

**CITY OF UNION GAP, WASHINGTON  
ORDINANCE NO. 2707**

**AN ORDINANCE** establishing the Union Gap Tourism Promotion Area, Imposing a Special Assessment on the Furnishing of Lodging by a Lodging Business located within the Tourism Promotion Area, providing for the Collection of the Charge, and other matters relevant to the establishment and management of a Tourism Promotion Area.

**WHEREAS**, the state legislature has recognized the importance of tourism in the State of Washington and locally and, as a result passed ESSB No. 6026, which is codified as the Tourism Promotion Area Act, RCW 35.101.

**WHEREAS**, 35.101 authorizes the establishment of a Tourism Promotion Area (TPA), which can levy special assessments to fund tourism promotion;

**WHEREAS**, the Union Gap City Council was presented with a petition to establish a TPA brought forward by the lodging businesses situated within the City of Union Gap;

**WHEREAS**, the City Council on January 10, 2011 adopted Resolution No. 907 which provided Notice of the City's Intent to Establish a TPA and which set a public hearing concerning the same;

**WHEREAS**, the City Council, following public notice of the public hearing, held the duly scheduled public hearing on February 14, 2011 for the purpose of receiving comments and testimony concerning the formation of the TPA; and,

**WHEREAS**, there was no comment or testimony opposing the formation of the TPA, and the City Council now desires to establish the TPA;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF UNION GAP DOES ORDAIN as follows:**

**Section 1. Definitions.**

The following terms are defined as follows:

- a. "Annual Budget" shall mean the Tourism Promotion Area budget for a fiscal year, as adopted or amended by the City Council identifying all estimated revenue from the Special Assessment for the fiscal year, and providing for all proposed uses of the Special Assessment revenue for the purpose of providing tourism promotion in the ensuing fiscal year.

- b. "Lodging Business: means a business located within the Union Gap Tourism Promotion Area that furnished lodging taxable by the state under RCW 82.08 that has forty (40) or more lodging units.
- c. "Operator" means the Operator of a Lodging Business, whether in the capacity of owner, general manager, lessee, sub-lessee, mortgagee in possession, license or other similar capacity.
- d. "Room Revenues" means the gross per-night-charge (nights of stay) imposed for the rental of a room or combination of rooms for lodging.
- e. "Special Assessment or Charge" means the levy imposed by the City of Union Gap on the Operators of a Lodging Business within the Tourism Promotion Area and subsequently passed on to the guests of the Lodging Business, under the authority of RCW 35.101.050 for the purpose of providing for funding of tourism promotion in the City of Union Gap.
- f. "Tourism Promotion" means activities and expenditures designed to increase tourism and business, including but not limited to, advertising, publicizing, or otherwise distributing information for the purpose of attracting and welcoming tourists to the City of Union Gap and surrounding areas.
- g. "Transient Basis" means the rental of a room or rooms for dwelling, lodging, or sleeping by the Operator of a Lodging Business for a period of thirty (30) consecutive calendar days or less, count a portion of a day as a full calendar day.
- h. "Union Gap Tourism Promotion Area" (UGTPA) means the Tourism Promotion Area created by the Ordinance of the City of Union Gap City Council pursuant to the authority provided under RCW 35.101.

## **Section 2. Establishment of the Tourism Promotion Area.**

There is hereby established a Union Gap Tourism Promotion Area (UGTPA) with boundaries that are coterminous with the jurisdictional boundaries of the City of Union Gap, Washington.

## **Section 3. Assessment Rate.**

There is imposed a Special Assessment on the furnishing of lodging by a Lodging Business located within the UGTPA in the amount of \$2.00 per room per day. The charges imposed under this section are not a tax on the "sale of lodging" for the purposes of RCW 82.14.410. The Special Assessment shall go into effect on January 1, 2012.

#### **Section 4. Purposes for the Use of the Special Assessment Revenues.**

The revenues from the Special Assessments levied on the Operators of Lodging Businesses with the UGTPA shall be used for the following purposes:

- a. Advertising campaigns;
- b. Public relations campaigns; and,
- c. Group tour, leisure, and sports tourism sales and marketing.

