

CLERK'S OFFICE
APPROVED

ANCHORAGE, ALASKA
AO No. 2009-79

Date: 6-23-09

1 AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE
2 CHAPTER 26.65, ENHANCED 911 SYSTEM, TO CLARIFY AUTHORITY AND
3 RESPONSIBILITIES, IMPROVE ADMINISTRATIVE CAPABILITIES, AND
4 ENHANCE DUE PROCESS

5
6 THE ANCHORAGE ASSEMBLY ORDAINS:

7
8 **Section 1.** Anchorage Municipal Code section 26.65.020 is amended to read as
9 follows (*the remainder of the section is not affected, and therefore not set out*):

10
11 **26.65.020** **Definitions.**

12
13 The following words, terms and phrases, when used in this chapter, shall
14 have the meanings ascribed to them in this section, except where the
15 context clearly indicates a different meaning:

16
17 [AMOUNTS COLLECTED MEANS AMOUNTS BILLED, LESS AMOUNTS WRITTEN OFF,
18 PLUS NET RECOVERIES OF AMOUNTS PREVIOUSLY WRITTEN OFF. BASED ON
19 COLLECTION EXPERIENCE, THIS MAY BE INITIALLY CALCULATED ON AN ESTIMATED
20 BASIS WITH PERIODIC ADJUSTMENTS TO REFLECT ACTUAL EXPERIENCE.]

21
22 Chief fiscal officer means the chief fiscal officer of the municipality or
23 designee.

24
25 Chief of police means the chief of the Anchorage Police Department or
26 designee.

27
28 Customer, as used in Anchorage Municipal Code chapter 26.65, means
29 each separately billed account, including internal accounts of telephone
30 companies. Each wireless telephone number constitutes a separate
31 customer for purposes of the surcharge.

32
33 Department means the finance department of the municipality.

34
35 *** **

36 Fire chief means the chief of the Anchorage Fire Department or designee.

37
38 *** **

39 Surcharge means an enhanced 911 system surcharge imposed by this
40 chapter on wireline and wireless telephones for support of the enhanced
41 911 system.

1
2 Surcharge return means the monthly report submitted to the Treasurer as
3 required by section 26.65.053.

4
5 Telephone company means a local exchange telephone company, wireline
6 telephone company or wireless telephone company as defined in this
7 section.

8
9 To bill or bill means to add the surcharge to the customer's account at the
10 time an invoice or similar document is generated for delivery to the
11 customer, or to add the surcharge to the purchase of replenishments of
12 prepaid wireless services.

13
14 *** **

15 (AO No. 93-109, § 1, 7-20-93; AO 2001-176, §§ 1--4, 12-1-01)

16 *Cross references:* Definitions and rules of construction generally, §
17 1.05.020.

18 *State law references:* Similar provisions, AS 29.35.137.

19
20 **Section 2.** Anchorage Municipal Code section 26.65.030 is amended and a new
21 subsection is added to read as follows (*the remainder of the section is not*
22 *affected, and therefore not set out*):

23
24 **26.65.030 Confidentiality of information.**

25
26 *** **

27 B. Information such as subscriber name, service address and telephone
28 number and tape recording of any E [enhanced] 911 call coming
29 [WHICH COMES] into the possession of the Anchorage Police
30 Department (APD), the Anchorage Fire Department (AFD), or other
31 emergency responders in the course of responding to an E
32 [enhanced] 911 call does not, by virtue of[R] its disclosure to APD,
33 AFD or other emergency responders, become public information.
34 This section shall not be interpreted to render information [WHICH IS]
35 otherwise available as a public record under Anchorage Municipal
36 Code chapter 3.90, exempt from disclosure.

37
38 *** **

39 D. This section does not prohibit the municipality from using data
40 submitted on a surcharge return to enforce provisions of the
41 Anchorage Municipal Code, or from compiling and publishing
42 statistical information concerning the data submitted, provided no
43 identification of particular surcharge returns or telephone company
44 information, data, or financial information is made public.

