

ORDINANCE NO. 26 - _____

**AN ORDINANCE
AMENDING TITLE 1 (ADMINISTRATIVE), CHAPTER 9 (MUNICIPAL FINANCES),
ARTICLE G (ENHANCED 911 SYSTEM SURCHARGE)
OF THE NAPERVILLE MUNICIPAL CODE**

Recitals

WHEREAS, Title 1, Chapter 9, Article G of the Naperville Municipal Code governs the City of Naperville's 9-1-1 system surcharge and the Naperville Emergency Telephone System Board ("ETSB"); and

WHEREAS, the 9-1-1 system surcharge ordinance was originally adopted in 1992 and, while amended periodically, no longer fully reflects current practices or the requirements of the Emergency Telephone System Act, 50 Illinois Compiled Statutes 750; and

WHEREAS, amendments to Article G are necessary to update surcharge amount, definitions, modernize terminology, and align the powers, duties, reporting requirements, and allowable expenditures of the ETSB with current State law; and

WHEREAS, the City Council finds that amending Title 1, Chapter 9, Article G of the Naperville Municipal Code is in the best interests of the City and promotes compliance with applicable State statutes.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NAPERVILLE, DUPAGE AND WILL COUNTIES, ILLINOIS, in exercise of its home rule authority that:

SECTION 1: Recitals Incorporated. The foregoing Recitals are hereby incorporated in this Section 1 as though fully set forth herein.

SECTION 2: Title 1, Chapter 9, Article G of the Naperville Municipal Code is hereby amended by adding the underlined language and deleting the stricken language as follows:

TITLE 1 – ADMINISTRATIVE

CHAPTER 9 – MUNICIPAL FINANCES

ARTICLE G – ~~ENHANCED~~ 911 SYSTEM SURCHARGE

1-9G-1: SURCHARGE IMPOSED:

A monthly surcharge in the amount of one dollar and fifty cents (\$1.50)~~(\$1.00)~~, ~~effective September 1, 2005, is hereby authorized and directed to be~~ is imposed on all telephone subscribers ~~passed through of telecommunications carriers and wireless carriers. engaged in the business of transmitting messages by means of electricity or by means of any and all digital telecommunication networks, including, but not limited to, voice over internet protocol or other communication protocols, originating within the corporate limits of the City of Naperville and terminating within the State of Illinois which surcharge shall fund an enhanced 911 system for the residents of the City of Naperville.~~

1-9G-2: - DEFINITIONS:

<u>9-1-1 NETWORK:</u>	<u>The network used for the delivery of 9-1-1 calls and messages over dedicated and redundant facilities to a primary or backup 9-1-1 PSAP that meets the appropriate grade of service.</u>
<u>9-1-1 SYSTEM:</u>	<u>The geographic area that has been granted an order of authority by the Commission or the Statewide 9-1-1 Administrator to use "9-1-1" as the primary emergency telephone number, including, but not limited to, the network, software applications, databases, CPE components and operational and</u>

	<u>management procedures required to provide 9-1-1 service.</u>
BASIC SYSTEM:	A telephone service which automatically connects a person dialing the digits "911" to an established public safety answering point through normal telephone service facilities, or by means of any and all digital telecommunication networks, including, but not limited to, voice over internet protocol service (VoIP), or other communication protocol networks.
<u>EMERGENCY TELEPHONE SYSTEM BOARD ("ETSB" OR "BOARD"):</u>	<u>A board appointed by the corporate authorities of any county or municipality to provide for the management and operation of a 9-1-1 system within the scope of the duties and powers prescribed by the Emergency Telephone System Act.</u>
NETWORK CONNECTIONS:	<u>The number of individual voice grade communication channels or trunk lines that connect a subscriber to a telecommunications carrier's public switched network, either directly or through digital or internet based networks including Voice over Internet Protocol or other communication protocols, without passing through another carrier's switched network, that are capable of carrying the subscriber's interpremises traffic and providing access to a 9-1-1 emergency telephone system. For subscribers using a private branch exchange, each trunk line capable of carrying interpremises calls or 9 1 1 calls shall be counted as one network connection. For subscribers using Centrex type service or similar hosted systems, the number of network connections shall equal the number of PBX trunk equivalents for the service, as determined by the telecommunications carrier's applicable tariff. For purposes of this Article, a telecommunications carrier does not include a wireless communications carrier and includes providers of digital, internet based, and other communication protocol networks.</u> The number of voice grade communications channels directly between a subscriber and a telecommunications carrier's public switched network or through any and

