

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 209

An ordinance relating to the taxation of local communications services; fixing rates; providing for collection and other related matters; and dedicating funds to emergency communications services.

Multnomah County ordains as follows:

Section 1. Definitions. As used in this ordinance, unless the context requires otherwise:

(1) "Local telephone service" means:

(a) The access to a local telephone system in Multnomah County and the privilege of intrastate telephonic communication with substantially all persons having telephone or radio telephone stations constituting a part of such local telephone system; and

(b) Any facility or service provided in connection with a service described in paragraph (a) of this subsection; but does not include

(c) Any service which is a private communication service or a toll telephone service, as defined in subsections (3) and (5).

(2) "Person" means an individual, estate, association, a trust, partnership, company or corporation.

(3) "Private communication service" means:

(a) The communication service furnished to a subscriber which entitles the subscriber to exclusive or priority use of any communication channel or groups of channels, or to the use of an intercommunication system for the subscriber's stations, regardless of whether such channel, groups of channels or intercommunication system may be connected through switching with a service described in subsection (1), (4) or (5) of this section; and

(b) Switching capacity, extension lines and stations or other associated services which are provided in connection with, and are necessary or unique to the use of, channels or systems described in paragraph (a) of this subsection; and

(c) The channel mileage which connects a telephone station located outside a local telephone system area with a central office in such local telephone system; but does not include

(d) Any communication service unless a separate charge is made for such service.

(4) "Teletypewriter exchange service" means the access from a teletypewriter or other data station to the teletypewriter exchange system of which such station is a part, and the privilege of intrastate intercommunication by such station with substantially all persons having a teletypewriter or other data station constituting a part of the same teletypewriter exchange system, to which the subscriber is entitled upon payment of a charge or charges (whether such charge or charges are determined as a flat periodic amount on the basis of distance and elapsed transmission time or in some other manner). The term "teletypewriter exchange service" does not include any service which is "local telephone service" as defined by subsection (1) of this section.

(5) "Toll telephone service" means:

(a) An intrastate telephonic quality communication for which there is a toll charge which varies in amount with the distance and elapsed transmission time of each individual communication and the charge is paid within the state; and

(b) A service which entitles the subscriber, upon payment of a periodic charge (determined as a flat amount or upon the basis of

total elapsed transmission time) to the privilege of an unlimited number of intrastate telephonic communications to or from all or a substantial portion of the persons having telephone or radio telephone stations in a specified area which is outside the local telephone system area in which the stations provided with this service is located.

Section 2. Imposition of Tax.

(1) There is imposed on amounts paid for the following communications services a tax equal to the percent of the amount so paid specified in subsection (2) of this section:

- (a) Local telephone service.
- (b) Teletypewriter exchange service.
- (c) Toll telephone service.

(2) The rate of the tax referred to in subsection (1) of this section is as follows:

<u>Amounts paid pursuant to bills first rendered</u>	<u>Percent</u>
Commencing January 1, 1980	1
Commencing January 1, 1981	2
Commencing January 1, 1982 and thereafter.	3

(3) The taxes imposed by this section shall be paid by the person paying for the services.

(4) The taxes imposed by subsection (1) of this section shall be due at the time the user's payment on the provider's billing for the service is due and shall be payable in advance to the extent the provider bills users and requires payment in advance for its services.

Section 3. Exemptions.

There shall be exempt from the tax imposed by section 2 of this ordinance the following:

(1) Service paid for by inserting coins in coin-operated telephones available to the public with respect to local telephone service or with respect to toll telephone service if the charge for the toll telephone service is less than 25 cents. However, where the coin-operated telephone service is furnished for a guaranteed amount, the amounts paid under the guarantee plus any fixed monthly or other periodic charge shall be subject to the tax imposed by section 2 of this ordinance.

(2) Except with respect to local telephone service, any payment received from any person for services used in the collection of news for the public press, or a news ticker service furnishing a general news service similar to that of the public press, or radio broadcasting, or in the dissemination of news through the public press, or a news ticker service furnishing a general news service similar to that of the public press, or by means of radio broadcasting, if the charge for such service is billed in writing to such person.

(3) Any payment received for services furnished to an international organization or to the American National Red Cross.

(4) With respect to any toll telephone services described in paragraph (b) of subsection (5) of section 1 of this ordinance, any amount paid for such toll telephone service to the extent that the amount so paid is for use by a common carrier, telephone or telegraph company or radio broadcasting station or network in the conduct of its business as such.

(5) Any amount paid for the installation of any instrument, wire, pole, switchboard, apparatus or equipment as is properly attributable to such installation.