45
46 (AO No. 93-109, § 1, 7-20-93; AO 2001-176, § 6, 12-1-01)

1 **Section 3.** Anchorage Municipal Code section 26.65.050 is amended to read as
2 follows:
3

4 **26.65.050 Customer surcharge.**
5

6 A. A surcharge of \$1.50 per month per local access line and for each
7 wireless telephone number that is billed or sold to customer with an
8 address within the municipality shall be collected to fund the
9 enhanced 911 system. [THIS SURCHARGE SHALL BE REVIEWED ANNUALLY
10 TO DETERMINE WHETHER THE LEVEL OF SURCHARGE IS ADEQUATE,
11 EXCESSIVE OR INSUFFICIENT TO MEET THE ANTICIPATED ENHANCED 911
12 SYSTEM NEEDS. A WIRELINE TELEPHONE OR WIRELESS TELEPHONE
13 CUSTOMER MAY NOT BE SUBJECT TO MORE THAN ONE SURCHARGE PER
14 LOCAL ACCESS LINE OR WIRELESS TELEPHONE NUMBER. A CUSTOMER WITH
15 MORE THAN 100 LOCAL EXCHANGE ACCESS LINES FROM A WIRELINE
16 TELEPHONE COMPANY IN THE MUNICIPALITY IS LIABLE FOR THE SURCHARGE
17 ONLY ON 100 LOCAL EXCHANGE ACCESS LINES.]
18

19 1. A wireline telephone or wireless telephone customer shall not
20 be subject to more than one surcharge per local access line or
21 wireless telephone number.
22

23 2. A customer with more than 100 local exchange access lines
24 from a wireline telephone company in the municipality is liable
25 for the surcharge only on 100 local exchange access lines.
26

27 B. The telephone companies shall bill and collect the surcharge from its
28 wireline and wireless telephone customers who are subject to the
29 surcharge [FUNDS COLLECTED SHALL BE ACCOUNTED
30 SEPARATELY FROM OTHER UTILITY REVENUES]. The
31 surcharge shall be stated as a separate line item on the billing
32 statement or similar document.
33

34 C [E]. A wireless or wireline telephone customer is liable for payment of the
35 surcharge in the amounts billed by the telephone company until the
36 amounts have been paid to the telephone company.
37

38 [THE TELEPHONE COMPANIES SHALL REMIT THE PORTION OF THE
39 SURCHARGE RECEIPTS ALLOCABLE TO PUBLIC SAFETY ANSWERING POINT
40 COSTS NO LATER THAN 60 DAYS AFTER THE END OF THE MONTH IN WHICH
41 THE AMOUNT WAS COLLECTED. FROM EACH REMITTANCE MADE IN A TIMELY
42 MANNER, EACH TELEPHONE COMPANY IS ENTITLED TO DEDUCT, AS THE
43 COST OF ADMINISTRATION FOR COLLECTING THE SURCHARGE, THE
44 GREATER OF:
45

46 1. ONE PERCENT OF THE AMOUNT COLLECTED; OR

- 1 1. A surcharge return shall be filed every month, even if there
2 are no surcharges due for the month being reported.
- 3
- 4 2. Each monthly surcharge return is due on or before the last
5 day of the second month following the month in which the
6 surcharges were billed.
- 7
- 8 3. Surcharge returns and surcharges to be remitted under this
9 chapter must be received by the treasurer within the time
10 prescribed by this section.