	<p>all digital telecommunication networks, including, but not limited to, voice over internet protocol service (VoIP), or other communication protocol networks without the intervention of any other telecommunications carrier's switched network which would be required to carry the subscriber's interpremises traffic, which connection is capable of providing access through the public switched network to a 911 emergency telephone system. For the purposes of this Article, "telecommunication carrier" does not include a cellular or other mobile communication carrier. A telecommunication carrier includes any and all digital telecommunication networks, including, but not limited to, voice over internet protocol providers, or other communication protocol providers.</p>
<p><u>NEXT GENERATION 9-1-1 SYSTEM (NG9-1-1):</u></p>	<p><u>A secure Internet Protocol-based (IP-based) open-standards system comprised of hardware, software, data, and operational policies and procedures that provides standardized interfaces from emergency call and message services to support emergency communications; processes all types of emergency calls, including voice, text, data, and multimedia information; acquires and integrates additional emergency call data useful to call routing and handling; delivers the emergency calls, messages, and data to the appropriate public safety answering point and other appropriate emergency entities based on the location of the caller; supports data, video, and other communications needs for coordinated incident response and management; and, interoperates with services and networks used by first responders to facilitate emergency response.</u></p>
<p><u>PUBLIC SAFETY ANSWERING POINT ("PSAP"):</u></p>	<p><u>The primary answering location of an emergency call that meets the appropriate standards of service and is responsible for receiving and processing those calls and events according to a specified operational policy.</u></p>
<p>SERVICE ADDRESS:</p>	<p>The location of the primary use of the network connection or connections.</p>

SOPHISTICATED SYSTEM:	A basic system with the additional capability of automatic identification of the caller's number, holding the incoming call, reconnection on the same telephone line, clearing a telephone line, or automatic call routing or combinations of such capabilities.
<u>SUBSCRIBER:</u>	<u>An individual or entity to whom a wireless, wireline, or VoIP service account or number has been assigned by a carrier, other than an account or number associated with prepaid wireless telecommunication service.</u>
<u>TELECOMMUNICATIONS CARRIER:</u>	<u>Those entities included within the definition specified in Section 13-202 of the Public Utilities Act and includes those carriers acting as resellers of telecommunications services. Telecommunications carrier includes telephone systems operating as mutual concerns. Telecommunications carrier does not include a wireless carrier.</u>
TRANSMITTING MESSAGES:	Has the same meaning ascribed by 65 Illinois Compiled Statutes 5/8-11-2, "taxation of occupations or privileges".
<u>WIRELESS CARRIER:</u>	<u>A provider of two-way cellular, broadband PCS, geographic area 800 MHZ and 900 MHZ Commercial Mobile Radio Service (CMRS), Wireless Communications Service (WCS), or other Commercial Mobile Radio Service (CMRS), as defined by the Federal Communications Commission, offering radio communications that may provide fixed, mobile, radio location, or satellite communication services to individuals or businesses within its assigned spectrum block and geographical area or that offers real-time, two-way voice service that is interconnected with the public switched network, including a reseller of such service.</u>

~~1-9G-3: -- EFFECTIVE DATE OF SURCHARGE:~~

~~The surcharge imposed by this Article shall be effective beginning on the first day of the month following the expiration of ninety (90) days from the date the City Clerk certifies to any of the telecommunication carriers who are subject to the surcharge that the referendum referred to in the preamble to ordinance 92-231 has passed.~~

~~1-9G-4: - LIST OF CONNECTIONS:~~

~~The City Clerk shall provide any telecommunications carrier subject to the surcharge imposed by this Article with a certified list of those network connections assigned to the City exempt from imposition of the surcharge. The certified list may be revised by the City on sixty (60) days' prior written notice to the telecommunications carriers.~~

~~1-9G-5: - APPLICABLE CONNECTIONS:~~

~~For the purposes of computing the surcharge imposed by Section 1-9G-1 of this Article, the network connections to which the surcharge shall apply shall be those in-service network connections, other than those network connections assigned to the City, where the service address for each such network connection or connections is located within the corporate limits of the City.~~

~~1-9G-6: - PAY TELEPHONE SERVICES:~~

~~With respect to network connections provided for use with pay telephone services for which there is no billed subscriber, the telecommunications carrier providing the network connection shall be deemed to be its own billed subscriber for purposes of applying the surcharge.~~

~~1-9G-73: - COLLECTION OF SURCHARGES:~~

~~The surcharge authorized by this Article shall be collected from the subscribers by the telecommunications carrier providing the network connection as a separately stated item on the subscriber's bill.~~

~~1-9G-84: - REIMBURSEMENT TO CARRIER:~~

~~The telecommunications carrier collecting the surcharge shall also be entitled to deduct and retain three percent (3%) 1.74% of the gross amount of the surcharge~~

collected to reimburse the telecommunications carrier for the expense of accounting and collecting the surcharge.

