



# County of Santa Cruz 0067

## GENERAL SERVICES DEPARTMENT

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BOB WATSON, DIRECTOR

May 29, 2002

Agenda: June 4, 2002

Board of Supervisors  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, CA 95060

### Emergency Response Fee Ordinance

Dear Members of the Board:

As presented in the proposed budget for the next fiscal year, the County's contribution to the operation and debt service for the consolidated 9-1-1 communications center includes revenues associated with the implementation of an ordinance which establishes a fee specific to these emergency communications services. The draft ordinance is based on the emergency response fee implemented in San Francisco City and County several years ago which currently provides both capital project and operational support for their communications center.

The attached ordinance, which is one of the measures presented to your Board in the November 30, 2001 report for addressing the impacts of the repeal of the County utility tax, is estimated to cover the approximately \$1.4 million cost for services to the unincorporated area and will be reflected on monthly telephone billing statements.

It is therefore recommended that your Board set the public hearing for the proposed ordinance for June 17, 2002 at 9:00 a.m. or thereafter as part of the County budget hearings.

Sincerely,

RECOMMENDED:

Bob Watson  
Director, General Services Dept.

Susan Mauriello  
County Administrative Officer

Attachments: Proposed ordinance

cc: County Administrative Officer  
Bob Watson, General Services  
Dwight Herr, County Counsel  
Auditor/Controller  
Treasurer/Tax Collector

## ORDINANCE NO.

**ORDINANCE ADDING CHAPTER 4.28 TO THE SANTA  
CRUZ COUNTY CODE TO ESTABLISH AN EMERGENCY  
RESPONSE FEE TO FINANCE IMPROVEMENTS AND OPERATION  
OF THE COUNTY 911 EMERGENCY COMMUNICATIONS SYSTEM**

The Board of Supervisors of the County of Santa Cruz ordains as follows:

## SECTION I

The Santa Cruz County Code is hereby amended by adding Chapter 4.28 to read:

**CHAPTER 4.28****EMERGENCY RESPONSE FEE**

## Sections:

4.28.010	Title/Purpose.
4.28.020	Definitions
4.28.030	Findings.
4.28.040	Imposition of Emergency Response Fee.
4.28.050	Exemptions.
4.28.060	Fee Schedule.
4.28.070	Annual Report.
4.28.080	Collection of Fee.
4.28.090	Emergency Communications 911 Emergency Response Fund.
4.28.100	Liability for Fee.
4.28.110	Registration Reporting and Remitting
4.28.120	Interest and Penalties.
4.28.130	Failure to Collect and Report Fee; Determination of Fee by Treasurer-Tax Collector.
4.28.140	Refunds.
4.28.150	Failure to Pay Fee; Administrative Remedy.
4.28.160	Administrative Agreements
4.28.170	California Public Utilities Commission Jurisdiction

**4.28.010 Title/Purpose**

**A.** In order to ensure and improve the performance of the County's 911 communication system, the County must impose a fee. This Chapter shall be known as the "Emergency Response Fee Ordinance" and the fee imposed herein shall be known as the "Emergency Response Fee."

B. The purpose of this Chapter is to require subscribers to telephone service in the County to pay a fee which is directly related to the benefit subscribers derive from the improvements to and operation of the **911** communication system that will be financed by fee revenues.

C. The emergency response fee is the most practical and equitable revenue mechanism to finance the acquisition and construction of land, equipment, software, and facilities which are needed to provide an adequate and reliable **911** communication system under a single uniform management structure and to operate that **911** communication system. The fee is intended to recover all costs related to the benefits the **911** system will provide to nonexempt telephone subscribers.

D. The fee imposed by the provisions of this Chapter is intended solely to provide revenue for eligible project costs and eligible operating costs, as defined in this Chapter. Fee revenues shall be deposited by the Auditor-Controller in the **911** Emergency Response Fund established pursuant to Section **4.28.090** of the Santa Cruz County Code. The provisions of this Chapter are not enacted for regulatory purposes or for general revenue purposes.

#### **4.28.020 Definitions.**

Except where the context or particular provisions require otherwise, the following definitions shall govern the construction of this Chapter.

