

## REQUEST FOR COUNCIL ACTION

**SUBJECT:**           **ORDINANCE AMENDING TITLE 3, REVENUE, FINANCE  
AND TAXATION**

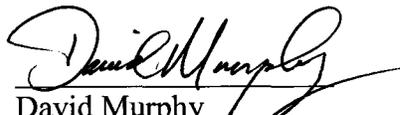
**SUMMARY:**        Proposed amendment to re-adopt the telecommunications tax.

**FISCAL AND/OR  
ASSET IMPACT:**   Continued telecommunications tax revenue.

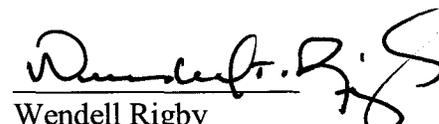
**STAFF RECOMMENDATION:**  
                          Staff recommends approval.

**MOTION RECOMMENDED:**  
                          "I move to approve Ordinance No. ~~16-22~~ amending Title 3,  
Chapter 6, Article B, Section 7 of the 2009 City Code."

**Prepared by:**

  
David Murphy  
Capital Projects Manager

**Reviewed by:**

  
Wendell Rigby  
Public Works Director

**Recommended by:**

  
Mark R. Palesh  
City Manager

## **BACKGROUND DISCUSSION:**

In 2012, the City Council adopted ordinance 12-09, amending section 3-6B-7 of the West Jordan City Code and changing the sunset date of the telecommunications tax to June 30, 2016. The adopted language states, “this telecommunications tax shall be deemed repealed unless city council readopts the telecommunications tax on or before that date.”

However, Utah Code §10-1-403 states,

(b)(i) If, on or after July 1, 2004, a municipality enacts or repeals a tax or changes the rate of the tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b)(ii) from the municipality.

Accordingly, the City Code also states that the repeal “shall not take effect until the first day of the calendar quarter following a ninety (90) day period beginning on the date the Utah state tax commission actually receives from the city written notice repealing the tax.”

The purpose of the proposed ordinance is to readopt the telecommunications tax, so the City will continue to receive the associated revenue. A new “sunset” date has not been proposed, because the repeal cannot be automatic under Utah Code, which requires the City to give notice (and the State tax commission to receive it) before a repeal of the telecommunications tax can take effect.

## **ADDITIONAL DISCUSSION – HISTORY**

The telecommunications tax was approved by a previous City Council on June 10, 2008 with the expressed intent to use the revenue generated for roadway maintenance (ordinance 8-19, and resolution 08-81). Additionally, this original intent for the telecommunication tax could also offset costs for easement maintenance, public utility easement use and acquisitions, undergrounding costs, and other interference caused to City owned rights of way due to additional telecommunications companies using City owned property (co-location). On September 22, 2009, the code was altered with regard to its’ sunset provisions to be compatible with State Code. Lastly, the collections provisions for the telecommunications tax were changed on 4/25/2012 to allow the use of the tax for all general fund purposes instead of just road maintenance. This last provision was adopted due to the downturn caused by the Great Recession, and a lack of funding for police and fire purposes. Roughly half of the annual \$1.5 million in collections has been diverted to salary support for other departments since that date, and half has been used for road maintenance purposes.

Since the last change, the economy of the City has slowly recovered, and the need for road construction funding and road maintenance funding has increased. The 7000 South widening project alone could use 100% of the telecommunication tax for the next ten years to just move this one project ahead. Even though B and C funding from the gas tax has increased, that increase still does not meet the current maintenance needs.

Consideration should be given at this time to allowing the full telecommunication tax to be used once more in the road maintenance and capital construction areas of the City. However, whether or not the funding is directed back to roadway purposes, the full tax should be re-adopted.

Attachments:

Ordinance

**THE CITY OF WEST JORDAN, UTAH**  
A Municipal Corporation

ORDINANCE NO. 16-22

[TELECOMMUNICATIONS TAX SUNSET]

AN ORDINANCE AMENDING TITLE 3, "REVENUE, FINANCE AND  
TAXATION."

