

OKANOGAN COUNTY

ORDINANCE 2002 -05

**AMENDING CHAPTER 3.36 OF THE OKANOGAN COUNTY CODE REGARDING
ENHANCED 911 EXCISE TAX ON THE USE OF RADIO ACCESS LINES; ADDING A
NEW SUBSECTION TO CHAPTER 3.36 OF THE OKANOGAN COUNTY CODE; AND
PROVIDING AN EFFECTIVE DATE**

WHEREAS, emergency services communications systems, including enhanced 911 systems are currently funded with revenue from state and local excise taxes imposed on the use of switched and radio access lines; and

WHEREAS, the 2002 legislature found that statewide enhanced 911 has proven to be a lifesaving service and that routing a 911 call to the appropriate public safety answering point with a display of the caller's identification and location should be available for all users of telecommunications services, regardless of the technology used to make and transmit the 911 call. The legislature also found that it is in the best public interest to ensure that there is adequate ongoing funding to support enhanced 911 services; and

WHEREAS, the 2002 legislature amended Chapter 82.14B RCW to allow county legislative authorities to increase an excise tax of \$0.25 to \$0.50 per month on each radio access line to fund the emergency services communications system;

NOW THEREFORE, IT HEREBY ORDAINED BY THE BOARD OF OKANOGAN COUNTY COMMISSIONERS that Okanogan County Code Chapter 3.36 is hereby amended as follows:

Chapter 3.36

911 EXCISE TAX

Sections:

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|----------|---|
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| 3.36.015 | Definitions. |
| 3.36.020 | Enhanced 911 line excise tax. |
| 3.36.030 | Use of proceeds. |
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| 3.36.051 | Refund mechanism. |
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3.36.010 Purpose.

The purpose of this chapter is to promote the public safety and welfare of citizens of the county and others while living, visiting or recreating in the county, by facilitating emergency response to

requests for assistance. The state of Washington and the nation as a whole have accepted the use of 911 as the universal emergency telephone number. This chapter is intended to support the availability of this number to the county. (Ord. 92-6, 1992).

3.36.015 Definitions.

As used in this chapter:

- A. "Emergency services communication system" means a multicounty, countywide, or districtwide radio or landline communications network, including an enhanced 911 telephone system, which provides rapid public access for coordinated dispatching of services, personnel, equipment, and facilities for police, fire, medical, or other emergency services.
- B. "Enhanced 911 telephone system" means a public telephone system consisting of a network, database, and on-premises equipment that is accessed by dialing 911 and that enables reporting police, fire, medical, or other emergency situations to a public safety answering point. The system includes the capability to selectively route incoming 911 calls to the appropriate public safety answering point that operates in a defined 911 service area and the capability to automatically display the name, address, and telephone number of incoming 911 calls at the appropriate public safety point.
- C. "Switched access line" means the telephone service line which connects a subscriber's main telephone(s) or equivalent main telephone(s) to the local exchange company's switching office.
- D. "Local exchange company" has the meaning ascribed to it in RCW 80.40.010.
- E. "Radio access line" means the telephone number assigned to or used by a subscriber for two-way local wireless voice service available to the public for hire from a radio communications service company. Radio access lines include, but are not limited to, radio-telephone communications lines used in cellular telephone service, personal communications services, and network radio access lines, or their functional and competitive equivalent. Radio access lines do not include lines that provide access to one-way signaling service, such as paging service, or to communications channels suitable only for data transmission, or to nonlocal radio access line service, such as wireless roaming service, or to a private telecommunications system.
- F. "Radio communications service company" has the meaning ascribed to it in RCW 80.04.010, except that it does not include radio paging providers. It does include those persons or entities that provide commercial mobile radio services, as defined by 47 U.S.C. Sec. 332(d)(1), and both facilities-based and nonfacilities-based resellers.
- G. "Private telecommunications system" has the meaning ascribed to it in RCW 80.04.010.
- H. "Subscriber" means the retail purchaser of telephone service as telephone service is defined in RCW 82.04.065(3). (Ord. 98-1 § 1, 1998).
- I. "Place of primary use" has the meaning ascribed to it in the federal mobile telecommunications sourcing act, P.L. 106-252.

