

ORDINANCE NO. 2006-

AN ORDINANCE OF THE CITY OF CULVER CITY,
CALIFORNIA, AMENDING CHAPTER 3.08 OF THE CULVER
CITY MUNICIPAL CODE "UTILITY USERS TAX" RELATING TO
APPLICATION OF THE TELEPHONE USERS TAX.

WHEREAS, the City of Culver City has for many years imposed a tax on
telephone communication services since 1969;

WHEREAS, for ease of administration by the telephone communication
service providers, the Culver City Municipal Code defines "telephone communications
services" by referring to federal excise tax law administered by the Internal Revenue
Service and has for many years administered its tax on telephone communication
services consistent with the application of the Federal Excise Tax;

WHEREAS, administration and application of the Federal Excise Tax has
been and continues to be the purview of the Internal Revenue Service;

WHEREAS, until May 25, 2006, the Internal Revenue Service had
administered and applied the Federal Excise Tax in a manner consistent with both
Revenue Ruling 79-404 and the manner in which the City of Culver City intended to
administer and apply its tax on telephone communication services, including applying
the Federal Excise Tax to long-distance charges which varied in amount with either
distance or elapsed transmission time of the involved communication;

WHEREAS, on May 25, 2006, the Internal Revenue Service issued Notice
2006-50 which announced that after July 31, 2006, the Internal Revenue Service would
no longer apply the Federal Excise Tax to long-distance charges and bundled long-

1 distance unless the charges vary in amount with both distance and elapsed
2 transmission time;

3 WHEREAS, it has always been and continues to be the City of Culver City's
4 intent that its tax on telephone communication services be applied to long-distance
5 charges which vary in amount with either distance or elapsed transmission time and to
6 bundled long-distance and local charges provided under a single plan that does not
7 separately state the charges for local telephone service;

8 WHEREAS, the City Council does not wish to adopt the Internal Revenue
9 Service's new interpretation of the definitions of the F.E.T., but rather wishes to continue
10 to impose the UUT as it has been historically imposed;

11 WHEREAS, Culver City Municipal Code Section 3.08.210(C) expressly
12 requires application of the utility users tax to bundled charges and that provision is not
13 changed by this ordinance; and

14 WHEREAS, this ordinance is important to the City because the above-
15 referenced facts increase the possibility of an unplanned reduction of the tax on
16 telephone communication services, which would result in a reduction in revenues that
17 are critical to the ensuring the public peace, health and safety, including public safety
18 services.
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1 **NOW, THEREFORE**, the City Council of the City of Culver City **DOES ORDAIN**
2 as follows:

3 SECTION 1. Section 3.08.210(B) of Chapter 3.08 of the Culver City
4 Municipal Code is hereby amended to read as follows:

5 B. Except as otherwise provided herein, TELEPHONE COMMUNICATION
6 SERVICES shall include local and long-distance telephone service for which there is a
7 charge, regardless of the means or technology used to provide such services. The tax
8 imposed under subsection (a), above, shall not be imposed upon any person for using
9 the following TELEPHONE COMMUNICATION SERVICES:
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11 1. Service paid for by inserting coins in coin-operated telephones
12 available with respect to local telephone service, or with respect to toll
13 telephone service if the charge for such toll telephone service is less
14 than 25 cents; except that where such coin-operated telephone
15 service is furnished for a guaranteed amount, the amounts paid under
16 such guarantee plus any fixed monthly or other periodic charge shall
17 be subject to the tax.
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19 2. Except with respect to local telephone service, services used in the
20 collection of news for the public press, or a news ticker service
21 furnishing a general news service similar to that of the public press, or
22 radio broadcasting, or in the dissemination of news through the public
23 press, or a news ticker service furnishing a general news service
24 similar to that of the public press, or by means of radio broadcasting,
25 if the charge for such service is billed in writing to such person.
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3. Services furnished to an international organization, or to the American National Red Cross.
4. Any toll telephone service which originates within a combat zone and is from a member of the Armed Forces of the United States performing service in such combat zone; provided a certificate, setting forth such facts as the Secretary may by regulations prescribe, is furnished to the person receiving such payment.
5. Any toll telephone service which entitles the subscriber, upon payment of a periodic charge (determined as a flat amount or upon the basis of total elapsed transmission time), to the privilege of an unlimited number of telephonic communications to or from all or a substantial portion of the persons having telephone or radio telephone stations in a specified area which is outside the local telephone system area in which the station provided with this service is located, that is for use by a common carrier, telephone or telegraph company, or radio broadcasting station or network in the conduct of its business as such.
6. The installation of any instrument, wire, pole, switchboard, apparatus, or equipment as is properly attributable to such installation.
7. Amounts paid by a nonprofit hospital for services furnished to such organization.

1 8. Services or facilities furnished to the government of any State, or any
2 political subdivision thereof, or the District of Columbia.

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4 9. Services or facilities paid for by a nonprofit educational organization
5 and furnished to such organization. For purposes of this subsection,
6 the term **NONPROFIT EDUCATIONAL ORGANIZATION** means an
7 educational organization described in Section 170(b)(1)(A)(ii) of the
8 Internal Revenue Code which is exempt from income tax under
9 Section 501(a) of the same code. The term also includes a school
10 operated as an activity of an organization described in Section
11 501(c)(3) of the Internal Revenue Code which is exempt from income
12 tax under Section 501(a) of the same code, if such school normally
13 maintains a regular faculty and curriculum and normally has a
14 regularly enrolled body of pupils or students in attendance at the
15 place where its educational activities are regularly carried on.

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17 SECTION 2. Pursuant to Section 619 of the City Charter, this
18 Ordinance shall take effect thirty (30) days after the date of its adoption. Pursuant to
19 Section 616 of the City Charter, prior to the expiration of fifteen (15) days after the
20 adoption, the City Clerk shall cause this Ordinance, or a summary thereof, to be
21 published in the Culver City News and shall post this Ordinance or a summary thereof
22 in at least three places within the City.

23 SECTION 3. To the extent the provisions of the Culver City
24 Municipal Code as amended by this ordinance are substantially the same as the
25 provisions of that Code as they read immediately prior to the adoption of this ordinance,
26 then those provisions shall be construed as continuations of the earlier provisions and
27 not as new enactments.

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SECTION 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 5. The amendments herein are not intended to make any change in the way in which the tax is calculated, imposed or administered. Therefore the changes made by this ordinance do not constitute an increase in the tax for purposes of Proposition 218. Further, if for any reason any section, subsection, sentence, clause, phrase or portion of this is held to constitute an increase for purposes of Proposition 218 or is otherwise held invalid or cannot be implemented according to its terms, the City Council intends that the ordinance provisions which would have been amended or affected by this ordinance shall remain in effect as if this ordinance had not been adopted.

SECTION 6. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases, or portions be declared invalid or unconstitutional.

APPROVED and ADOPTED this _____ day of _____, 2006.

GARY SILBINGER, Mayor
City of Culver City, California

ATTEST:

APPROVED AS TO FORM:

CHRISTOPHER ARMENTA,
City Clerk

CAROL A. SCHWAB,
City Attorney