of tax assessment imposed pursuant to this chapter, together with any penalty and/or interest due, and the total of such amounts shall thereupon become immediately due and payable.

4.60.100120 Quitting, selling, or transferring business.

Whenever any taxpayer quits business, or sells out, exchanges, or otherwise disposes of such business, any tax payable under this chapter shall become immediately due and payable, and such taxpayer shall, within 10 days thereafter, make a return and pay the tax due; and any person who becomes a successor shall become liable for the full amount of any unpaid tax, interest, and penalties and shall withhold from the purchase price an amount sufficient to pay any tax due from the taxpayer until such time as the taxpayer shall produce a receipt from the City of University Place showing payment in full of any tax due or a certificate that no tax is due. If such tax, interest or penalty has not been paid by the taxpayer within 10 days from the date of such sale, exchange, or disposal, the successor shall become liable for the payment of the full amount of tax, interest and penalties. The successor's liability shall be limited to the purchase price or fair market value of the business purchased if no cash transaction took place. No successor shall be liable for any tax due from the taxpayer from whom the successor has acquired a business or stock of goods if the successor gives written notice to the Finance Director of such acquisition and no assessment is issued by the Finance Director within six months of receipt of such notice against the former operator of the business. Taxpayer's account will remain on an active status and be subject to all taxes, penalties, and interest until such time as the Finance Director is notified in writing that the taxpayer has discontinued business activity within the City of University Place. Nothing in this chapter is intended nor shall it be construed to prohibit the successor from engaging in business in the City of University Place pending resolution of the successor's tax liability.

4.60.140130 Tax not exclusive.

The tax levied herein shall be additional to any license fee or tax imposed or levied under any other law or under any other ordinance of the City of University Place.

4.60.120140 Appeal procedure.

Any taxpayer aggrieved by the amount of the fee or tax found by the Finance Director to be required under the provisions of this chapter may, upon full payment of the amount assessed, appeal from such finding by filing a written notice of appeal with the City Clerk within 14 days from the date such taxpayer was notified in writing of such amount. The Clerk shall, as soon as practicable, fix a time and place for the hearing of such appeal before the Hearings Examiner, which time shall be not more than 60 days after the filing of the notice of appeal, and shall cause a notice of the time and place thereof to be delivered or mailed to the appellant. At such hearing before the Hearings Examiner, the taxpayer shall be entitled to be heard and to introduce evidence in his or her own behalf. The Hearings Examiner shall render a decision, together with findings of fact and conclusions of law, based upon the evidence presented at the time of the hearing and all material on file in the case. The Hearings Examiner's decision shall indicate the correct amount of the fee or tax owing. The Hearings Examiner's decision shall be final. The appellant or the City of University Place may appeal the decision of the Hearings Examiner to the Superior Court of Washington in and for Pierce County within 30 days after the date of the Hearings Examiner's decision. The Hearings Examiner may, by subpoena, require the attendance of any person, and may also require him/her to produce any pertinent books and records. Any person served with such subpoena shall appear

at the time and place therein stated and produce the books and records required, if any, and shall testify truthfully under oath administered by the Hearings Examiner as to any matter required of him/her pertinent to the appeal, and it shall be unlawful for him/her to fail or refuse so to do.

4.60.130150 Over or underpayment of tax.

In the event that any person makes an overpayment, and within two years of the date of such overpayment makes application for a refund or credit, the person's claims shall be allowed and a refund made by the City of University Place upon determination by the Finance Director that no other sums are owed by the person to the City of University Place. If a person determines that the tax has been underpaid and without notice by any party pays the amount due to the City of University Place, such amount shall not be subject to penalty.

Section 2. Severability. If any one or more sections, subsections or sentences of this ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

Section 3. Effective date. This Ordinance shall take effect five days after publication.

PASSED BY THE CITY COUNCIL ON FEBRUARY 4, 2013.


Ken Grassi, Mayor

ATTEST:


Ennelita Genetia, City Clerk

APPROVED AS TO FORM:


Steve Victor, City Attorney

Publication Date: 02/06/13

Effective Date: 02/11/13