

EMERGENCY SERVICES COMMUNICATION ORDINANCE
of
BARRYCOUNTY

Article 1--AUTHORITY

Michigan counties have been delegated the right to adopt ordinances enforcing policy decisions made by their county board of commissioners on topics over which they have jurisdiction. See MCL §46.11 et seq. In addition, Public Act 32 of 1986, being MCL §484.1101 *et seq*, as amended, ("911 Act") authorizes Barry County ("County") to enact a E-911 Service Plan ("Plan") that establishes a Service District ("Service District") in which enhanced 911 ("E 911") is provided. The 911 Act's Section 303 requires that a Plan contain at least the following sections: technical, operational, management and fiscal provisions and considerations that require third party compliance. The Plan also authorizes the Barry County Board of Commissioners ("Board") to enact an ordinance to compel third parties to comply with the Plan's technical, operational, management and fiscal provisions and to enforce them.

Article 2--PURPOSE

The purpose of this Emergency Services Communication Ordinance ("Ordinance") is to fulfill the above-described responsibilities of the Board under the 911 Act.

The Board finds that the enactment of this Ordinance is necessary to protect the health, safety and well-being of the citizens of Barry County. Specifically, the Board makes the following findings of fact supporting this Ordinance:

- 2.1 Prevention of false alarms, false texting, SWATTING, hacking, signal jamming, and dispatch call jumping is necessary to ensure that emergency services are efficiently delivered to the scene of a true emergency and are not wasted.
- 2.2 Prevention of unauthorized ambulance service is necessary to protect the service volume of ambulance runs that are essential to support the economic viability of providers in the County's emergency medical service system.
- 2.3 Compelling all communication services to direct 911 calls from within the County to the chosen services provider will be necessary to facilitate the delivery of NextGEN 911 services.

Article 3--DEFINITIONS

In addition to the adoption of the terms and abbreviations included in 911 Act and the

Plan which are incorporated by reference, the following terms shall have the meanings described in this Section, unless the context specifically indicates a different meaning:

- 3.1 **911 Board.** The Administrative Policy Board of BCCDA.
- 3.2 **Communications Center.** The BCCDA facility from which the primary PSAP in the County is operated.
- 3.3 **911 Director.** The Director of BCCDA.
- 3.4 **911 Call.** A communication, including call or text, using a landline, cellular, digital or VOIP communications device that requests emergency police, fire or medical services through the 911 Center.
- 3.5 **911 System.** The technical and operational system created for the delivery of 911 Calls within the County through the Plan.
- 3.6 **Ambulance Service.** An emergency or nonemergency medical transport services licensed under Public Act 179 of 1990, being MCL §333.20901 *et. seq.*
- 3.7 **Automatic Call.** An automated telephone, cellular, VOIP or digital 911 communication to the 911 Center without manual direction by an individual.
- 3.8 **County Board.** The Barry County Board of Commissioners.
- 3.9 **Call Jumping.** Appearing on the scene of an incident and providing services for which the 911 Center has dispatched another public or private safety agency or wrecker service to respond without obtaining the approval of that service or of the 911 Center.
- 3.10 **County.** Barry County.
- 3.11 **NextGen 911.** The delivery of 911 calls and texts from landline, cellular, digital and VOIP communication services to the 911 Center through internet, fiber optic or other digital lines.
- 3.12 **BCCDA.** The separate legal entity which was created by the County and the Cities of Holland and Grand Haven as an authority under the Urban Cooperation Act to operate the 911 communications within the County, including serving as the primary PSAP for 911 calls and texts requiring dispatch of public and private safety agencies within the County.
- 3.13 **Ordinance.** Emergency Services Communication Ordinance of the County.

- 3.14 **Person.** Any individual, local unit of government, company, corporation, partnership, limited liability company or other legal entity acting within the County.
- 3.15 **Plan.** The Barry County Emergency Telephone Service District Final Plan and its updates or amendments prepared under the requirements of the 911 Act.
- 3.16 **PSAP.** Defined in the 911 Act as a communications facility operated or answered on a 24-hour basis assigned responsibility by a public agency or county to receive 9-1-1 calls and to dispatch public safety response services, as appropriate, by the direct dispatch method, relay method, or transfer method.
- 3.17 **Primary PSAP.** The first point of reception by a public safety agency of a 9-1-1 call and serves the jurisdictions in which it is located and other participating jurisdictions, if any.
- 3.18 **Sheriff.** Includes the elected Sheriff of the County and any of his or her authorized and sworn deputies.
- 3.19 **SWATTING.** The act of falsely texting, calling or otherwise tricking an emergency service (via such means as hoaxing an emergency services dispatcher) into dispatching an emergency services provider based on the false report of an on-going critical incident.

Article 4--ADMINISTRATION AND ENFORCEMENT

- 4.1 **Administration.** The 911 Board and 911 Director in accordance with 911 Act and the Plan shall administer the provisions of this Ordinance.

The 911 Board and/or 911 Director may seek, through the offices of the County Sheriff and Prosecutor, criminal action against any alleged violator of this Ordinance, and/or through BCCDA’s civil counsel, a civil injunctive or damage action.

The 911 Director shall have the primary responsibility for the administration and enforcement of this Ordinance; and may recommend to the Board, for its approval, rules and guidelines to assist the 911 Board, 911 Director and/or Sheriff in administering and enforcing this Ordinance.