1-9G-95: - PAYMENTS TO CITY THE STATE:

The amount of surcharge collected by the telecommunications carrier shall be paid to the ~~City State by the carrier~~ no later than thirty (30) days after the surcharge is collected, net of any ~~9-1-1 network or system charges. network or other basic 911 or enhanced or sophisticated 911 system charges then due to the particular telecommunications carrier, as shown on an itemized bill.~~ Such itemized bill shall show the name of the telecommunications carrier, its principal place of business, the number of network connections to which the surcharge applies, the amount of the surcharge due, and such other reasonable and related information as the City of Naperville may require.

1-9G-106: - SPECIAL FUND EMERGENCY TELEPHONE SYSTEM FUND:

An interest-bearing account shall be designated as the Emergency Telephone System Fund for payment of all surcharge disbursements paid to the Emergency Telephone System Board by the State. Any surcharge collected by or imposed on a telecommunications carrier pursuant to this Article shall be held to be a special fund in trust for the City. Except for the three percent (3%) deduction provided in Section 1-9G-8 of this Article, the special fund shall not be subject to the claims of creditors of the telecommunications carrier.

1-9G-11: - ERRONEOUS PAYMENTS:

If it shall appear that an amount of surcharge has been paid which was not due under the provisions of this Article, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any surcharge due, or to become due, under this Article from the telecommunications carrier making the erroneous payments; provided that no amounts erroneously paid more than three (3) years prior to the filing of a claim therefor shall be so credited.

1-9G-12: - ACTION TO RECOVER PAYMENTS DUE:

No action to recover any amount of surcharge due under the provisions of this Article shall be commenced more than three (3) years after the due date of such amount.

1-9G-437: - EMERGENCY TELEPHONE SYSTEM BOARD:

1. Board Established. In accordance with Section 15.4 of the Emergency Telephone System Act, 50 Illinois Compiled Statutes 750/15.4, the Mayor and the City Council hereby established the Emergency Telephone System Board (hereinafter "Board"):

1.1 Members. The Board shall consist of:

1.1.1 City of Naperville Chief of Police (Chair)

1.1.2. City of Aurora Chief of Police

1.1.3. Village of North Aurora Chief of Police

1.1.4. City of Naperville Fire Chief

1.1.5. City of Aurora Fire Chief

1.1.6. City of Naperville Deputy Director of Administrative Services

1.1.7. City of Aurora Director of Emergency Communications ~~Manager~~ (non-voting member)

1.1.8. City of Naperville City Council Member

1.1.9. City of Aurora Alderman

1.1.10. Two (2) City of Naperville residents

1.1.11. City of Aurora resident

1.2. Members of the Board shall serve without compensation, but shall be reimbursed for their actual, necessary and documented expenses.

1.3. In the event of a tie, the Board Chair shall cast the tie-breaking vote.

1.4. City Council, Alderman and resident members of the Board shall be appointed on the basis of their training, ability, or experience in the duties of the Board with said City of Naperville members being appointed by the Mayor of the City of Naperville,

City Council, Alderman and resident members of the Board shall serve at the will of the respective Council that approved the appointment of said member and be removed upon a majority vote of the Council that approved the appointment of said member with or without cause.

3. Procedures, Officers, Rules And Reports:

3.8. Annual Financial Report. The Board shall file its annual financial report with the Illinois State Police no later than January 31 of any year, in accordance with Section 40 of the Emergency Telephone System Act, 50 Illinois Compiled Statutes 750/40.