3.36.020 Enhanced 911 line excise tax.

- A. An enhanced 911 excise tax in the amount of \$0.50 per month for each telephone switched access line, as defined in this chapter, is imposed on each switched access line in the county.
- B. An enhanced 911 excise tax ~~in the amount of \$0.25 per month~~ is hereby imposed on the use of radio access lines whose place of primary use is located within the county in the amount of \$0.50 per month for each radio access line, ~~used by a subscriber for two-way local wireless voice service, for which the address of the subscriber set forth in the records of the radio communications service company providing such radio access service is located in Okanogan County,~~ to assist in financing the Okanogan County enhanced 911 emergency response center.
- C. The county enhanced 911 tax on switched access lines shall be collected from the subscriber by the local exchange company providing the switched access line. The county 911 tax on radio access lines shall be collected from the subscriber by the radio communications service company providing the radio access line to the subscriber. The amount of the tax shall be stated separately

on the billing statement which is sent to the subscriber. (Ord. 98-1 § 2, 1998; Ord. 92-6 § 1, 1992).

3.36.030 Use of proceeds.

The proceeds of the 911 excise tax shall be used for any "enhanced 911 telephone system" as defined in RCW 82.14B.020(2), which system shall be implemented no later than December 31, 1998. All proceeds from said tax, with the exception of those from the 633, 634, 476 and 485 prefixes will be used for county-wide implementation. Funds collected from these prefixes shall be used either for county-wide implementation or for a separate answering system, depending on the wishes of the communities represented by these prefixes. (Ord. 92-6 § 2, 1992).

3.36.040 Special account created – Purposes enumerated.

There is created a special revenue account within the 911 communications fund number 120 known as the "Enhanced 911 Utility Tax" (Code 317.40). All taxes levied herein shall be placed in said account for the purpose of paying all or any part of the cost of all expenses related to the planning, acquisition, installation, addition, improvement, replacement, repair, maintenance, or operation of an enhanced 911 telephone system, including reimbursement to the local exchange companies and radio communications service companies for actual costs of administration and collection of the tax imposed. (Ord. 98-1 § 3, 1998; Ord. 92-6 § 3, 1992).

3.36.050 Remittance and deposit of taxes.

A. The due date for remittance to the county treasurer of all taxes collected shall be on or before the last day of the month following the month in which the tax liability accrues.

B. The treasurer shall deposit the taxes received in the special account created in OCC 3.36.040. (Ord. 98-1 § 4, 1998; Ord. 92-6 § 4, 1992).

3.36.051 Refund mechanism.

The amount of any tax imposed by this chapter ordered to be refunded by a final judgment of a court of record, or as a result of the resolution of any appeal therefrom, shall be refunded to the radio communications service company or local exchange company that collected the tax, and those companies shall reimburse the subscribers who paid the tax. To the extent that the subscribers who paid the tax cannot be identified or located, the tax paid by those subscribers shall be returned to the county. (Ord. 98-1 § 5, 1998).

3.36.052 Penalties.

A. The local enhanced 911 ~~excise tax~~ taxes imposed by this chapter must be paid by the subscriber to the local exchange company providing the switched access line or the radio communications service company providing the radio access line, and each local exchange company and each radio communications service company shall collect from the subscriber the full amount of the ~~tax~~ taxes payable. The local enhanced 911 excise ~~tax~~ taxes required by this chapter to be collected by the local exchange company ~~is or the radio communications service company~~ are deemed to be held in trust by the local exchange company or radio communications service company until paid to Okanogan County. Any local exchange company or radio communications service company that appropriates or converts the tax collected to its own use or to any use other than the payment of the tax to the extent that the money collected is not available for payment on the due date as prescribed in this chapter is guilty of a gross misdemeanor.

B. If any local exchange company or radio communications service company fails to collect the local enhanced 911 excise tax or, after collecting the tax, fails to pay it to Okanogan County in the manner prescribed by this chapter, whether such failure is the result of its own act or the result of acts or conditions beyond its control, the local exchange company or the radio communications service company is personally liable to Okanogan County for the amount of the tax, unless the

local exchange company or the radio communications service company has taken from the buyer in good faith a properly executed resale certificate under OCC 3.36.053.

C. The amount of tax, until paid by the subscriber to the local exchange company, the radio communications service company, or to Okanogan County, constitutes a debt from the subscriber to the local exchange company or the radio communications service company. Any local exchange company or radio communications service company that fails or refuses to collect the tax as required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any subscriber who refuses to pay any tax due under this chapter is guilty of a misdemeanor. The local enhanced 911 excise ~~tax~~ taxes required by this chapter to be collected by the local exchange company or the radio communications company must be stated separately on the billing statement that is sent to the subscriber.

D. If a subscriber has failed to pay to the local exchange company or the radio communications service company the local enhanced 911 excise ~~tax~~ taxes imposed by this chapter and the local exchange company or the radio communications service company has not paid the amount of the tax to Okanogan County, Okanogan County may, in its discretion, proceed directly against the subscriber for collection of the tax, in which case a penalty of 10 percent may be added to the amount of the tax for failure of the subscriber to pay the tax to the local exchange company or the radio communications service company, regardless of when the tax is collected by Okanogan County. For the sole purpose of applying the various provisions of Chapter 82.23 RCW, the last day of the month following the tax period in which the tax liability accrued is to be considered as the due date of the tax. (Ord. 98-1 § 6, 1998).