WHEREAS, the City of West Jordan adopted a City Code in 2009, for the purpose of carrying into effect and discharging all powers and duties conferred by law upon the city and its officers, employees and inhabitants, and to provide for the safety, preserve the health, promote the prosperity, improve the morals, peace, good order, comfort and convenience of the city and its inhabitants, and to protect property in the city; and

WHEREAS, the West Jordan City Council finds and determines that the purpose of the 2009 City Code, and the public health and welfare, will best be reached by the adoption of the following amendments to Title 3, Chapter 6 of the 2009 City Code.

NOW THEREFORE, IT IS ORDAINED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WEST JORDAN, UTAH:

**Section 1.** Title 3, Chapter 6, Article B, Section 7 of the 2009 City Code shall hereafter read as follows:

**3-6B-7: REPEAL OF TAX:**

The telecommunications tax may be changed or repealed by ordinance adopted by the city council. The repeal or change shall take effect the first day of the calendar quarter following a ninety (90) day period beginning on the date the Utah state tax commission actually receives from the city written notice repealing the tax. The notice shall meet the requirements of Utah Code Annotated section 10-1-403(3)(b)(ii) (1953, as amended) or any successor provisions. (2001 Code § 78-3-107; Ord. 09-28, 9-22-2009; Ord. 12-09, 4-25-2012; Ord. 16-22, 05-25-2016)

**Section 2.** Additions or amendments to the 2009 City Code when passed in such form as to indicate the intention of the city council to make the same a part of the 2009 City Code shall be deemed to be incorporated in the 2009 City Code, so that reference to the 2009 City Code hereafter includes the additions and amendments.

**Section 3.** This Ordinance shall become immediately effective.

Passed and adopted by the City Council of the City of West Jordan, Utah this 25th day of May, 2016.

CITY OF WEST JORDAN

By: \_\_\_\_\_  
KIM V. ROLFE  
Mayor

ATTEST:

MELANIE S. BRIGGS, MMC  
City Clerk

**Voting by the City Council**

	<b>“AYE”</b>	<b>“NAY”</b>
<b>Council Member Dirk Burton</b>	_____	_____
<b>Council Member Jeff Haaga</b>	_____	_____
<b>Council Member Zach Jacob</b>	_____	_____
<b>Council Member Chris McConnehey</b>	_____	_____
<b>Council Member Chad Nichols</b>	_____	_____
<b>Council Member Sophie Rice</b>	_____	_____
<b>Mayor Kim V. Rolfe</b>	_____	_____

**CITY CLERK/RECORDER'S CERTIFICATE OF PUBLICATION**

I, Melanie S. Briggs, certify that I am the City Clerk/Recorder of the City of West Jordan, Utah, and that the foregoing ordinance was published in the Legal Section, of the Salt Lake Tribune, on the \_\_\_\_\_ day of \_\_\_\_\_, 2016, pursuant to Utah Code Annotated, 10-3-711.

MELANIE S. BRIGGS, MMC  
City Clerk/Recorder

[SEAL]

## Legislative

### 3-6B-7: REPEAL OF TAX:

~~On June 30, 2016, this telecommunications tax shall be deemed repealed unless city council readopts the telecommunications tax on or before that date. However, the repeal of the telecommunications tax may be changed or repealed by ordinance adopted by the city council. The repeal or change shall not take effect until the first day of the calendar quarter following a ninety (90) day period beginning on the date the Utah state tax commission actually receives from the city written notice repealing the tax. The notice shall meet the requirements of Utah Code Annotated section 10-1-403(3)(b)(ii) (1953, as amended) or any successor provisions. (2001 Code § 78-3-107; Ord. 09-28, 9-22-2009; Ord. 12-09, 4-25-2012; Ord. 16-\_\_\_\_, 05-25-2016)~~