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City Council Document Tracking Sheet

<b>Meeting Date:</b>	9/8/2011
<b>Sponsor(s):</b>	Rahm Emanuel
<b>Type:</b>	Ordinance
<b>Title:</b>	Title 7 of Municipal Code regarding wireless 9-1-1 surcharge
<b>Committee(s) Assignment:</b>	Committee on Finance

FW.



OFFICE OF THE MAYOR  
CITY OF CHICAGO

RAHM EMANUEL  
MAYOR

September 8, 2011

TO THE HONORABLE, THE CITY COUNCIL  
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Corporation Counsel, I transmit herewith an ordinance amending Title 7 of the Municipal Code regarding a wireless 9-1-1 surcharge.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

Mayor

## ORDINANCE

**WHEREAS**, The City of Chicago is a home rule unit of government as defined in Article VII, Section 6 (a) of the Illinois Constitution; and

**WHEREAS**, As a home rule unit of government, the City of Chicago may exercise any power and perform any function pertaining to its government and affairs; and

**WHEREAS**, As a home rule unit of government, the City of Chicago may also exercise any power and perform any function authorized by state statute; and

**WHEREAS**, The Governor of the State of Illinois has signed into law the Prepaid Wireless 9-1-1 Surcharge Act, Public Act 97-0463, with an effective date of January 1, 2012, by which the 911 fee of \$2.50 per month authorized by 50 ILCS 751, and imposed by chapter 7-50 of the Municipal Code of Chicago, will no longer apply to prepaid wireless telecommunications service, and by which a 911 surcharge of 7% will instead be authorized for prepaid wireless telecommunications service; now, therefore,

### **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:**

**SECTION 1.** Chapter 7-50 of the Municipal Code of Chicago is hereby amended by deleting the struck-through language, inserting the underscored language, and making the changes otherwise indicated:

#### **Chapter 7-50 WIRELESS COMMUNICATION**

\* \* \*

##### **7-50-010 Definitions.**

For the purposes of this chapter, when any of the following words or terms are used herein they shall have the meaning or construction ascribed to them in this section:

\* \* \*

"Prepaid wireless telecommunications service" means a wireless telecommunications service that allows a caller to dial 9-1-1 to access the 9-1-1 system, which service must be paid for in advance and is sold in predetermined units or dollars of which the amount declines with use in a known amount.

\* \* \*

##### **7-50-020 Fees – Use of revenue – Applicability.**

A. A fee is imposed upon all billed subscribers of wireless communications service within the corporate limits of the city in order to pay for a portion of the cost incurred by the city to operate the emergency telephone system. This fee, which shall be at the rate of \$2.50 per month,

shall apply to in-service wireless telephone numbers where the service address of the wireless communications service is located in the city. ~~In the case of prepaid wireless telephone service, this fee shall be remitted based upon the address associated with the point of purchase, the customer billing address, or the location associated with the telephone number assigned to a wireless telephone at the time of initial activation for each active prepaid wireless telephone that has a sufficient positive balance as of the last day of each month, if that information is available. The fee shall not apply to consumers of prepaid wireless telecommunications service, who instead shall pay the surcharge imposed pursuant to chapter 7-51 of this Code.~~

\* \* \*

**SECTION 2.** Creation of chapter 7-51, imposing the Chicago Prepaid Wireless 911 Surcharge, effective January 1, 2012.

Title 7 of the Municipal Code of Chicago is hereby amended by adding a new chapter 7-51 as follows:

**Chapter 7-51 CHICAGO PREPAID WIRELESS 911 SURCHARGE**

**7-51-010 Title.**

This chapter shall be known and cited as the "Chicago Prepaid Wireless 911 Surcharge Ordinance." The surcharge imposed by this chapter shall be known as the "Chicago Prepaid Wireless 911 Surcharge" and is imposed in addition to all other taxes imposed by the City of Chicago, the State of Illinois or any other municipal corporation or political subdivision thereof.

**7-51-020 Definitions.**

When any of the following words or terms are used in this chapter, whether or not capitalized, they shall have the meaning or construction ascribed to them in this section:

"Board" means the Chicago Emergency Telephone System Board created by chapter 3-64 of this Code.