4.6. Designating a 9-1-1 System Manager, whose duties and responsibilities shall be set forth by the Board in writing.

5. Emergency Telephone System Fund Established. The City of Naperville Finance Director is hereby authorized and directed to establish and be the custodian of an interest bearing account designated as the Fund for receipt of all surcharge and other monies paid to the City by the State of Illinois ~~or collected~~ to fund the operation of the ~~E911~~ 9-1-1 system. To the extent possible, the funds for the City of Naperville Public Safety Answering Points ("PSAP") and the City of Aurora PSAP shall be kept separate and the funds distributed for each PSAP shall be used to support the respective PSAP. To the extent that the funds are not distributed by the State of Illinois or Illinois State Police to the specific PSAP, the ~~Naperville ETSB Board~~ shall take all steps to distribute the funds to the appropriate PSAP, ~~and shall reflect the intent of this Agreement.~~ The ~~Naperville ETSB Board~~ shall distribute the revenues according to the ESN lines for wireline funds and by ZIP code from ~~cell phone~~ wireless, Voice over Internet Protocol ("VoIP"), and other applicable non-wireless revenues ~~technology customer bills for wireless funds~~ to the corresponding PSAP.

6. Expenditures From Fund. No expenditure may be made from the Fund except upon the direction of the Board by resolution passed by majority of the quorum of Board members. The Board can only direct Naperville PSAP funds to be expended on Naperville PSAP expenditures and can only direct Aurora PSAP funds to be expended on Aurora PSAP expenditures. All expenditures from the Fund shall be clearly detailed to show that whether the funds come from the City of Naperville PSAP or the City of Aurora PSAP and whether the funds benefit the City of Naperville PSAP or the City of Aurora PSAP. The Board shall not have the authority to limit the City of Aurora's expenditure of funds designated for Aurora's PSAP or City of Naperville's expenditure of funds designated for Naperville's PSAP, provided that the expenditure meets the criteria of this Section. The Board, upon a supermajority of all members and with written authority from the Mayor and Chief of Police of the City of Naperville and City of Aurora, can vote to make joint expenditures. Expenditures shall be made consistent with 47 CFR 9.23 and for purposes as set forth in 50 Illinois Compiled Statute 750/35. ~~may be made only to pay for costs associated with:~~

~~6.1. The design of an emergency telephone system;~~

~~6.2. The coding of an initial master street address guide database, and update and maintenance thereof;~~

~~6.3. The repayment of any monies advanced for the implementation of the system;~~

~~6.4. The charges for automatic number identification and automatic location identification equipment, and maintenance, replacement and update thereof;~~

~~6.5. The nonrecurring charges related to installation of the emergency telephone system and ongoing network charges;~~

~~6.6. Other products and services necessary for the implementation, upgrade and maintenance of the system and any other purposes related to the operation of the system, including;~~

~~6.6.1. Costs attributable directly to the construction, leasing, or maintenance of any buildings or facilities, or~~

~~6.6.2. Costs of personnel attributable directly to the operation of the system.~~

~~6.7. Costs directly attributable to the operation of an emergency telephone system do not include the costs of public safety agency personnel and equipment dispatched in response to an emergency call.~~

7. Database Completion. The Board shall complete and maintain a NG9-1-1 the database in accordance with NENA Standards before implementation of the E911 NG9-1-1 system. The MSAG and GIS data standardization and synchronization must reach a 98% or greater match rate, error ratio of the database shall not at any time exceed one percent (1%) of the total database.

8. Compliance With City Policies. The Board shall carry out its duties and obligations in accordance with the Intergovernmental Agreement between City of Naperville, City of Aurora and Village of North Aurora Regarding the Function of the Naperville ETSB and all adopted City of Naperville policies and ordinances to the extent that they lawfully apply.

SECTION 3: Savings Clause. If any section, paragraph, or provision of this Ordinance or its application to any person or circumstance is held invalid or unenforceable by any court of competent jurisdiction, this invalidity or unenforceability does not affect any of the remaining or other provisions or application of this Ordinance, which can be

given effect without the invalid or unenforceable provision or application. To achieve this purpose, the provisions of this Ordinance are declared to be severable.

SECTION 4: City Attorney Authorized to Revise. Technical and minor substantive revisions consistent with the City Council's intent, as deemed acceptable to the City Attorney, may be made to this Ordinance and to the exhibits hereto prior to execution.

SECTION 5: This Ordinance shall be in full force and effect upon its passage and approval.

ADOPTED this _____ day of _____, 2026.

AYES:

NAYS:

ABSENT:

APPROVAL this _____ day of _____, 2026.

Scott A. Wehrli
MAYOR

ATTEST:

Dawn Portner
CITY CLERK