A. “**911** communication system” means an enhanced emergency telephone service which automatically connects a person dialing the digits **9-1-1** to an answering point established within the County and shall incorporate all aspects of the call delivery system, the call processing system and the call dispatch system, including, but not limited to, selective routing, automatic number identification (ANI), automatic location identification (ALI), and wireless **911**. “**911** communication system” includes the functions of the Santa Cruz Consolidated Emergency Communications Center and the County Emergency Services operation; however, it does not include the County Sheriff Department and County Fire Department staff who respond to requests for assistance by traveling to a site to which they are dispatched as a result of an emergency call.

B. “Access Line” means any connection from a customer location within the unincorporated area of the County to a provider of local telephone service offered to the public for compensation. Within the meaning of this Chapter, and without limitation, access lines include connections providing residential basic exchange service, business basic exchange service, PBX service (private branch exchange), foreign exchange service, and Centrex service.

C. “Eligible operating costs” means the portion of operating costs reflecting the benefit estimated to be provided by the operation of the **911** communications system to telephone subscribers who are required to pay the fee imposed by the provisions of this Chapter on access lines and trunk lines subject to the fee. Eligible operating costs shall not include exempt operating costs.

D. “Exempt operating costs” means the portion of operating costs reflecting the benefits estimated to be provided by operation of the **911** communication system to telephone subscribers who are exempted from the fee by Section **4.28.050** or are otherwise not required to pay any fee imposed by the provisions of this Chapter.

E. “Eligible project costs” means the portion of project costs reflecting the benefit estimated to be provided by the project to telephone subscribers who are required to pay the fee imposed by the provisions of this Chapter on access lines and trunk lines subject to the fee. Eligible project costs shall not include exempt project costs.

F. “Exempt project costs” means the portion of project costs reflecting the benefits estimated to be provided by the project to telephone subscribers who are exempted from the fee by Section **4.28.050** of this Chapter or are otherwise not required to pay any fee imposed by the provisions of this Chapter.

G. “Fee” means the Emergency Response Fee imposed under the provisions of this Chapter.

H. “Lifeline service” means discounted telephone service available to eligible low-income residential customers.

I. “Local telephone service” means access to a local telephone system, providing two-way telephonic quality communication with substantially all persons having telephone or radio telephone stations constituting a part of the local telephone system, whether or not the service uses transmission wires. “Local telephone service” shall not include land mobile services or maritime mobile services as defined in Section **2.1** of Title **47** of the Code of Federal Regulations, as this Section existed on January 1, **1970**. Notwithstanding this exclusion, “local telephone service” shall include wireless telephone service.

J. “Operating costs” means any costs to operate, repair or maintain the **911** communication system or backup **911** communication system, including but not limited to costs for personnel, planning, training, software and hardware maintenance and upgrades, facility maintenance and repair, depreciation equipment replacement, technical infrastructure, and attorneys fees.

K. “Project costs” means any costs of acquiring and developing land on which to locate a **911** communication system facility or backup **911** communication system

facility, acquiring and installing computerized call delivery processing and dispatch equipment and software, and/or any other acquisition or construction necessary to combine **911** Communication staff, under a single uniform management structure and to house **911** communication system equipment and staff in a seismically safe and fireproof facility or backup facility, including any debt service payments related thereto.

L. “Service location” means the premises of a telephone subscriber at which a working service point or primary station set provides the subscriber with basic exchange service and to which extension services are charged.

M. “Service supplier” means any person supplying local telephone service, pursuant to authority granted by the California Public Utilities Commission, to any telephone subscriber at a location within the unincorporated area of the County of Santa Cruz. Service suppliers may include, without limitation, local exchange carriers, interexchange carriers, competitive access providers, cable television providers offering telecommunications services, and any other entity offering direct connections between their premises and the premises of telephone subscribers.

N. “Telephone corporation” shall have the same meaning as defined in Section **234** of the Public Utilities Code of the State of California or the most comparable successor definition.

