

**BILL NO. 2017-16**

**NYE COUNTY ORDINANCE NO. 524**

**SUMMARY:** AN ORDINANCE AMENDING CHAPTER 3.20 OF THE NYE COUNTY CODE TITLED 9-1-1 TAXING DISTRICT; AMENDING DEFINITIONS; AMENDING ESTABLISHMENT OF ADVISORY COMMITTEE; AMENDING DUTIES OF THE 9-1-1 ADVISORY COMMITTEE; AMENDING IMPOSITION OF SURCHARGE; PROVIDING FOR THE SEVERABILITY, CONSTITUTIONALITY AND EFFECTIVE DATE HEREOF, AND OTHER MATTERS PROPERLY RELATING THERETO.

**TITLE:** AN ORDINANCE AMENDING CHAPTER 3.20 OF THE NYE COUNTY CODE TITLED 9-1-1 TAXING DISTRICT; AMENDING DEFINITIONS; AMENDING ESTABLISHMENT OF ADVISORY COMMITTEE; AMENDING DUTIES OF THE 9-1-1 ADVISORY COMMITTEE; AMENDING IMPOSITION OF SURCHARGE; PROVIDING FOR THE SEVERABILITY, CONSTITUTIONALITY AND EFFECTIVE DATE HEREOF, AND OTHER MATTERS PROPERLY RELATING THERETO.

**WHEREAS**, the Nevada Legislature passed Senate Bill 176 during its 2017 regular session;

**WHEREAS**, Senate Bill 176 became effective May 25, 2017 and amended various provisions of NRS 244A relating to Surcharge for Enhancement or Improvement of Telephone System used for Reporting Emergency;

**WHEREAS**, the Board finds it necessary to amend Title 3 Chapter 3.20 of the Nye County Code to include the relevant provisions of Senate Bill 176;

**WHEREAS**, the Nye County Board of Commissioners (Board) is empowered, pursuant to the provisions of Chapter 244.119 of the Nevada Revised Statutes, to amend the Nye County Code;

**WHEREAS**, the Board is empowered, pursuant to the provisions of Chapter 244.195 of the Nevada Revised Statutes, to perform all acts necessary to discharge its duties for the residents of Nye County;

**NOW THEREFORE**, the Board of Commissioners of the County of Nye, State of Nevada, does hereby adopt, promulgate and order compliance therewith the following ordinances:

**3.20.010: 9-1-1 TAXING DISTRICT CREATED:**

A taxing district ("district") to establish a system to provide a telephone number, designated as 9-1-1, to be used in an emergency hereby is created, and the boundaries of that district shall be the boundaries of the county. (Ord. 179 § 1, 1995)

**3.20.020: LEVY AND COLLECTION OF TAX:**

- A. The board shall levy and collect, from year to year a tax ad valorem on all taxable property in the district.
- B. The district is exempt from the limitation imposed by Nevada Revised Statutes 354.59811.
- C. The board shall determine annually the amount of money necessary to pay the costs of acquiring, operating and maintaining the system and shall fix a rate, not greater than one-half cent (\$0.005) per one hundred dollars (\$100.00) of assessed valuation which, when levied upon every dollar of assessed valuation of taxable property in the district, will raise that amount.
- D. The board shall levy and collect the tax upon the assessed valuation of all taxable property in the district, in the same manner, at the same time and in addition to other taxes levied by the board.
- E. Any officer charged with the duty of collecting taxes shall collect the taxes levied pursuant to this chapter, at the same time and in the same manner, and with like interest and penalties, as other taxes are collected. When the tax is collected, he or she shall pay it monthly to the county treasurer to the credit of the district.
- F. The tax levied pursuant to this chapter, with any interest or penalties, and the cost of collecting the unpaid tax, penalty or interest, are a lien on the property until they are paid. The lien must be executed, and has the same priority, as a lien for general taxes. (Ord. 179 § 2, 1995)

