

ADOPTED

JUL 23 2002

ORDINANCE NO. 107A-40

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, TAXATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, SPECIAL TAX FOR ENHANCED 911 EMERGENCY TELEPHONE SYSTEM, SECTION 20-25, TAX IMPOSED; AND BY ADDING ARTICLE X, TAX ON LOCAL TELECOMMUNICATION SERVICE, SECTION 20-70, DEFINITIONS; AND SECTION 20-71, LEVY, AMOUNT OF TAX ON LOCAL TELECOMMUNICATION SERVICE.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 20, Taxation, is hereby amended and reordained by amending Article V, Special Tax for Enhanced 911 Emergency Telephone System, Section 20-25, Tax imposed; and by adding Article X, Tax on Local Telecommunication Service, Section 20-70, Definitions; and Section 20-71, Levy; Amount of tax on local telecommunication service.

Chapter 20. Taxation

Article V. Special Tax for Enhanced 911 Emergency Telephone Service

Sec. 20-25. Tax imposed.

Pursuant to the provisions of Section 58.1-3813.1 of the Code of Virginia, there is hereby imposed a special tax of ~~\$2.20~~ **\$0.75** per month on each consumer of telephone service for each telephone line provided by any corporation subject to the provisions of chapter 26 of title 58.1 of the Code of Virginia;

provided, however, that this tax is not imposed on federal, state or local government agencies. The definitions provided in article 4, chapter 38 of title 58.1 shall apply to this article.

*Article X. Tax on Local Telecommunication Service**

Sec. 20-70. Definitions

(a) *Local telecommunication service. Subject to the exclusions stated in this article, includes without limitation, the two-way local transmission of messages through use of switched local telephone services; telegraph services; teletypewriter; local cellular mobile radio telecommunication services; specialized mobile radio; stationary two-way radio; or any other form of two-way mobile and portable communications.*

(b) *Local telephone service. Subject to the exclusions stated in this article, includes any services subject to federal taxation as local telephone service as that term is defined in section 4252 of the Internal Revenue Code of 1986, as amended, or any successor statute. As it applies to an E-911 system, "local telephone service" shall mean switched local exchange access service.*

(c) *Mobile local telecommunication service. Any two-way mobile or portable local telecommunication service, including cellular mobile radio telecommunication service and specialized mobile radio.*

**State law reference - Authority of county to impose and regulate a tax on local telecommunication service, Code of Va., § 58.1-3812.*

(d) *Mobile service consumer.* A person having a telephone number for mobile local telecommunications service who has made a taxable purchase of such service or on whose behalf another person has made a taxable purchase of such service.

(e) *Mobile service provider.* Every person engaged in the business of selling mobile local telecommunication services to consumers.

(f) *Public safety agency.* A functional division of a public agency, which provides firefighting, police, medical or other emergency services or a private entity, which provides such services on a voluntary basis.

(g) *Public safety answering point.* A communications facility operated on a 24-hour basis which first receives E-911 calls from persons in an E-911 service area and which may, as appropriate, directly dispatch public safety services or extend, transfer or relay E-911 calls to appropriate public safety agencies.

(h) *Residential consumer.* As it relates to local telecommunications service. Any person furnished service classified as "residential" under tariffs filed with the state corporation commission. A residential consumer shall not include any consumer of mobile local telecommunication service.

(i) *Service address.* The location of the telecommunication equipment from which the telecommunication is originated or at which the telecommunication is received by a consumer. However, if the service address is not a defined location, as in the case of mobile telephones, maritime systems, air-to-

ground systems and the like, "service address" shall mean the location of the subscriber's primary use of the telecommunication equipment within the licensed service area. A mobile service provider may obtain a signed statement from a consumer indicating which county, city or town within the licensed service area is the location of the consumer's primary use of the telecommunication equipment. A mobile service provider shall be entitled to rely absolutely on a consumer's signed statement and shall remit the taxes collected to the county, city or town identified by the consumer. In the absence of a signed statement by a consumer, a mobile service provider shall identify the county, city or town of the consumer's primary use and shall remit the tax to such county, city or town based on any other reasonable method, including, without limitation, the consumer's billing address, service address or telephone number within the licensed service area.

(j) *Service provider.* Every person engaged in the business of selling local telecommunication services to consumers or delivering electricity services to consumers.