O. “Telephone subscriber” means any person required to pay a fee imposed under the provisions of this Chapter.

P. “Trunk Line” means a line between a service supplier’s switching device and a private branch exchange, automatic call distributing system, or other similar device, at a telephone subscriber location.

#### **4.28.030 Findings.**

A. The **911** communication system provides immediate access to emergency services for telephone subscribers. Subscribers to telephone service derive significant benefit from ongoing operation of the modernized integrated system installed at the Santa Cruz Consolidated Emergency Communications Center at De Laveaga Park. This improved **911** communication system has enhanced call delivery, call processing and call dispatch and has provided for more speedy and reliable emergency services. Telephone subscribers will benefit from maintaining and upgrading the improved **911** communication system so it continues to operate at a state of the ~~art~~ level and will further benefit from providing a backup **911** communication system and facility that can be immediately available and operational in the event of a failure at the Santa ~~Cruz~~ Consolidated Emergency Communications Center. A portion of the costs associated with operating, maintaining and upgrading the **911** communications system and facility and

backup 911 communications system and facility should be allocated among all telephone subscribers because telephone subscribers will reap this significant benefit.

B. Every telephone access line can provide independent access to the 911 communication system. Therefore, allocating operating costs on a per line basis fairly distributes these costs according to the benefit telephone subscribers derive from availability of a modernized 911 communication system.

C. The concentration of a large number of access lines in a single location diminishes the marginal benefit of improved access provided by each additional access line; therefore, it is appropriate to place a cap on the number of access lines per account per service location on which the fee is charged.

D. Subscribers who maintain trunk lines derive more benefit, in terms of access to emergency communication service, from each telephone line than other subscribers and should pay a higher fee. Based on information from the California Public Utilities Commission and the Federal Communications Commission, the Board now finds that, on average, a trunk line provides 7.5 times the access to the 911 communication system provided by a single access line.

#### **4.28.040 Imposition of Emergency Response Fee.**

A. There is hereby imposed an emergency response fee on every person who maintains access to the 911 communication system by subscribing to local telephone service within the unincorporated area of the County of Santa Cruz. For purposes of this Chapter, with respect to mobile telecommunications services, a person shall be construed to subscribe to local telephone service within the unincorporated area of the County of Santa **Cruz** if he or she has a "place of primary use", as such term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. § 124(8), within the geographic boundaries of the County.

B. The amount of the fee imposed by this Section shall be paid, on a per-line basis, by the person paying for such local telephone service, however, no telephone subscriber shall be required to pay fees in excess of \$10,000 per account per service location in any calendar year. The cost of wireless telecommunications services shall not be considered for purposes of this subsection B. The amount of the cap established by this subsection shall be adjusted annually by the Consumer Price Index: All Urban Consumers for the **San** Francisco; Oakland/San Jose Area for All Items as reported by the United States Bureau of Labor Statistics.

C. Only one payment of the fee herein imposed shall be required for any access or trunk line, notwithstanding that access lines of more than one person are used in furnishing local telephone service to a telephone subscriber.

D. Revenues generated by the emergency response fee shall be deposited in the 911 emergency response fund established pursuant to Section 4.28.090.

#### **4.28.050 Exemptions**

Nothing in this Chapter shall be construed as imposing a fee upon the access lines of:

- A. A lifeline customer of a service supplier; or
- B. A telephone corporation; or
- C. Coin-operated telephones; or
- D. A nonprofit hospital which is exempt from federal income tax under Section 501(a) of the United States Code; or
- E. A nonprofit educational organization which is exempt from income tax under Section 501(a) of the United States Code; or
- F. Any person when imposition of such fee upon that person would violate the Constitution of the United States, the Constitution of the State of California, or preemptive federal or State law.

#### **4.28.060 Fee Schedule.**

The amount of the fee shall be \$3.50 per month per access line or \$26.25 (7.5 x \$3.50) per month per trunk line.

#### **4.28.070. Annual Report.**

A. No later than October 1 of each year, the Auditor-Controller shall estimate the percentage of access lines that were subject to payment of the emergency response fee during the immediately prior fiscal year. This percentage shall be identified as the percentage of project costs and operating costs that are eligible project costs and eligible operating costs for the following fiscal year. The Auditor-Controller's report shall also identify the adjusted amount of the fee cap established by subsection B. of Section 4.28.040 that will apply in the following calendar year.