11

12 B. The return shall be signed upon oath executed by the agent of the
13 telephone company preparing the return and must include:

- 14
- 15 1. The name and address of the telephone company;
- 16 2. The name and title of the person preparing the return;
- 17 3. The month being reported for which the surcharges were
18 billed;
- 19 4. The amount of gross surcharges billed for the month;
- 20 5. The amount of deduction claimed for surcharges previously
21 billed and remitted to the municipal treasurer, but charged off
22 as uncollectible during the month being reported or estimated
23 charge-offs;
- 24 6. The prorated recoveries, representing the month's collection
25 of surcharges previously written off as uncollectible;
- 26 7. The amount of deduction claimed for the telephone company's
27 administrative costs to collect the surcharges provided the
28 surcharge return is timely filed and surcharges are timely
29 remitted[WHICH MAY BE THE GREATER OF \$150.00 OR ONE
30 PERCENT OF AMOUNTS COLLECTED];
- 31 8. The net amount of remittance due to the municipal treasurer;
32 and
- 33 9. Other information and supporting documentation which may
34 be required by the municipality.

35

36 C. The treasurer shall provide the chief of police and fire chief with
37 copies of returns filed by the telephone company.

38

39 D. The chief fiscal officer may prepare and file an involuntary surcharge
40 return on behalf of the telephone company, if a telephone company
41 fails to:

- 42
- 43 1. File a surcharge return under this section; or
- 44

1 2. When the chief fiscal officer finds a surcharge return filed by a
2 telephone company is not supported by the telephone
3 company's records,

4
5 3. Surcharges due, as reflected on a return filed on behalf of a
6 telephone company under this subsection, may be premised
7 upon any information available to the chief fiscal officer.

8
9 4. In the event an involuntary return is filed for a telephone
10 company under this subsection, the telephone company shall
11 be liable for the surcharges stated on the return, plus all
12 penalties and interest provided for in this chapter.

13
14 E. A payment submitted to the treasurer for amounts due under this
15 chapter shall be credited to the surcharge return period for which
16 remitted, in the following order:

- 17
18 1. Payment of costs;
19 2. Penalties;
20 3. Interest; and
21 4. Surcharges.

22
23 (AO No. 93-302, § 1, 10-12-93; AO 2001-176, § 9, 12-1-01)

24
25 **Section 6.** Anchorage Municipal Code chapter 26.65 is amended to add a new
26 section to read as follows:

27
28 **26.65.054 Amended surcharge returns and refunds of excess**
29 **surcharge paid.**

- 30
31 A. Any surcharge return filed under section 26.65.053 A. may be
32 amended by the telephone company.
33
34 B. If surcharges remitted exceed the amount due, the treasurer shall,
35 upon written request of the telephone company, refund the excess to
36 the telephone company, without interest, and reduced by the excess
37 portion of the credit for administrative costs claimed on the original
38 surcharge return.
39
40 C. Any claim for a refund filed more than one year after the due date of
41 the surcharge return is forever barred.

42
43 **Section 7.** Anchorage Municipal Code section 26.65.055 is amended to read as
44 follows (*the remainder of the section is not affected, and therefore not set out*):

45
46 **26.65.055 Charge-offs and c[C]ollections.**

1
2 *** *** ***

3 B. Each [THE] telephone company [IES] shall annually furnish a complete
4 list[s] of those customers with surcharges [ACCOUNTS] charged off as
5 uncollectible during the calendar year. The list[s] shall include the
6 customer name, address and [OUTSTANDING] amount charged-off
7 [BALANCE FOR] as uncollectible surcharges [AS OF DECEMBER 31]. The
8 list shall be submitted to the municipal treasurer as a required
9 component of the December surcharge return.

10
11 (AO No. 93-302, § 1, 10-12-93; AO 2001-176, § 10, 12-1-01)

12
13
14 **Section 8.** Anchorage Municipal Code 26.65 is amended to add a new section
15 to read as follows:

16
17 **26.65.057 Credit for administrative costs.**

18
19 A. Provided a surcharge return is timely filed and the related amount
20 due is timely remitted pursuant to Section 26.65.053, a telephone
21 company may deduct and retain, as the cost of administration for
22 collecting the surcharge, the greater of:

23
24 1. \$150, or

25
26 2. One percent of the surcharge due to the municipality for the
27 month being reported.

28
29 B. The amount of credit claimed for a month shall not exceed the net
30 reported amount of surcharge, charge-offs, and recoveries for the
31 month.