(6) Any amount paid by a nonprofit hospital for services furnished to the hospital. As used in this subsection, "nonprofit hospital" means a hospital as defined in subsection (b)(1)(A)(iii) of section 170 of the Internal Revenue Code of 1954 (as amended and in effect upon the effective date of this ordinance) that is exempt from income tax under subsection (a) of section 501 of the Internal Revenue Code of 1954 (as amended and in effect upon the effective date of this ordinance).

(7) Any amount paid for services furnished to the United States, or any agency or instrumentality thereof, or to this or any other state or any political subdivision of this or any other state.

(8) Any amount paid by a nonprofit educational organization for services furnished to such organization. As used in this subsection, "nonprofit educational organization" means an organization described in subsection (b)(1)(A)(ii) of section 170 of the Internal Revenue Code of 1954 (as amended and in effect upon the effective date of this ordinance) which is exempt from income tax under subsection (a) of section 501 of the Internal Revenue Code of 1954 (as amended and in effect upon the effective date of this ordinance). "Nonprofit educational organization" also includes a school operated as an activity of an organization described in subsection (c)(3) of section 501 of the Internal Revenue Code of 1954 (as amended and in effect upon the effective date of this ordinance) which is exempt from income tax under subsection (a) of section 501 of the

Internal Revenue Code of 1954 (as amended and in effect upon the effective date of this ordinance) if the school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are carried on.

Section 4. Computation of Tax.

(1) If a bill is rendered to a person for local telephone service or toll telephone service:

(a) The amount on which the tax with respect to those services shall be based shall be the sum of all charges for the service included in the bill; except that

(b) If the person who renders the bill groups individual items for purposes of rendering the bill and computing the tax, then (A) the amount on which the tax with respect to each such group shall be based shall be the sum of all items within that group, and (B) the tax on the remaining items not included in any such group shall be based on the charge for each item separately.

(2) If the tax imposed by section 2 of this ordinance with respect to toll telephone service is paid by inserting coins in coin-operated telephones, the tax shall be computed to the nearest multiple of five cents, except that, where the tax is midway between multiples of five cents, the next higher multiple shall apply.

Section 5. Collection of Tax.

(1) Every person receiving any payment for communications services on which a tax is imposed upon the payor under this ordinance shall collect the amount of the tax from the person making such payment.

(2) The amounts collected under subsection (1) of this section shall be considered to be in payment of that amount of tax so collected. Any return made by the person collecting the tax shall be accepted by the Director as evidence in favor of the taxpayer of payment of the amounts of tax so indicated upon the return.

(3) The amounts so collected shall be remitted to the Director of the Division of Assessment and Taxation of the Department of Administrative Services of Multnomah County (hereafter "Director") on or before the 30th day of the month following the month of collection.

Section 6. Record Keeping and Inspection.

Every person liable for the collection of the tax imposed by section 2 of this ordinance, or for the tax, shall keep records, render statements, make returns and comply with rules adopted by the Director with respect to the tax, who is hereby authorized to establish such rules, regulations and procedures for the implementation and enforcement of this ordinance, consistent with the provisions hereof, as the Director deems necessary and appropriate. Whenever in the judgment of the Director it is necessary, the Director may require any person, by notice served upon that person by mail, return receipt requested, to make returns, render statements or keep records sufficient to show whether there is tax liability under this ordinance.

Section 7. Dedication of Funds.

All monies collected pursuant to this ordinance shall be credited to the Emergency Communications Fund of Multnomah County which is hereby established. The fund shall be used exclusively

for administration of this ordinance including collection costs and appropriate refunds, and for emergency communications services which may include, but are not limited to, a "911" emergency telephone system jointly operated by Multnomah County and the City of Portland pursuant to an intergovernmental agreement executed for that purpose, communications services related to emergency medical services and emergency communications services at Kelly Butte.

Section 8. Board Review.

On or before September 1, 1981 the Board shall review this ordinance and evaluate each of its provisions for the purpose of determining whether it should then be continued, or altered as to the subject of the tax, the persons upon whom it is imposed, the fund to which it is dedicated, its amount, or any other respect.

ADOPTED this 25th day of October, 1979, being the date of its second reading before the Board of County Commissioners of Multnomah County, Oregon.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

By *Earl Blumenauer*
Presiding Officer

Authenticated by the County Executive on the 25 day of
October, 1979.

APPROVED AS TO FORM:

JOHN B. LEAHY, County Counsel
for Multnomah County, Oregon

By *Richard C. Busse*
Richard C. Busse
Chief Deputy County Counsel

Donny S. Clark
County Executive for
Multnomah County, Oregon