"City" means the City of Chicago.

"Consumer" means a person who purchases prepaid wireless telecommunications service in a retail transaction.

"Department" means the Chicago Department of Revenue.

"Prepaid wireless E911 surcharge" means the charge that is required to be collected by a seller from a consumer in the amount established under section 7-51-030 this chapter.

"Prepaid wireless telecommunications service" means a wireless telecommunications service that allows a caller to dial 911 to access the 911 system, which service must be paid for in advance and is sold in predetermined units or dollars of which the amount declines with use in a known amount.

"Provider" means a person that provides prepaid wireless telecommunications service pursuant to

a license issued by the Federal Communications Commission.

"Retail transaction" means the purchase of prepaid wireless telecommunications service from a seller for any purpose other than resale.

"Seller" means a person who sells prepaid wireless telecommunications service to another person.

"Wireless telecommunications service" means commercial mobile radio service as defined by 47 C.F.R. 20.3.

All other terms shall have the meaning provided in the Prepaid Wireless 9-1-1 Surcharge Act, Public Act 97-0463, as amended.

#### **7-51-030 Surcharge Imposed - Applicability.**

A. Pursuant to the Prepaid Wireless 9-1-1 Surcharge Act, Public Act 97-0463, as amended, there is hereby imposed on consumers a prepaid wireless 911 surcharge of 7.0% per retail transaction.

B. The prepaid wireless 911 surcharge imposed by this chapter shall be collected by the seller from the consumer with respect to each retail transaction occurring in the City.

C. The surcharge shall not be imposed or collected from entities that are tax exempt under the Retailers' Occupation Tax Act.

D. The amount of the prepaid wireless 911 surcharge that is collected by a seller from a consumer, if such amount is separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller, shall not be included in the base for measuring any tax, fee, surcharge, or other charge that is imposed by the State of Illinois, any political subdivision of the State, or any intergovernmental agency.

#### **7-51-030 Administration and Enforcement.**

The Illinois Department of Revenue shall administer the collection of the 911 surcharge imposed by this chapter and may adopt and enforce reasonable rules relating to the administration and enforcement of the provisions of this ordinance as may be deemed expedient. The Illinois Department of Revenue may deduct an amount, not to exceed 3% during the first year following the effective date of this ordinance and not to exceed 2% during every year thereafter of remitted charges, to be retained by the Illinois Department of Revenue to reimburse its direct costs of administering the collection and remittance of the prepaid wireless 911 surcharge. The Director of the Department is authorized to enter into an intergovernmental agreement with the Illinois Department of Revenue for the collection and enforcement of the tax imposed by this chapter.

#### **7-51-040 Retailers to Retain Percentage.**

For the first 12 months after the effective date of this ordinance, a seller shall be permitted to deduct and retain 5% of prepaid wireless 911 surcharges that are collected by the seller from consumers and that are remitted and timely filed with the Illinois Department of Revenue. After the first 12 months, a seller shall be permitted to deduct and retain 3% of prepaid wireless 911 surcharges that are collected by the seller from consumers and that are remitted and timely filed with the Illinois

Department of Revenue.

**7-51-050 Use of Proceeds.**

All proceeds of the surcharge imposed pursuant to this chapter, after the deductions allowed by sections 7-51-030 and 7-51-040, shall be promptly transmitted to the Board for deposit into the emergency telephone system fund as established by chapter 3-64 of this Code and shall be used only for the purposes set forth in section 3-64-160.

**7-51-060 Severability.**

If any provision of this chapter, or the application of any provision of this chapter, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this chapter, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this chapter.

**SECTION 3.** This ordinance shall take effect on January 1, 2012; provided, however, that if the Prepaid Wireless 9-1-1 Surcharge Act, Public Act 97-0463 is repealed or becomes ineffective for any reason, then the amendments to chapter 7-50, set forth in section 1 of this ordinance, shall no longer apply, and the fee imposed by chapter 7-50 shall apply to prepaid wireless telecommunications service, as it did immediately before this ordinance went into effect; and provided further that if the Prepaid Wireless 9-1-1 Surcharge Act, Public Act 97-0463 is delayed, then the effective date of this ordinance shall likewise be delayed for the same time.