

CLEARANCES	Initial	Date	Date Received in Council Office:	Agenda date	Assigned to:
Originator: Polly Keith		6/7	RECEIVED JUN 08 1994 WHATCOM COUNTY COUNCIL	6/14	Council-Introduction
Division Head:				6/28/94	Council Hearing
Dept. Head:					
Prosecutor:	✓				
Purchasing/Budget:					
Executive:	✓				

SUBJECT:

Ordinance establishing an excise tax on radio access lines for continuing operation of the Whatcom County 9-1-1 Emergency System and procedures for collection and administration of said tax

ATTACHMENTS:

- Ordinance
- 5/26 memo from Polly Keith
- 5/5 memo from Polly Keith
- 3/31 memo of information on Wireless 911 Tax
- Senate Bill 6265

SUMMARY STATEMENT: Please complete sections of box as appropriate & explain the item below.

Whatcom County contract #:	Should Clerk schedule a hearing? NO / / YES / X/ Requested date: 6/28
Amount budgeted for this item/project: \$	Is it (or will it be) within budget? YES / / NO / / (Please explain below)
Budget line item number(s):	

This is to extend the excise tax to radio access (phone) lines for the benefit of the What-Comm 911 Emergency Dispatch System

ORIGINATOR'S RECOMMENDED ACTION:

This ordinance is proposed at the request of Polly Keith, Director of What-Comm. She recommends its passage.

COMMITTEE ACTION TAKEN:

COUNCIL ACTION TAKEN:

- 6/14/94: Council introduction
- 6/28/94: Council adopted the ordinance. 5-1 Imhof Opposed Henderson Absent

1 DATE: June 15, 1994 SPONSORED BY: Consent
2 PROPOSED BY: WHAT-COMM COMMUNICATIONS CENTER
3 INTRODUCTION DATE: 6/14/94
1 ORDINANCE NO. 94-036

2 WHATCOM COUNTY COUNCIL ESTABLISHING AN EXCISE TAX ON
3 RADIO ACCESS LINES FOR CONTINUING OPERATION OF THE
4 WHATCOM COUNTY 9-1-1 EMERGENCY SYSTEM, AND
5 PROCEDURES FOR COLLECTION AND ADMINISTRATION OF SAID
6 TAX.

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

11 WHEREAS, users of cellular communications systems and other
12 similar wireless telecommunications systems do not use switched
13 access lines and are not currently subject to these excise taxes;
14 and

15 WHEREAS, the volume of 911 calls by users of cellular
16 communications systems and other similar wireless
17 telecommunications systems has increased in recent years; and

1 WHEREAS, the Council of Whatcom County finds that the
2 public interest requires the imposition and collection of a tax
3 on radio access lines, in order to allow the emergency services
4 communications system to operate effectively despite these
5 significant changes in the users of such services;

6 NOW, THEREFORE, BE IT ORDAINED by the Whatcom County
7 Council that:

8 Section 1. Pursuant to chapter 82.14B RCW, there is hereby
9 levied an excise tax of twenty-five (25) cents per month on each
10 radio access line, for which the address of the end user set
11 forth in the records of the radio communications service company
12 providing such radio access lines is located in Whatcom County to
13 assist in financing the Whatcom County emergency services
14 communications system.

15 BE IT FURTHER ORDAINED by the Whatcom County Council that:

16 Section 2. Each radio communications service company
17 providing radio access lines to end users in Whatcom County is
18 required to collect the tax imposed by section 1, in trust for
19 Whatcom County. The tax imposed by section 1 shall be set forth
20 separately on each billing statement sent to each end user by a
21 radio communications service company.

1 BE IT FURTHER ORDAINED by the Whatcom County Council that:

2 Section 3. Each radio communications service company shall
3 report and remit to the Whatcom County Treasurer using forms
4 prescribed by the Department, the amount of tax to be collected
5 by each within thirty (30) days following the month in which
6 collection is to take place.

7 BE IT FURTHER ORDAINED by the Whatcom County Council that:

8 Section 3 (a). Taxes payable hereunder shall be remitted
9 to the Whatcom County Treasurer, on or before the time required,
10 by cash, bank draft, certified check, cashier's check, personal
11 check, or money order. If payment is made by draft or check, the
12 tax shall not be deemed paid until the draft or check is honored
13 in the usual course of business; nor shall the acceptance of any
14 sum by the County Treasurer be an acquittance or discharge of the
15 tax unless the amount paid is the full amount due.

16 BE IT FURTHER ORDAINED by the Whatcom County Council that:

17 Section 3 (b). Each telephone company collecting the tax
18 imposed by this ordinance shall maintain books and/or records
19 respecting that activity which truly, completely and accurately
20 disclose all information necessary to determine the taxpayer's
21 tax liability hereunder during each base tax period. Such

1 records shall be kept and maintained for a period of not less
2 than three (3) years.

3 BE IT FURTHER ORDAINED by the Whatcom County Council that:

4 Section 3 (c). All books, records or other items which may
5 hereafter be required to be kept and maintained under this
6 section shall be subject to, and immediately made available for,
7 inspection and audit at any time, with or without notice, at the
8 place where such records are kept upon demand by the County
9 Treasurer or his designee, for the purpose of enforcing the
10 provisions of this ordinance.