- 4.2 **Duties of the 911 Board:**

- 4.2.1 Oversee the 911 Director’s enforcement of the Ordinance.

4.2.2 Approve agreements consistent with the Plan.

4.2.3 Employ attorneys or other enforcement officers to assist the 911 Director in the enforcement of the Plan and Ordinance.

4.3 Duties of the 911 Director relative to the Ordinance:

4.3.1 Provide recommendations to the 911 Board and County Board.

4.4.2 Complete the activities necessary to implement, administer and enforce the Plan and this Ordinance including but not limited to:

a - Annually evaluate the progress in accomplishing the technical, operational, management and fiscal considerations in the Plan;

b - Develop a database that accurately reflects emergency service calls and dispatch statistics under the Plan;

c - Work with local units of government, emergency service providers to enhance the emergency services provided under the Plan and throughout the County, including but not limited to the emergency services communication infrastructure;

d - Develop and recommend for 911 Board approval policies and funding for procurement of additional 911 infrastructure equipment and facilities;

e - Develop and implement public information efforts aimed at individuals, industries, institutions, commercial establishments and other units of government regarding the 911 System within the County;

f. – Request the assistance of the Barry County Prosecutor, Civil Counsel and/or Barry County Sheriff's Office to work with the 911 Director on Ordinance enforcement activities; and

h – Request the Sheriff to issue appearance tickets or appearance summons to alleged violators of this Ordinance.

4.5 ENFORCEMENT

The 911 Director, under the direction of the 911 Board, shall enforce the provisions of the Plan and this Ordinance and may request assistance from the Barry County Sheriff's Office, Barry County Prosecutor and/or BCCDA's Civil Counsel.

- 4.5.1 **Investigation.** Within ten days of receipt of a signed, written complaint by the 911 Director alleging a violation of this Ordinance, the Sheriff shall begin an investigation.
- 4.5.2 **Appearance Ticket:** If the Sheriff determines that there is probable cause that this Ordinance has been violated; the Sheriff is authorized to issue and serve an Appearance Ticket upon a Person allegedly violating the Plan or this Ordinance.
- 4.5.3 **Civil and Criminal Penalties:** Any Person violating any of the provisions of this Ordinance for the first time shall be guilty of a civil infraction, subject to a maximum of a \$100.00 civil fine and to an injunctive order compelling ongoing compliance. A failure to cure the violation within 30 days after being found liable for a civil infraction shall expose the person to a second infraction of the Ordinance. Any Person charged with violating any of the provisions of this Ordinance for a second time or more, regardless of whether the infraction is due to a failure to cure or is a separate incident, may also be charged with a misdemeanor and if found guilty, may be subject to a fine of not more than \$500.00 or imprisonment in the county jail for a period not to exceed 90 days, or both such fine and imprisonment. Each day that a violation continues to exist shall constitute a separate violation of this Ordinance.

In addition to the imposition of the foregoing fines, penalties and other legal and equitable remedies, the court may enjoin the actions that are producing continued violations of this Ordinance.

Article 5—911 SYSTEM RESTRICTIONS

- 5.1 No Person shall install or operate an alarm system that enables or places an Automatic Call.
- 5.2 No Person shall intentionally place a 911 Call that falsely reports the need for emergency police, fire or medical services.

- 5.3 No Person shall engage in SWATTING within the County or to a 911 Center.
- 5.4 No Person shall jam, interfere, or otherwise block or impede the ability of a Person to make a 911 Call.
- 5.5 No Person shall request, operate or provide ambulance service within the County that has not been approved to operate within the County by the 911 Board and the Medical Control Authority through contract or resolution.
- 5.6 No Person shall operate a communication service within the County without charging and remitting any applicable emergency telephone operational charge as approved under the Act, including but not limited to the State 911 charge.
- 5.7 No Person shall operate a communication service within the County without directing all 911 calls from within the County to the services provider chosen by Barry County Emergency Communications to facilitate the delivery of NextGen 911 services.
- 5.8 No Person shall knowingly engage in Call Jumping.
- 5.9 No person shall knowingly impede first responders from reaching emergencies to which they have been dispatched.
- 5.10 In conjunction with the sale or marketing of NextGen 911 software applications to consumers, no Person shall represent that such applications can provide services that BCCDA cannot provide.
- 5.11 No person shall fail to forward 911 calls and texts to the IP address and provider as specified by the 911 Board for NG911 Service, including all technical requirements that would enable the passage to the ECEC Center and receipt thereby of text 911 calls.

Any Person who violates one of the above prohibitions shall be subject to the civil and criminal provisions of Art. 4.5.3.

Article 6--SEVERABILITY CLAUSE

The Ordinance and the various articles, sections and clauses thereof, are hereby declared to be severable. In any part, sentence, paragraph, section, clause or work is adjudged unconstitutional or invalid for any reason, by any Court of competent jurisdiction, such invalidity shall not affect the remaining portions of applications of this Ordinance which can be given effect with out the invalid portion or application, provided such remaining

portions are not determined by the Court to be inoperable.

ORDINANCE ADOPTED: _____, 2016

ORDINANCE EFFECTIVE: _____, 2016

Craig Stolsonburg,, Chairperson,
Barry County Board of Commissioners

Pamela Palmer, Barry County Clerk