

TOWN OF ADDISON, TEXAS

ORDINANCE NO. 096-061

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING CHAPTER 18 ("UTILITIES") OF THE CODE OF ORDINANCES OF THE CITY BY AMENDING ARTICLE V THEREOF ("TELEPHONES") BY ADDING PROVISIONS RELATING TO THE IMPOSITION AND COLLECTION OF THE 9-1-1 SERVICE FEE AGAINST CELLULAR AND WIRELESS TELEPHONE SERVICE USERS; PROVIDING FOR THE BILLING AND COLLECTION OF SUCH SERVICE FEE FROM CELLULAR SERVICE SUPPLIERS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Addison, Texas (the "City") has heretofore established a 9-1-1 emergency service system within the City and imposed a 9-1-1 service fee on telephone subscribers' local exchange access lines; and

WHEREAS, at the time the 9-1-1 service fee was imposed, cellular and wireless telephone services ("cellular telephone") were not included, and such services had no statistically significant impact on the provision of 9-1-1 service; however, National Emergency Number Association studies show that there are approximately 26 million cellular telephone subscribers and that number is increasing at the rate of 28,000 a day; and

WHEREAS, this growth in cellular telephone subscribers has exponentially increased the number of cellular telephone call to the City's 9-1-1 emergency service system, and cellular telephone calls without caller identification take an inordinate amount of time to process, all of which substantially increase operating costs of the 9-1-1 service; and

WHEREAS, cellular telephone subscribers, who are also recipients of 9-1-1 emergency service, should support the 9-1-1 emergency service system in the same manner as local exchange access line telephone subscribers; and

WHEREAS, the City Council hereby finds that the 9-1-1 service fee shall be imposed on service users who are provided local exchange access lines or their equivalent as defined herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

Section 1. Incorporation of premises. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. Amendments. Chapter 18 ("Utilities") of the Code of Ordinances of the Town of Addison, Texas (the "City") is hereby amended in the following particulars, and all other chapters, articles, sections, paragraphs, sentences, phrases and words of the Code are not amended but are hereby ratified and affirmed (additions are underlined; deletions are ~~struck-through~~):

A. **Section 18-200** ("Definitions") is amended by: (a) amending the definitions of "business service user" and "service user", (b) adding a definition of "equivalent local exchange access lines", and (c) deleting the definition of "telephone company", as follows:

"Business service user means a user of business service that provides telecommunications service, including 9-1-1 service, to ~~residential~~ end users through a publicly or privately owned ~~private~~ telephone switch."

"Service user means any person or entity that is provided local exchange access lines/trunks, or ~~their~~ equivalent local exchange access lines, in the city."

"Equivalent local exchange access lines means any telephone line or service for which a federal subscriber line charge is assessed by a local exchange service supplier on the customer's bill or any cellular telephone, communication channel, personal communication system, commercial mobile radio service, cable/broadband services, or any other wire or wireless means that connects the customer to the public switched telecommunications network and provides the customer with ability to reach a public safety answering point by dialing the digits 9-1-1. The term does not include coin-operated public telephone equipment, public telephone equipment operated by card reader, commercial mobile radio service that provides access to a paging or other one-way signaling service, a communication channel suitable only for data transmission, a wireless roaming service or other nonvocal commercial mobile radio service, or a private telecommunications system."

"Telephone company means ~~Southwestern Bell Telephone Company.~~"

B. **Section 18-201** ("Imposition of 9-1-1 service fee") is hereby amended so that it shall hereafter read as follows:

"Sec. 18-201. Imposition of 9-1-1 service fee.

There is hereby imposed on each telephone subscriber's local exchange access line, ~~or its~~ and equivalent local exchange access line, in the Town of Addison, a 9-1-1 service fee of sixty-two cents (\$0.62) per month for each residential line, one dollar and fifty two cents (\$1.52) per month for each business line, or two dollars and forty cents (\$2.40) per month for each business trunk line. Such fees shall be used to provide for the purchase, installation and replacement of 9-1-1 service equipment, all operating and maintenance costs and other costs attributable to designing a 9-1-1 system including necessary personnel and any other

emergency communications equipment and service and costs related thereto which are reasonably related to 9-1-1 service. Such 9-1-1 service shall be furnished pursuant to a written contract between the city and a service supplier, pursuant to the provisions of this Article, to provide for the billing and collection of fees imposed by the City herein ~~Southwestern Bell Telephone Company.~~"

C. Section 18-202 ("Authority to contract with telephone company") is hereby amended so that it shall hereafter read as follows:

"Sec. 18-202. Authority to contract with service supplier ~~telephone company~~.