**3.20.030: AUTHORITY AND PURPOSE:**

Pursuant to Nevada Revised Statutes 244A.7641 through 244A.7647, the board is authorized to establish an advisory committee to develop a five (5) year master plan for the enhancement or improvement of the telephone system for reporting emergencies in Nye. The board is required to adopt the five (5) year master plan developed by the advisory committee prior to enacting the surcharge authorized by Nevada Revised Statutes 244A. Therefore, the purpose of this regulation is to create the advisory committee. (Ord. 370, 2009)

**3.20.040: DEFINITIONS:**

The words and terms defined in this section have the following meanings ascribed to them unless the context requires otherwise:

- A. **INCUMBENT LOCAL EXCHANGE CARRIER:** Has the meaning ascribed to it in 47 USC section 251(h)(1), as that section existed on October 1, 1999, and includes a local exchange carrier that is treated as an incumbent local exchange carrier pursuant to that section. (Ord. 370, 2009)
- B. **MOBILE TELEPHONE SERVICE:** Cellular or other service to a telephone installed in a vehicle or which is otherwise portable.
- C. **PLACE OF PRIMARY USE:** Has the meaning ascribed to it in 4 U.S.C. § 124(8), as that section existed on August 1, 2002.
- D. **PORTABLE EVENT RECORDING DEVICE:** Has the meaning ascribed to it in NRS 289.830
- E. **SUPPLIER:** A person authorized by the Federal Communications Commission to provide mobile telephone service.
- F. **TELEPHONE SYSTEM:** A system for transmitting information between or among points specified by the user that does not change the form or content of the information regardless of the technology, facilities or equipment used. A telephone system may include, without limitation:
  - 1. Wireless or Internet technology, facilities or equipment; and
  - 2. Technology, facilities or equipment used for transmitting information from an emergency responder to the user or from the user to an emergency responder.
- G. **VEHICULAR EVENT RECORDING DEVICE:** A device which is affixed to a marked vehicle of a law enforcement agency, as defined in NRS 289.830, and which records both audio and visual events.
- H. **TRUNK LINE:** A line which provides a channel between a switchboard owned by a customer of a telecommunications provider and the local exchange of the telecommunications provider.

**3.20.050: ESTABLISHMENT OF ADVISORY COMMITTEE:**

The board hereby creates the "Nye County 9-1-1 advisory committee" consisting of at least five members whose purpose shall be to develop a five (5) year master plan to enhance or improve the telephone system for reporting an emergency in Nye County.

- A. Members will serve without compensation.
- B. A member appointed to the committee must:

1. Be a resident of Nye County;
  2. Possess knowledge concerning telephone systems for reporting emergencies; and
  3. Not be an elected public officer.
- C. One member of the committee must be a representative of an incumbent local exchange carrier which provides service to persons in Nye County.
- D. One member of the committee must be a chief law enforcement officer or his or her designee from the Nye County Sheriff's office.
- E. Members will be selected at large by the board at its discretion.
- F. Members shall be appointed for a term of two (2) years, except for the initial term, and members may be reappointed. Any vacancy occurring during a member's term will be filled by the board. A person appointed to fill a vacancy occurring during a term must serve out the unexpired term of the member replaced. Upon the initial advisory committee appointments, the board shall set the terms of three (3) of the appointed members to end on December 31, 2010, and the terms of two (2) of the appointed members to end on December 31, 2009. (Ord. 370, 2009)

**3.20.060: CHAIRMAN, ELECTION AND DUTIES:**

- A. The advisory committee shall elect from its membership a chairman and vice chairman.
- B. The chairman shall preside at meetings and be the signatory of any correspondence necessitated by operation of the committee, and in the chairman's absence the vice chairman shall act as chairman. (Ord. 370, 2009)

**3.20.070: BYLAWS:**

The advisory committee may adopt bylaws regarding its meetings and procedures. (Ord. 370, 2009)

**3.20.080: MEETINGS:**

The advisory committee shall hold a meeting on a regular day not less than quarterly unless a bylaw changing the meeting is adopted by the committee. (Ord. 370, 2009)

**3.20.090: DUTIES OF THE 9-1-1 ADVISORY COMMITTEE:**

The advisory committee shall undertake the development of a five (5) year master plan for the enhancement of the telephone system for reporting emergencies in Nye County or for the purpose of purchasing and maintaining portable event recording devices and vehicular event recording devices. The master plan must include an estimate of the cost of the enhancement of the telephone system or

of the cost of purchasing and maintaining portable event recording devices and vehicular event recording devices and all proposed sources of money for funding the enhancement or improvement.