32
33
34 **Section 9.** Anchorage Municipal Code section 26.65.075 is amended to read as
35 follows:

36
37 **26.65.075 Annual review.**

38
39 A. The chief of police and fire chief shall annually, in conjunction with
40 the office of management of budget, and in connection with
41 preparation of the municipal budget, review the revenues generated
42 from the surcharge and the expenses incurred for operation,
43 maintenance, and upgrade of the enhanced 911 system to determine
44 whether the level of surcharge is adequate, excessive or insufficient
45 to meet the enhanced 911 system needs.

46

- 1 B. The chief of police and fire chief shall recommend, to the assembly,
2 such adjustments in the surcharge as the analysis indicates are
3 required to meet the enhanced 911 system needs.
4

5 (AO No. 93-109, § 1, 7-20-93; AO 2001-176, § 12, 12-1-01)
6
7

8 **Section 10.** Anchorage Municipal Code 26.65 is amended to add new sections to
9 read as follows:
10

11
12 **26.65.080 Penalties.**
13

- 14 A. A telephone company failing to file a surcharge return within seven
15 calendar days following its due date shall automatically incur a civil
16 penalty equal to ten percent of the surcharge amount due to the
17 municipality. A telephone company failing to remit the full amount of
18 surcharges due within seven calendar days following the due date
19 shall automatically incur an additional civil penalty equal to ten
20 percent of the surcharges due to the municipality but remaining
21 unpaid.
22
23 B. A telephone company failing to bill the surcharge levied by this
24 chapter shall become liable for the amount of the surcharge that
25 should have been billed to the customer.
26

27 **26.65.090 Interest.**
28

29 In addition to any penalties imposed, interest at the rate of 12 percent per
30 annum shall accrue and be due on the unremitted balance of surcharges
31 after the date on which their remittance was due.
32

33 **26.65.100 Inspection of records.**
34

- 35 A. The municipality may, at its own expense, require an [ANNUAL]
36 audit of a local exchange telephone company's or wireless telephone
37 company's books and records concerning the collection and
38 remittance of the surcharge.
39
40 B. No telephone company shall deny the chief fiscal officer, subsequent
41 to identification during normal business hours, access to the
42 telephone company's records documenting the billing, collecting,
43 prorating, reporting, and remitting of the surcharge for purposes of
44 inspection under this chapter.
45

46 **26.65.110 Remedies for a telephone company aggrieved.**

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- A. A telephone company aggrieved by any determination of the department under this chapter may apply to the department and request a hearing before the chief fiscal officer on the department's action or determination within 30 days from the date the department mails notice of the department's action or determination.
 - 1. An application for a hearing must notify the department of the specific determination complained of and the amount of surcharge, interest, cost or penalty contested, and the reason for such contest.
 - 2. The uncontested portion of any surcharge due under this chapter shall be paid when due regardless of any application for a hearing. Payment of the total amount due may be made at any time before the hearing. Payment in full does not affect the right to a hearing.
 - B. Upon timely application for a hearing under this section, the chief fiscal officer, as the hearing officer, shall hold a hearing and render a decision or determination in accordance with Chapter 3.60 to determine whether a correction or reversal of the department's determination is warranted.
 - 1. If a telephone company requesting a hearing fails to appear at the hearing, the hearing officer shall issue a decision without taking evidence from that company, unless the company shows reasonable cause for failure to appear within seven days after the date scheduled for the hearing.
 - C. Within 30 days after receipt of a written final decision by the chief fiscal officer, a telephone company aggrieved by the decision may appeal the decision to the Superior Court of the Third Judicial District.
 - 1. The company aggrieved shall be given access to the department's file in the matter for preparation of such appeal.
 - 2. Surcharges, costs, penalties, and interest declared to be due in the decision of the chief fiscal officer must be paid within 30 days after the date of the decision or a supersedeas bond guaranteeing payment must be filed with the court in accordance with Alaska Court Rules of Appellate Procedures.