1 Where a telephone company does not keep such books,
12 records, or other items so that the County Treasurer or his
13 authorized designee may examine them conveniently, the telephone
14 company shall either:

15 (a) Produce all of the required books, records or items
16 for such inspection within ten (10) days following a written
17 request by the Treasurer; or,

18 (b) Bear the actual cost of inspection by the County
19 Treasurer or his designee, at the location at which such books,
20 records, or items are located. Actual cost shall consist of the
21 cost of travel, meals, and lodging incurred as a result of said

1 inspection. Provided, that a telephone company choosing to bear
2 these costs shall pay in advance to said officer the estimated
3 cost thereof including, but not limited to, round trip fare by
4 the most rapid means, lodging, meals, and incidental expenses.
5 The actual amount due, or to be refunded, for the expenses shall
6 be determined within sixty (60) days following the examination.

7 BE IT FURTHER ORDAINED by the Whatcom County Council that:

8 Section 4. Administration by County Treasurer

9 The administration and collection of the tax imposed by
10 this ordinance, as collected by the telephone companies, shall be
11 by the County Treasurer pursuant to the terms of this Ordinance
12 and such rules, regulations and further enactments as may be
13 adopted by the County Council or provided by state law.

14 BE IT FURTHER ORDAINED by the Whatcom County Council that:

15 Section 5. Failure to make Timely Payment by Telephone
16 Company

17 If full payment of any tax or fee collected under this
18 Ordinance is not received by the Whatcom County Treasurer on or
19 before the date due, there shall be added to the collected amount
20 due a penalty fee as follows:

21 (a) 1 - 10 days late: Five percent (5%) of tax

1 collected.

2 (b) 11 - 20 days late: Ten percent (10%) of
3 tax collected.

4 (c) 21 - 30 days late: Fifteen percent (15%)
5 of tax collected.

6 (d) 31 - 60 days late: Twenty percent (20%)
7 of tax collected.

8 (e) 61 days or more late: Twenty five percent
9 (25%) of tax collected.

10 but in no event shall the penalty amount be less than FIVE
11 HUNDRED DOLLARS (\$500.00). In addition to this penalty, the
12 County Treasurer may charge the telephone company interest of
13 eight percent (8%) of all taxes collected for each thirty (30)
14 day period, or portion thereof, that said amounts are past due.

15 Failure to make payment in full of all tax amounts
16 collected, and penalties, within sixty (60) days following the
17 day the tax amount initially became due shall be deemed a
18 violation of this section and may be collected in accordance with
19 the provisions of this ordinance.

1 BE IT FURTHER ORDAINED by the Whatcom County Council that:

2 Section 6. Taxes, Penalties and Fees Constitute Debt to
3 County

4 Any tax collected and unpaid under this Ordinance, and all
5 penalties, shall constitute a debt to Whatcom County and may be
6 collected by court proceedings the same as any other debt in like
7 amount. This provision shall be in addition to, and not in lieu
8 of, all other existing remedies.

9 BE IT FURTHER ORDAINED by the Whatcom County Council that:

10 Section 7. Tax Additional to Others

11 The tax levied herein shall be additional to any license,
12 fee or tax imposed or levied under any law or by any other
13 ordinance of Whatcom County.

14 BE IT FURTHER ORDAINED by the Whatcom County Council that:

15 Section 8. Failure to make Timely Payment

16 Payment by Subscriber

17 By "subscriber" is meant any person, group, corporation or
18 entity who is billed for a telephone access line. Any subscriber
19 who shall refuse or knowingly fail to remit the tax imposed by
20 this Ordinance shall be guilty of a misdemeanor.

1 BE IT FURTHER ORDAINED by the Whatcom County Council that:

2 Section 9. In the event that the tax or any portion
3 thereof imposed by section 1 is ordered to be refunded by final
4 judgment of a court of record, the County shall, upon
5 presentation of a certified copy of the final judgment, pay to
6 each radio communications service company the portion of the
7 ordered refund attributable to tax collected by the company, in
8 trust for the benefit of end users from whom the tax was
9 collected. Each company is required to promptly remit, to each
10 end user who paid tax for which refund was ordered, the duly
11 allocable portion of the refund held in trust. To the extent end
12 users entitled to refund cannot be identified or located by the
13 company with exercise of due diligence within three (3) months of
14 the date refund is received in trust by the company, the company
15 shall return the undistributed trust funds and accumulations to
16 the County, together with the last known name and address of each
17 person entitled thereto, and the portion to which each is
18 entitled.

19 BE IT FURTHER ORDAINED by the Whatcom County Council that:

20 Section 10. The Whatcom County Executive is directed to
21 provide notice of the tax imposed by Section 1 to each radio
22 communications service company providing radio access lines in
23 Whatcom County, at least sixty (60) days prior to the effective

1 date of the tax.

2 BE IT FURTHER ORDAINED by the Whatcom County Council that:

3 Section 11. The Whatcom County Executive is authorized to
4 adopt administrative requirements for collection similar to those
5 applying to providers collecting excise tax on switched access
6 lines, giving due regard to the statutory, regulatory and
7 operational differences between the providers of switched access
8 lines and radio access lines.

9 BE IT FURTHER ORDAINED by the Whatcom County Council that:

10 Section 12. Severability

11 If any provisions or section of this Ordinance shall be
12 held invalid, all other parts, provisions and sections of this
13 Ordinance shall continue in full force and effect.

14 BE IT FURTHER ORDAINED by the Whatcom County Council that:

15 Section 13. The tax imposed by section 1 shall be
16 effective on the first day of the month which is more than 60
17 days after the effective date of this ordinance.

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ADOPTED this 28th day of June, 1994.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Marina McAllister, Acting Clerk
Ramona Reeves, Council Clerk

Robert A. Imhof
Robert A. Imhof, Council Chair

APPROVED AS TO FORM:

Approved() Denied

Daniel L. Gibson
Civil Deputy Prosecutor

Shirley Van Zanten
Shirley Van Zanten, Executive
Date: _____