The City Manager of the City is authorized to execute a contract on behalf of the City with a service supplier ~~the telephone company~~ pursuant to the provisions of this Article to provide for the furnishing of 9-1-1 service for service users located within the boundaries of the City and for collection of the assessment fee set out in Section 18-201."

D. Section 18-203 ("Service commencement date") is hereby deleted in its entirety:

~~"Sec. 19-203. Service commencement date.~~

~~The telephone company shall commence 9-1-1 service on April 1, 1988. The duty of the service supplier to collect the fee begins on such commencement date subject to the provisions of section 18-206."~~

E. Section 18-204 ("Liability for payment of fee") is hereby amended to read as follows:

"Sec. 18-204. Liability for payment of fee.

"Every billed ~~bill~~ service user is liable for any fee imposed under this article until it has been paid to the service supplier."

F. Section 18-205 ("Restrictions and limitations") is amended by amending subsections (a) and (e) to read as follows:

"(a) The fee may not be imposed upon more than 100 local exchange access lines ~~or their equivalent~~ per service user per location, unless the lines are used by residents of the location. If a business service user provides residential facilities, each line that terminates at a residential unit and that is a communication link equivalent to a residential local exchange access line, shall be charged the 9-1-1 emergency service fee. The fee limitation of this paragraph shall not apply to equivalent local exchange access lines."

"(e) Subject to the provisions of section 18-205 subparagraph (a), the fee shall be uniformly imposed ~~on local exchange access lines~~ within the city limits."

G. Section 18-206 ("Public hearing required; amendment of fees") is hereby amended to read as follows:

"Sec. 18-206. Notice to service suppliers; public hearing required; amendment of fees.

~~The fees imposed by this article may not be imposed until the 9-1-1 service is fully operational within the city. The telephone company shall be advised in writing by furnishing of a certified copy of this article at least ninety (90) days prior to the desired first billing date of the fees imposed by this article. Each service supplier not already imposing and remitting 9-1-1 service fees as of December 1, 1996 shall be advised in writing of the amount of the 9-1-1 service fee to be applied to each type of service at least ninety (90) days prior to the first billing date. One (1) public hearing shall be conducted prior to the amendment of the 9-1-1 service fees imposed by this article. In the event the city council desires to amend such fees, it will provide a service supplier the telephone company at least ninety (90) days written notice prior to the desired implementation date of such amended fees.~~"

H. Section 18-207 ("Refusal to pay fees") is amended to read as follows:

"Sec. 18-207. Refusal to pay fees.

A service supplier ~~The telephone company~~ and a business service user shall provide the city with a list of service users who have specifically refused to pay the 9-1-1 service fee. Such list shall be provided not more than once per calendar year."

I. Section 18-208 ("Record of fees") is amended to read as follows:

"A service supplier ~~The telephone company~~ and a business service user shall retain records of the fees collected pursuant to this article. Such records shall be retained for a period of at least two (2) years from the date of collection. The city may, at its sole cost and expense, audit the service supplier's ~~telephone company's~~ or business service user's records of the collected fees not more often than once annually or as may otherwise be agreed to."

J. Section 18-209 ("Remittance of fees to city") is amended to read as follows:

"Sec. 18-209. Remittance of fees to city.

A service supplier ~~The telephone company~~ will remit the collected 9-1-1 service fees to the city on a periodic basis, not more frequently than monthly, on or before the sixtieth day after the close of the month in which such fees were collected. The service supplier ~~telephone company~~ will retain, from its remittance to the city, two per cent of the collected 9-1-1 service fees as its

compensation for providing such collection. A business service user that provides residential facilities and owns or leases a private telephone switch used to provide telephone service to facility residents shall collect the 9-1-1 emergency service fee and remit the fees monthly to the city."

Section 3. Savings. This Ordinance shall be cumulative of all other ordinances of the City affecting telephone service and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those Ordinances are in direct conflict with the provisions of this Ordinance.

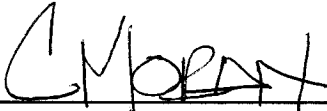
Section 4. Severability. The sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this Ordinance or application thereof to any person or circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares that it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 5. Effective date. This Ordinance shall become effective from and after its date of passage as provided by law.

26th PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the
day of NOVEMBER, 1996

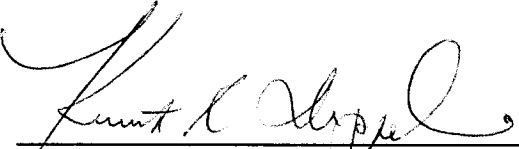

Rich Beckert, Mayor

ATTEST:


Carmen Moran, City Secretary

[SEAL]

APPROVED AS TO FORM:


Ken Dippel, City Attorney

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