B. No later than October 1 in each odd numbered year, the Auditor-Controller will evaluate information from industry sources, regulatory bodies and County experience to determine whether the fee rates for trunk lines continue to reasonably reflect the

increased estimated access to the 911 communication system provided to trunk line subscribers relative to access line subscribers.

#### **4.28.080 Collection of Fee.**

A. The fee imposed by this Chapter shall be collected from the telephone subscriber by the service supplier. Service suppliers shall hold fee revenues in trust for the County and shall remit the fee revenues collected to the County Treasurer-Tax Collector on a monthly basis on or before the last day of the following month.

B. The fee required to be collected by service suppliers under this Chapter shall be added to and stated separately as the Santa Cruz County Emergency Response Fee in the service supplier's billings to telephone subscribers.

C. If the amount paid by a telephone subscriber is less than the full amount of the charges for service and the emergency response fee which have accrued for the billing period, a proportionate share of both the charges for service and the fee shall be deemed to have been paid.

D. The duty to collect the fee from a telephone subscriber shall commence with bills issued on or after the operative date of this Chapter.

#### **4.28.090 Emergency Communications 911 Emergency Response Fund.**

A. Establishment of Fund. The Emergency Communications 911 Emergency Response Fund is established to receive all monies collected pursuant to this Chapter, and any other monies transferred into the fund.

B. Use of Fund. The fund shall be used solely for the following purposes:

1. For the payment of costs of acquiring and developing land on which to locate a 911 communication system facility or backup 911 communication system facility, acquiring and installing computerized call delivery processing and dispatch equipment and software, and/or any other acquisition or construction necessary to combine 911 communication staff under a single uniform command structure and to house 911 communication system equipment and staff in a seismically safe and fireproof facility or backup facility, including any debt service payments related thereto;

2. For the payment of operating, repair and maintenance expenses for the 911 communication system and backup 911 communication system, including but not limited to costs for personnel, planning, training, software and hardware maintenance and upgrades, facility maintenance and repair, depreciation, equipment replacement, technical infrastructure and attorneys fees;



C. Administration of Fund. Expenditures from the fund shall be made upon the recommendation of the Director of Emergency Services/County Administrative Officer. Expenditures and encumbrances from this fund shall be subject to the budget and fiscal provisions of the County.

#### **4.28.100 Liability for Fee.**

A. Any fee required to be paid by a telephone subscriber under the provisions of this Chapter shall be deemed a debt owed by the telephone subscriber to the County until it has been paid to the County, except that payment to a service supplier is sufficient to relieve the subscriber from further liability for the fee.

B. Any fee required to be collected under the provisions of this Chapter shall be deemed a debt owed to the County of Santa Cruz by the person required to collect and remit such fee.

C. Nothing in this Section shall impose any duty on a service supplier to take any legal action to enforce the collection of the fee hereinabove imposed. However, whenever a service supplier remits funds collected as an emergency response fee to the County, the service supplier shall also provide the County with the name and address of any telephone subscriber refusing or failing to pay the fee for a period of four or more billing periods and shall state the amount of such fee remaining unpaid. The Treasurer-Tax Collector shall notify the telephone subscriber that the Treasurer-Tax Collector has assumed responsibility to collect the fees due for the stated periods and demand payment of such fees.

D. Any person owing money to the County under the provisions of this Chapter shall be liable to an action brought in the name of the County for the recovery of such amount.

#### **4.28.110 Registration Reporting and Remitting.**

A. Each service supplier providing local telephone service to telephone subscribers within the unincorporated area of the County shall register with the Treasurer-Tax Collector upon a form prescribed by the Treasurer-Tax Collector and shall set forth the name under which the service supplier transacts or intends to transact business, and such other information as the Treasurer-Tax Collector may require.