1 D. Hearings before the chief fiscal officer under this chapter may, at the
2 option of the chief fiscal officer, be conducted by an administrative
3 hearing officer designated by the chief fiscal officer.
4

5 1. If the chief fiscal officer refers such a matter to an
6 administrative hearing officer, the administrative hearing
7 officer shall conduct the hearing and prepare findings and
8 conclusions.
9

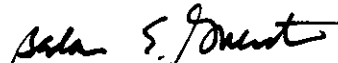
10 2. These findings and conclusions shall be forwarded to the chief
11 fiscal officer for adoption, rejection or modification and
12 issuance of a final order or decision by the chief fiscal officer.
13
14

15 **Section 11.** Upon passage and approval by the Anchorage Assembly, this
16 ordinance shall become effective July 1, 2009.

17
18 PASSED AND APPROVED by the Anchorage Assembly this 23rd day of
19 June, 2009.
20

21
22 
23
24 Chair

25 ATTEST:

26
27
28 
29

30 Municipal Clerk
31

MUNICIPALITY OF ANCHORAGE
Summary of Economic Effects - General Government

AO Number: 2009-79

**Title: AN ORDINANCE AMENDING ANCHORAGE
MUNICIPAL CODE CHAPTER 26.65, ENHANCED
911 SYSTEM, TO CLARIFY AUTHORITY AND
RESPONSIBILITIES, IMPROVE ADMINISTRATIVE
CAPABILITIES, AND ENHANCE DUE PROCESS**

Preparing Agency: Finance Department
Others Impacted: Anchorage Police Department, Anchorage Fire Department, Local Exchange Telephone Companies, Wireless Telephone Companies providing local service

CHANGES IN EXPENDITURES AND REVENUES: (Thousands of Dollars)

| | FY09 | FY10 | FY11 | FY12 | FY13 |
|-----------------------------------|------|------|------|------|------|
| Operating Expenditures | | | | | |
| 1000 Personal Services | | | | | |
| 2000 Supplies | | | | | |
| 3000 Other Services | | | | | |
| 4000 Debt Service | | | | | |
| 5000 Capital Outlay | | | | | |
| TOTAL DIRECT COSTS: | 0 | 0 | 0 | 0 | 0 |
| Add: 6000 Charges from Others | 0 | 0 | 0 | 0 | 0 |
| Less: 7000 Charges to Others | 0 | 0 | 0 | 0 | 0 |
| FUNCTION COST: | 0 | 0 | 0 | 0 | 0 |
| REVENUES: | 2 | 2 | 2 | 2 | 2 |
| CAPITAL: | 0 | 0 | 0 | 0 | 0 |
| POSITIONS: FT/PT and Temp. | 0 | 0 | 0 | 0 | 0 |

PUBLIC SECTOR ECONOMIC EFFECTS:

Nominal new annual revenues resulting from projected penalties and interest are projected to occur in the future. Primary benefits will be achieved from clear and uniform code guidelines, resulting in increased administrative effectiveness.

PRIVATE SECTOR ECONOMIC EFFECTS:

Local exchange telephone companies and wireless telephone companies providing local service will benefit from clear and consistent code responsibilities and requirements. These companies will incur additional costs in the form of penalties and interest if they do not timely file accurate E-911 surcharge returns and timely remit surcharges due to MOA. There are no other new costs expected for the private sector resulting from the changes implemented by this ordinance.



MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 325-2009

Meeting Date: June 9, 2009

1 **From: ACTING MAYOR**

2
3 **Subject: AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE**
4 **CHAPTER 26.65, ENHANCED 911 SYSTEM, TO CLARIFY**
5 **AUTHORITY AND RESPONSIBILITIES, IMPROVE**
6 **ADMINISTRATIVE CAPABILITIES, AND ENHANCE DUE PROCESS**
7

8 This ordinance improves the administration and enforcement of E-911 surcharge
9 reporting and remittance. Recent audits of surcharge returns filed by local
10 telephone companies identified these necessary code amendments.