3.36.053 Resale certificate.

A. Unless a local exchange company or a radio communications service company has taken the buyer a resale certificate or equivalent document under RCW 82.04.470, the burden of proving that a sale of the use of a switched access line or radio access line was not a sale to a subscriber is upon the person who made the sale.

B. If a local exchange company or a radio communications service company does not receive a resale certificate at the time of the sale, have a resale certificate on file at the time of the sale, or obtain a resale certificate from the buyer within a reasonable time after the sale, the local exchange company or the radio communications service company remains liable for the tax as provided in OCC 3.36.052, unless the local exchange company or the radio communications service company can demonstrate facts and circumstances that show the sale was properly made without the payment of the local enhanced 911 sales tax.

C. The penalty imposed by OCC 3.36.052 may not be assessed on local enhanced excise taxes due but not paid as a result of the improper use of a resale certificate. This subsection does not prohibit or restrict the application of other penalties authorized by law. (Ord. 98-1 § 7, 1998).

3.36.060 Effective date of tax – Notice to local exchange companies.

A. The effective date of the tax imposed by this chapter on switched access lines shall be September 1, 1992, and notice of the tax shall be provided by the county to all local exchange companies serving in the county at least 60 days in advance of the date on which the first payment is due.

B. The effective date of the adjusted tax imposed by this chapter on radio access lines to \$0.50 per month shall be July 1, 1998 January 1, 2003. Radio communications service companies shall continue to collect the \$0.25 per month excise tax as imposed as of July 1, 1998 through December 31, 2002. The effective date of the additional \$0.25 per month increase shall then become effective January 1, 2003. ~~and notice~~ Notice of the tax shall be provided by the county to all radio communications service companies serving in the county at least 60 days in advance of the date on which the first payment is due. (Ord. 98-1 § 8, 1998; Ord. 92-6 § 5, 1992).

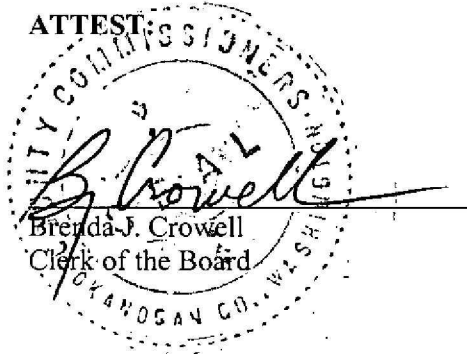
3.36.070 Severability.

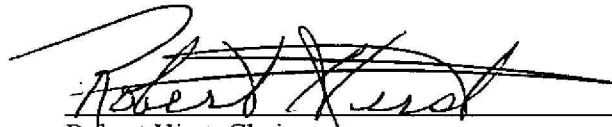
If any section, subsection, clause, phrase, or word in this chapter or any provision adopted by reference herein is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this chapter or any provision adopted by reference herein. (Ord. 92-6 § 6, 1992).

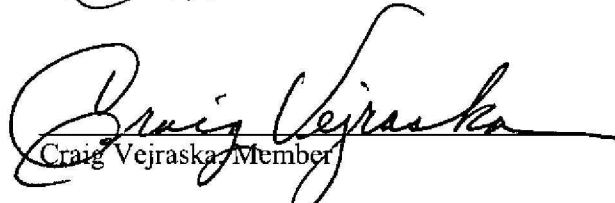
DATED at Okanogan, Washington this 12th day of August 2002.

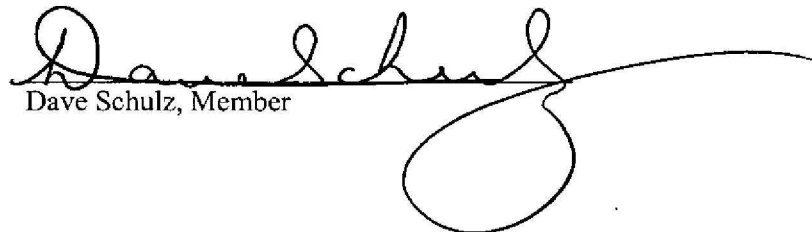
**BOARD OF COUNTY COMMISSIONERS
OKANOGAN, WASHINGTON**

ATTEST:




Robert Hirst, Chairman


Craig Vejraska, Member


Dave Schulz, Member

APPROVED AS TO FORM:

Don L. Anderson
Chief Civil Deputy P.A.

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