B. Each service supplier shall, on or before the last day of each month, make a return to the Treasurer-Tax Collector, on forms provided by the Treasurer-Tax Collector, stating the amount of fees collected by the service supplier during the preceding month. At the time the return is filed, the full amount of the fee collected shall be remitted to the Treasurer-Tax Collector. The Treasurer-Tax Collector may require further information in

the return. Returns and remittances are due immediately upon cessation of business for any reason.

#### **4.38.120 Interest and Penalties.**

**A.** Fees required to be collected from a telephone subscriber which are not remitted to the Treasurer-Tax Collector on or before the due date provided in this Chapter are delinquent.

**B.** Service Suppliers. Interest and penalties for delinquency in remittance of any fee not remitted shall be assessed as follows:

1. Any service supplier who fails to remit any fee imposed by this Chapter within 10 days after receipt of written notice from the Treasurer-Tax Collector of such failure shall pay a penalty of 10 percent of the amount of the fee.

2. If the Treasurer-Tax Collector determines that the nonpayment of any remittance due hereunder is due to fraud, a penalty of 100 percent of the amount of the fee shall be added thereto in addition to the penalty stated in paragraph 1 of this subsection.

3. In addition to the penalties imposed in this subsection B, any service supplier who fails to remit any fee imposed by this Chapter, shall pay interest on the amount of the fee, exclusive of penalties, from the date on which the remittance first became delinquent until paid. Interest shall be paid at the rate of one percent per month, or fraction thereof.

**C.** Telephone Subscribers. Failure by a telephone subscriber to pay any fee herein imposed shall result in the following interest and penalties on the telephone subscriber:

1. Any telephone subscriber who fails to pay any fee imposed by this Chapter within 120 days of the date of the receipt of notice of the amount of fee due from the service supplier shall pay a penalty of 10 percent of the amount of the fee.

2. Any telephone subscriber who fails to pay any delinquent remittance within **180** days after the date of the receipt of notice of the amount of fee due from the service supplier shall pay a second delinquency penalty of 10 percent of the amount of the fee in addition to the ten percent penalty first imposed.

3. In addition to the penalties imposed in this subsection C any telephone subscriber who fails to pay any fee imposed by this Chapter, shall pay interest on the amount of the fee, exclusive of penalties, from the date on which the fee first

became delinquent until paid plus an additional collection charge for each delinquent account in an amount to be determined by rules and regulations of the Treasurer-Tax Collector. The Treasurer-Tax Collector shall establish collection charges which reimburse the costs incurred by the County for collecting delinquent fees. Interest shall be paid at the rate of one percent per month, or fraction thereof.

4. The penalties, interest and collection charges imposed in this subsection C shall not be collected by the service supplier, but shall be determined and collected by the County as set forth hereinafter.

D. Every penalty imposed and such interest as accrues under the provisions of this Section shall become a part of the fee herein required to be paid.

**4.28.130 Failure to Collect and Report Fee; Determination of Fee by Tax Collector.**

If any service supplier shall fail or refuse to collect any fee imposed by this Chapter and to make, within the time provided in this Chapter, any report and remittance of said fee or any portion thereof required by this Chapter, the Treasurer-Tax Collector shall proceed in such manner as the Treasurer-Tax Collector deems best to obtain facts and information on which to base an estimate of the fee due. As soon as the Treasurer-Tax Collector is able to procure facts and information upon which to base the assessment of any fee imposed by this Chapter and payable by any service supplier who has failed or refused to collect the same and to make such report and remittance, the Treasurer-Tax Collector shall proceed to determine and assess against such service supplier the fee, interest and penalties provided by this Chapter. In case such determination is made, the Treasurer-Tax Collector shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the service supplier at its last known place of address. The service supplier may within 10 days after the serving or mailing of such notice make application in writing to the Treasurer-Tax Collector for a hearing on the amount assessed. If application by the service supplier for a hearing is not made within the time prescribed, the fee, interest and penalties, if any, determined by the Treasurer-Tax Collector shall become final and conclusive and immediately due and payable. If such application is made, the Treasurer-Tax Collector shall give not less than five days' written notice in the manner prescribed herein to the service supplier to show cause at a time and place fixed in the notice why the amount specified therein should not be fixed for such fee, interest and penalties. At the hearing, the service supplier may appear and offer evidence why the specified fee, interest and penalties should not be so fixed. After the hearing, the Treasurer-Tax Collector shall determine the proper fee to be remitted and shall thereafter give written notice to the service supplier in the manner prescribed herein of the determination and the

amount of the fee, interest and penalties. The amount determined to be due shall be payable after 15 days unless an appeal is taken as provided hereinafter.