The advisory committee shall prepare a proposed budget which shall be presented to the board for consideration. The advisory committee shall oversee any funding provided for the development of the five (5) year master plan in accordance with Nye County financial policies.

Annually, the advisory committee shall review the existing five (5) year master plan and shall prepare recommended amendments and modifications to the board for its consideration. (Ord. 370, 2009)

### **3.20.100: IMPOSITION OF SURCHARGE:**

- A. The board of county commissioners of Nye County imposes a surcharge as follows:
  1. One dollar per month for each access line of each customer to the local exchange of a telecommunications provider providing those lines in Nye County;
  2. Ten dollars per month for each trunk line of each customer to the local exchange of a telecommunications provider providing those lines in Nye County;
  3. One dollar per month for each telephone number assigned by a supplier of mobile telephone service to each customer whose place of primary use is in Nye County.
- B. A telecommunications provider which provides access lines or trunk lines in Nye County or a supplier which provides mobile telephone service to a customer in Nye County shall collect the above surcharge from its customers each month. Except as otherwise provided in NRS 244A.7647, the telecommunications provider or supplier shall remit the surcharge it collects to the Nye County Treasurer not later than the 15th day of the month after the month it receives payment of the surcharge from its customers.
- C. If the telecommunications provider or supplier does not remit payment within 91 days of the date specified above, the telecommunications provider shall remit a penalty of five percent of the cumulative amount of surcharges owed along with the delinquent payment.
- D. There is a special revenue fund created, to be designated as the 911 Emergency Surcharge Fund. Fund proceeds must only be used to:
  1. Improve the telephone system for reporting an emergency in the county; or
  2. Purchase and maintain portable event recording devices and vehicular event recording devices, paying costs associated with the acquisition, maintenance, storage of data, upgrade and replacement of equipment and software necessary for the operation of portable event recording devices and vehicular event recording devices or systems that consist of both portable event recording devices and vehicular event recording devices.
- E. If the balance in the fund which has not been committed for expenditure exceeds \$500,000 at the end of any fiscal year, the board of county commissioners shall reduce the amount of the

surcharge imposed during the next fiscal year by the amount necessary to ensure that the unencumbered balance in the fund at the end of the next fiscal year does not exceed \$500,000.

SEVERABILITY. If any provision of this chapter or amendments thereto, or the application thereof to any person, thing or circumstance is held to be invalid, such invalidity shall not affect the validity of provisions or applications of this chapter or amendments thereto which can be given effect without the invalid provision or application, and to this end the provisions of this chapter and amendments thereto are declared to be severable.

CONSTITUTIONALITY. If any section, clause or phrase of this ordinance shall be declared unconstitutional by a court of competent jurisdiction, the remaining provisions of this ordinance shall continue in full force and effect.

EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after passage, approval, and publication as required by law, to wit, from and after the 25<sup>th</sup> day of September, 2017.

Proposed on the 1<sup>st</sup> day of August, 2017


Proposed by: Commissioner Koenig.


Adopted on the 5<sup>th</sup> day of September, 2017

Vote: Ayes: Commissioners: Schinhofen, Koenig, Wichman, Borasky, Cox

Nays: Commissioners: Ø

Absent: Commissioners: Ø

BY:   
Dan Schinhofen, Chairman  
Nye County Board of  
County Commissioners

ATTEST:   
Sandra L. Merlino  
Clerk and Ex-Officio  
Clerk of the Board