11
12 E-911 surcharge fees generate approximately \$6.5m per year, and are used to
13 help support the Municipality's E-911 systems. These surcharges are not
14 telephone company expenses; rather, they are pass through charges paid by the
15 companies' customers. Therefore, the fiduciary nature is strengthened in the
16 ordinance to ensure the security of these funds until remitted to the Municipality.

17
18 In addition, this ordinance:

- 19
- 20 • Moves existing language to different sections to organize and consolidate
- 21 the material by topic
- 22
- 23 • Eliminates repetitive language
- 24
- 25 • Identifies a specific, understandable due date for surcharge returns
- 26
- 27 • Allows telephone companies to amend previously filed surcharge returns, to
- 28 increase the accuracy and usefulness of information reported
- 29
- 30 • Adds a grace period before late pay and late file penalties are levied
- 31
- 32 • Allows the municipal Treasurer to inspect company records to certify the
- 33 accuracy of surcharges billed and remitted
- 34
- 35 • Allows telephone company appeals of determinations or actions taken by
- 36 the Municipality
- 37
- 38 • Authorizes the filing of involuntary surcharge returns under specified
- 39 circumstances

- Adds penalties and interest for failure to voluntarily report and remit surcharges; under existing code the only consequence for a late filed surcharge return and/or remittance is losing the 1% credit covering administrative costs. The new penalty rates compare to existing business personal property tax penalties and the interest rate compares to existing room, rental vehicle, and tobacco tax interest rates charged
- Allows Anchorage Fire Department input similar to that currently obtained by the Anchorage Police Department

The Finance Department circulated the proposed ordinance to local telephone companies and invited discussion and comments. Feedback received was evaluated and incorporated as deemed appropriate.

THE ADMINISTRATION RECOMMENDS APPROVAL OF AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 26.65, ENHANCED 911 SYSTEM, TO CLARIFY AUTHORITY AND RESPONSIBILITIES, IMPROVE ADMINISTRATIVE CAPABILITIES, AND ENHANCE DUE PROCESS.

Prepared by: Treasury Department
Approved: Daniel Moore, Municipal Treasurer
Concur: Sharon Weddleton, CFO
Concur: James N. Reeves, Municipal Attorney
Concur: Michael K. Abbott, Municipal Manager
Respectfully submitted: Matt Claman, Acting Mayor

Content ID: 007783

Type: Ordinance - AO

Title: AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 26.65, ENHANCED 911 SYSTEM, TO CLARIFY AUTHORITY AND RESPONSIBILITIES, IMPROVE ADMINISTRATIVE CAPABILITIES, AND ENHANCE DUE PROCESS

Author: pruittns

Initiating Dept: Finance

Keywords: Ordinance, E911, Enhanced 911, Code, AMC, Charter 26.65, Due Process

Date Prepared: 5/26/09 1:42 PM

Assembly Meeting Date: 6/9/09

Public Hearing Date: 6/23/09

:

| Workflow Name | Action Date | Action | User | Security Group | Content ID |
|--------------------------|--------------------|---------------|-----------------|-----------------------|-------------------|
| Clerk_Admin_SubWorkflow | 5/29/09 9:11 AM | Exit | Joy Maglaqui | Public | 007783 |
| MuniMgrCoord_SubWorkflow | 5/29/09 9:11 AM | Approve | Joy Maglaqui | Public | 007783 |
| MuniManager_SubWorkflow | 5/28/09 10:31 AM | Approve | Michael Abbott | Public | 007783 |
| Legal_SubWorkflow | 5/26/09 5:30 PM | Approve | Rhonda Westover | Public | 007783 |
| OMB_SubWorkflow | 5/26/09 4:30 PM | Approve | Bruce Holmes | Public | 007783 |
| Finance_SubWorkflow | 5/26/09 1:50 PM | Checkin | Nina Pruitt | Public | 007783 |
| AllOrdinanceWorkflow | 5/26/09 1:47 PM | Checkin | Nina Pruitt | Public | 007783 |