

COUNCIL BILL NO. 2006-031

ORDINANCE NO. 2006-143

AN ORDINANCE finding and declaring that the conditions of Section 3. of Ordinance No. 2006-042 passed by the Council of the City of Joplin on March 27, 2006, have been met; complying with the procedure set forth in Section 1-12 of the Joplin City Code by setting out in full the provisions of section 30-141 previously amended by Ordinance No. 2006-042; clarifying that the tax rate to be imposed pursuant to section 30-143 of Chapter 30 of the Joplin City Code is six percent (6%); repealing Ordinance No. 2006-053 passed by the Council of the City of Joplin on April 17, 2006; and containing an emergency clause.

WHEREAS, in 2005, the Missouri General Assembly enacted the "Municipal Telecommunications Business License Tax Simplification Act," Sections 92.074 through 92.095 of the Revised Statutes of Missouri, which purported to require municipalities including the City of Joplin to promulgate and publish a new tax rate for telecommunications consistent therewith by April 1, 2006; and,

WHEREAS, as part of the new law the Missouri Department of Revenue was to establish a new rate to include cellular service thereby reducing the City's rate from 6% to something less based upon their calculations; and,

WHEREAS, the City Council was desirous of complying with the new law without waiving any rights to collect the original six percent (6%) license fee and on March 27, 2006 passed Ordinance No. 2006-042 which established a new rate for telecommunications and created a new Division 7 of Chapter 30 entitled "Telecommunications Business License"; and,

WHEREAS, Sections 1.40, 2.15(1) and 15.13 of the Charter authorize the City Council to adopt tax rates by ordinance and the City Council is authorized by the Missouri Constitution to reduce tax rates below that allowed by law, and to raise them back up to such levels without a public vote; and,

WHEREAS, Ordinance 2006-042 contained a savings clause invalidating the ordinance in the event that Missouri House Bill 209 was found to be unconstitutional and causing the tax rate to revert to the six percent (6%) validly in effect as of the date of the enactment of the ordinance; and,

WHEREAS, on August 8, 2006, the Missouri Supreme Court declared House Bill 209 to be an invalid statutory enactment in the case of City of Springfield, Missouri v. Sprint Spectrum, LP, Case Number SC87238 and declared the same unconstitutional; and,

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, as follows:

Section 1. That the City Council finds and declares that conditions set forth in section 3 of Ordinance No. 2006-042 have been satisfied by the Missouri Supreme Court declaring that HB 209 is invalid; therefore said conditions have been satisfied and the provisions of 30-141 shall revert to the language as it existed prior to the passage of Ordinance No. 2006-042; that the provisions of the new Division 7 of Chapter 30 of the Joplin City Code as established by Ordinance No. 2006-042 are null and void; that the tax rate of six percent (6%) is in full force and effect and that Sections 1 and 2 of Ordinance No. 2006-042 are hereby repealed.

Section 2. That Ordinance No. 2006-053 be and the same is hereby repealed.

Section 3. That the City Council further finds and declares that, to the extent necessary to comply with Section 1-12 of the Joplin City Code relating to the impact of the repeal of any ordinance that amended or repealed another ordinance, that Section 30-141 is set out in full herein and it is the intent of the City Council that it continue in full force and effect as provided for in Section 3. of Ordinance No. 2006-042 as such conditions contained therein have been met and that such Section 30-141 shall read as follows:

“Sec. 30-141. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Gross receipts means all moneys charged and collected by a public utility or derived from the distribution or sales of its services, including any fee imposed by section 30-143, before any deductions are made therefrom by the utility for any expenses or charges of any kind.

Public utility means any person furnishing exchange telephone service, water, electric energy, natural gas or any similar service, or community antenna television (also known as CATV), for compensation, to customers or users thereof within the present or future boundaries of the city by means of wires, poles or pipes laid along, under, across, over or through the streets of the city.”

Section 4. Nothing in this ordinance shall be construed to affect any suit or proceeding now pending in any court or any rights acquired or liability incurred nor any cause or causes of action occurred or existing, under any act or ordinance repealed hereby. Nor shall any right or remedy of any character be lost, impaired, or affected by this ordinance.

Section 5. That this Ordinance, fixing a tax rate or assessment of the City, is an emergency within the meaning of Section 2.12 (5) of THE HOME RULE CHARTER OF THE CITY OF JOPLIN, MISSOURI, and shall be in full force and effect immediately from and after its passage.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this 5th day of September, 2006, by a 8-0-1 vote.

Jon Tupper, Mayor

ATTEST:
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:
Brian W. Head, City Attorney