#### **4.28.140 Refunds.**

**A.** A service supplier may claim a refund or claim a credit against fees to be collected and remitted of the amount overpaid or paid more than once, or erroneously or illegally collected or received by filing a claim in accordance with Chapter 1.05 of the Santa Cruz County Code; provided, however, that neither a refund or a credit shall be allowed unless the amount of the fee so collected has either been refunded to the person entitled thereto or credited to the charges subsequently payable by such person to the service supplier.

**B.** A telephone subscriber may obtain a refund of fees overpaid or paid more than once or erroneously or illegally collected or received by the County by filing a claim in accordance with Chapter 1.05 of the Santa Cruz County Code, but only when the fee was paid by the telephone subscriber directly to the Treasurer-Tax Collector, or when the telephone subscriber, having paid the fee to the service supplier, establishes to the satisfaction of the Treasurer-Tax Collector that the telephone subscriber has been unable to obtain a refund from the service supplier who collected the fee.

#### **4.28.150 Failure to Pay Fee; Administrative Remedy.**

Whenever the Treasurer-Tax Collector determines that a telephone subscriber has deliberately withheld the amount of the fee owed by him for the amounts remitted to a service supplier or that a telephone subscriber has failed to pay the amount of the fee for a period of four or more billing periods, or whenever the Treasurer-Tax Collector deems it in the best interest of the County, he shall relieve the service supplier of the obligation to collect fees due under this Chapter from certain named service users for specified billing periods. The Treasurer-Tax Collector shall notify the telephone subscriber that the Treasurer-Tax Collector has assumed responsibility to collect the fees due for the stated periods and demand payment of such fees. The notice shall be served on the telephone subscriber personally or by United States mail, postage prepaid thereon, addressed to the telephone subscriber at the address to which billing was made by the service supplier, or, should the telephone subscriber have changed address, to the subscriber's last known address. If a telephone subscriber fails to remit the fee to the Treasurer-Tax Collector within 15 days from the date of the service of the notice, which shall be the date of mailing if service is not accomplished in person, a penalty of 100 percent of the amount of the fee set forth in the notice, but not less than \$5, shall be imposed. The penalty shall become a part of the fee herein required to be paid. Such penalty shall be in addition to any other penalty imposed by this Chapter.

**4.28.160 Administrative Agreements.**

The Treasurer-Tax Collector may make administrative agreements with service suppliers to vary the strict requirements of this Chapter so that collection of any fee imposed herein may be made in conformance with the billing procedures of a particular service supplier so long as the overall result of said agreements results in collection of the fee in conformance with the general purpose and scope of this Chapter. A copy of each agreement shall be on file and available for public examination in the Treasurer-Tax Collector's office.

**4.28.170 California Public Utilities Commission Jurisdiction.**

Nothing contained in this Chapter is intended to conflict with applicable rules, regulations and tariffs of any service supplier subject to the jurisdiction of the California Public Utilities Commission. In the event of any conflict, the provisions of those rules, regulations and tariffs shall control.

**SECTION II**

This ordinance shall take effect on the 31st day after the date of final passage, and its provisions shall become operative on August 1, 2002.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2002, by the Board of Supervisors of the County of Santa Cruz by the following vote:

AYES: SUPERVISORS  
 NOES: SUPERVISORS  
 ABSENT: SUPERVISORS  
 ABSTAIN: SUPERVISORS

\_\_\_\_\_  
 Chairperson of the Board of Supervisors

Attest: \_\_\_\_\_  
 Clerk of the Board

APPROVED AS TO FORM:

\_\_\_\_\_  
*Douglas L. Kerr*

DISTRIBUTION: County Counsel  
 General Services