(k) *Taxable purchase.* The acquisition of telecommunication services for consumption or use; however, "taxable purchase" does not include, (i) the provision of telecommunications among members of an affiliated group of entities by a member of the group for their own exclusive use and consumption and; (ii) the purchase of telecommunications for resale in the subsequent provision of telecommunications, including, without limitation, carrier access charges, right of access charges and charges for use of intercompany facilities; however, the acquisition of telecommunications by a provider of enhanced services is not the purchase of telecommunications for resale, even when the cost of the telecommunications is separately stated to the purchaser of the enhanced services, as long as the primary object of the purchase of the telecommunications by the provider is for the provision of enhanced services and not telecommunications. A person may make tax-free purchases of telecommunications for resale if the person

provides to the service provider a sworn affidavit indicating that the person's purchases are nontaxable sales for resale.

Sec. 20-71. Levy; Amount of tax on local telecommunication service.

(a) *There is hereby imposed and levied by the county upon each and every taxable purchase by a consumer of local telecommunication service provided that the consumer's service address is located within the county a tax in the amount of ten percent of the gross charge made by the service provider against the consumer with respect to each and every taxable purchase, provided, however, that:*

(1) *In any case any monthly bill submitted by any service provider for residential, commercial, or industrial service shall exceed \$12.00 for a residential consumer, there shall be no tax computed on so much of such bill as shall exceed \$12.00; and*

(2) *In any case any monthly bill submitted by any service provider to a consumer for mobile local telecommunication service shall exceed \$12.00, there shall be no tax computed on so much of such bill as shall exceed \$12.00.*

All such taxes shall be computed to the nearest whole cent. Bills shall be considered monthly bills if submitted 12 times per year for periods of approximately one month each.

(b) *A service provider of local telecommunication services shall collect the tax from the consumer by adding the tax to the monthly gross charge for such services and the tax shall be paid by the consumer*

to the service provider at the time the gross charge shall become due and payable under the agreement between the consumer and the service provider. The tax shall, when collected, be stated as a distinct item separate and apart from the monthly gross charge. Until the consumer pays the tax to the service provider, the tax shall constitute a debt of the consumer to the county. If any consumer refuses to pay the tax, the service provider shall notify the county. After the consumer pays the tax to the service provider, the taxes collected shall be deemed to be held in trust by the service provider until remitted to the county.

(c) Such reports and remittance, including those required under section 20-26 relating to the special tax for enhanced 911 emergency telephone service, shall be made on or before the twentieth day of each month, covering the amount of tax collected during the preceding month. The treasurer shall have the power and the duty of collecting the taxes imposed and levied hereunder and shall cause the same to be paid into the general treasury for the county. If any seller whose duty it is to do so shall fail or refuse to file any report required by this article or to remit to the treasurer the tax required to be collected and paid under this article within the time and in the amount specified in this article, there shall be added to such tax by the treasurer a penalty in the amount of ten percent thereof and interest thereon at the rate of ten percent per annum, which shall be computed upon the taxes and penalty from the date such taxes are due and payable. The treasurer shall forward a copy of the report to the commissioner of the revenue.


(d) Any consumer shall be entitled to a refund from the county equal to the amount of any tax the consumer paid to a jurisdiction outside of the state if such tax was legally imposed in such other jurisdiction; however, the amount of credit or refund shall not exceed the tax paid to the county on such purchase.

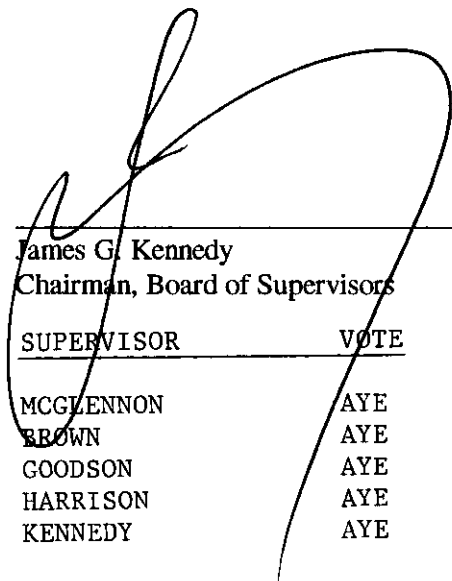
(e) Each service provider of local communication service shall keep complete records showing all purchases of such service in the county. Such records shall show the price charged to each purchaser, the

date thereof and the date of payment, and the amount of tax imposed under this article. Such records shall be kept open for inspection by authorized agents of the commissioner of the revenue during regular business hours. Authorized agents shall have the authority to make such copies or transcripts of these records as may be required. In the event the records are maintained outside the county, copies of the appropriate books and records shall be sent to the office of the commissioner of the revenue upon demand.

This ordinance shall become effective January 1, 2003.

ATTEST:


Sanford B. Wanner
Clerk to the Board


James G. Kennedy
Chairman, Board of Supervisors

SUPERVISOR	VOTE
MCGLENNON	AYE
BROWN	AYE
GOODSON	AYE
HARRISON	AYE
KENNEDY	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of July, 2002.