#### **Section 5. Use of the Special Assessment and Annual Budget.**

The City Council recognizes that all of the revenues from the Special Assessment shall be allocated in accordance with the Annual Budget for the UGTPA. Pursuant to RCW 35.101.130(1) the City Council shall adopt an annual budget for the UGTPA. The adoption of the budget shall be done at a regular meeting of the City Council following an opportunity for public comment.

The City Council shall act in accordance with RCW 35.101.130 which provides:

RCW 35.101.130

Legislative authority has sole discretion concerning use for tourism promotion — Contracts for operation of area.

(1) The legislative authority imposing the charge shall have sole discretion as to how the revenue derived from the charge is to be used to promote tourism. However, the legislative authority may appoint existing advisory boards or commissions to make recommendations as to its use, or the legislative authority may create a new advisory board or commission for that purpose.

(2) The legislative authority may contract with tourism destination marketing organizations or other similar organizations to administer the operation of the area, so long as the administration complies with all applicable provisions of law, including this chapter, and with all county, city, or town resolutions and ordinances, and with all regulations lawfully imposed by the state auditor or other state agencies.

#### **Section 6. Modification or Disestablishment of the Tourism Promotion Area.**

- a. The City Council may, by appropriate action, modify the provisions of this Ordinance or provide for the disestablishment of the UGTPA, after adopting a resolution of intention to such effect. Such a resolution of intention shall describe the changes proposed, or indicate that it is the

intention to disestablish the UGTPA, and shall state the time and place of a public hearing to be held by the City Council.

- b. If the Operators of Lodging Businesses which pay over forty percent (40%) of the Special Assessments levied within the UGTPA file a petition with the City Clerk requesting the City Council to adopt a resolution of intention to modify or disestablish the UGTPA, the City Council shall consider such resolution at a regular meeting and act upon it as required by law. Signatures on such a petition shall be those of duly authorized representatives of the Operators of Lodging Businesses within the UGTPA.
- c. In the event the resolution proposes disestablishment of the UGTPA, the City Council shall by ordinance disestablish the UGTPA, unless at the public hearing concerning the same, protest against the disestablishment is made by Operators of Lodging Businesses paying over fifty percent (50%) of the Special Assessments in the UGTPA.

#### **Section 7. Administration and Collection of Assessments.**

The Special Assessment imposed under this Ordinance shall be administered by the Washington State Department of Revenue and shall be collected by the Lodging Businesses from those guests who are taxable by the state under RCW 82.02. The provisions of RCW 82.32 apply to the Special Assessment imposed under this Ordinance.

The Special Assessments collected by the Washington State Department of Revenue shall be deposited by the Department in the local tourism promotion account created and maintained by the State Treasurer. All receipts from the Special Assessments imposed under the Ordinance must be deposited into this account. Expenditures from the account may only be used for tourism promotion. The State Treasurer shall distribute the money in the account on a monthly basis to the City of Union Gap.

#### **Section 8. Inspection.**

All Lodging Businesses subject to the Special Assessment under this Ordinance and the City of Union Gap consent to the inspection of such records as are deemed necessary by the Washington State Department of Revenue pursuant to applicable statutes, rules or regulations.

#### **Section 9. Contract with State for Administration.**

The Mayor of the City of Union Gap is authorized to enter into contract(s) with the Washington Department of Revenue for the administration of the charge imposed under this Ordinance.

**Section 10. Violation and Penalties.**

Any person, firm or corporation who fails or refuses to collect the charge as required under this Ordinance and any guest who refuses to pay any charge due under this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment for a maximum term fixed by the court not to exceed ninety (90) days, or by a fine in the amount fixed by the court not to exceed \$1000.00, or by both such imprisonment and fine. The penalties provided hereunder are not exclusive and are in addition to any other remedies that may be available under law or equity.

**Section 11. Severability.**

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, clause or phrase of this Ordinance.

**Section 12. Effective Date.**

This Ordinance shall take effect and be in force five (5) days after final passage by the City Council and publication.

**ORDAINED** this 28<sup>th</sup> day of February 2011.

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Jim Lemon  
Mayor

ATTEST:

APPROVED AS TO FORM:

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Kathryn Thompson, CMC  
City Clerk

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Robert F. Noe  
City Attorney