

1 [Revising and clarifying procedures for imposition and collection of the 911 Emergency
2 Response Fee imposed on telephone service subscribers.]

3 **Ordinance amending Article 10A of the Business and Tax Regulations Code by**
4 **amending Section 751 to amend the definition of "Service supplier" and delete the**
5 **definition of "Telephone corporation" in order to reflect changes in communications**
6 **technology and regulation, and amend the definition of "Trunk line" to clarify that it**
7 **does not include Direct Inward Dial telephone lines; amending Section 754 by replacing**
8 **the term "Telephone corporation" with the term "Service supplier," and amending**
9 **Sections 757, 759, 761 and 762 to clarify responsibilities on the part of the City and**
10 **service providers for collection of the fee.**

11 Note: Additions are *single-underline italics Times New Roman*;
12 deletions are *strikethrough italics Times New Roman*.
13 Board amendment additions are double underlined.
14 Board amendment deletions are ~~strikethrough normal~~.

14 Be it ordained by the People of the City and County of San Francisco:

15 Section 1. The San Francisco Business and Tax Regulations Code is hereby amended
16 by amending Section 751, to read as follows:

17 **SEC. 751. ADDITIONAL DEFINITIONS.**

18 Except where the context or particular provisions require otherwise, the following
19 definitions shall govern the construction of this Article.

20 (a) 911 Communication System. "911 communication system" means an enhanced
21 emergency telephone service which automatically connects a person dialing the digits 9-1-1 to
22 an answering point established within a City department and shall incorporate all aspects of
23 the call delivery system, the call processing system and the call dispatch system, including,
24 but not limited to, selective routing, automatic number identification (ANI), automatic location
25 identification (ALI), and wireless 911. "911 communication system" includes the functions of

1 the Emergency Communications Department; however, it does not include the Police
2 Department and Fire Department staff who respond to requests for assistance by traveling to
3 a site to which they are dispatched as a result of an emergency call.

4 (b) Access Line. "Access line" means any connection from a customer location to a
5 provider of local telephone service offered to the public for ~~com-pensation~~ compensation. Within
6 the meaning of this ordinance, and without limitation, access lines include connections
7 providing residential basic exchange service, business basic exchange service, PBX service
8 (private branch exchange), foreign exchange service, and Centrex service.

9 (c) Eligible Operating Costs. "Eligible operating costs" means the portion of
10 operating costs reflecting the benefit estimated to be provided by operation of the 911
11 Communication System to telephone subscribers who are required to pay the fee imposed by
12 the provisions of this Article on access lines, trunk lines and high capacity trunk lines subject
13 to the fee. Eligible Operating Costs shall not include Exempt Operating Costs.

14 (d) Exempt Operating Costs. "Exempt operating costs" means the portion of
15 Operating Costs reflecting the benefits estimated to be provided by operation of the 911
16 Communication System to telephone sub-scribers who are exempted from the fee by Section
17 754 of this Article or are otherwise not required to pay the fee imposed by the provisions of
18 this Article.

19 (e) Eligible Project Costs. "Eligible project costs" means the portion of project costs
20 reflecting the benefit estimated to be provided by the project to telephone subscribers who are
21 required to pay the fee imposed by the provisions of this Article on access lines, trunk lines
22 and high capacity trunk lines subject to the fee. Eligible project costs shall not include exempt
23 project costs.

24 (f) Exempt Project Costs. "Exempt project costs" means the portion of project costs
25 reflecting the benefits estimated to be provided by the project to telephone subscribers who

1 are exempted from the fee by Section 754 of this Article or are otherwise not required to pay
2 any fee imposed by the provisions of this Article.

3 (g) Fee. "Fee" means the Emergency Response Fee imposed under the provisions
4 of this Article.

5 (h) High Capacity Trunk Line. "High capacity trunk line" shall mean a trunk line with
6 a capacity of at least 24 channels over a high capacity service, such as a 1.544 Mb, T-1, or
7 Integrated Services Digital Network (ISDN) Primary Rate Interface (PRI) line.

8 (i) Lifeline Service. "Lifeline service" means discounted telephone service available
9 to eligible low income residential customers.

10 (j) Local Telephone Service. "Local telephone service" means access to a local
11 telephone system, providing two-way telephonic quality communication with substantially all
12 persons having telephone or radio telephone stations constituting a part of such local
13 telephone system, whether or not such service uses transmission wires.

14 "Local telephone service" shall not include land mobile services or maritime mobile
15 services as defined in Section 2.1 of Title 47 of the Code of Federal Regulations, as said
16 Section existed on January 1, 1970. Notwithstanding this exclusion, "local telephone service"
17 shall include wireless telephone service.

18 (k) "Operating Costs." Operating costs means any costs to operate, repair or
19 maintain the 911 Communication System or backup 911 communication system, including but
20 not limited to costs for personnel, training, software and hardware maintenance and upgrades,
21 facility maintenance and repair and attorneys fees.

22 (l) Project Costs. "Project costs" means any costs of: acquiring land on which to
23 locate a 911 communication system facility or backup 911 communication system, acquiring
24 and installing computerized call delivery processing and dispatch equipment and software,
25 and/or any other acquisition or construction necessary to combine 911 ~~communication~~

1 communication staff, to the maximum extent consistent with the Charter, under a single uniform
2 command structure and to house 911 communication system equipment and staff in a
3 seismically safe and fireproof facility or backup system, including any debt service payments
4 related thereto.

5 (m) Service Location. "Service location" means the premises of a telephone
6 subscriber at which a working service point or primary station set provides the subscriber with
7 basic exchange service and to which extension services are charged.

8 (n) Service Supplier. "Service supplier" means any person supplying local
9 telephone service to any telephone subscriber, ~~pursuant to authority granted by the California~~
10 ~~Public Utilities Commission,~~ at a location within the City and County of San Francisco. Service
11 suppliers may include, without limitation, local exchange carriers, interexchange carriers,
12 competitive access providers, cable television providers offering telecommunications local
13 telephone services, and any other entity offering direct connections between their premises and
14 the premises of telephone subscribers.

15 ~~(o) Telephone Corporation. "Telephone corporation" shall have the same meaning as~~
16 ~~defined in Section 234 of the Public Utilities Code of the State of California or the most comparable~~
17 ~~successor definition.~~

18 (p) Telephone Subscriber. "Telephone subscriber" means any person required to
19 pay a fee imposed under the provisions of this Article.

20 (q) Trunk Line. "Trunk line" means a line between a service supplier's switching
21 device and a private branch exchange or automatic call distributing system, or other similar
22 device, at a telephone subscriber location, provided however that "Trunk line" shall not include
23 any such line which is marketed to customers and configured by the service supplier to deliver only
24 calls to the subscriber location and cannot be used by the subscriber to originate outgoing calls from
25 the subscriber location (e.g., direct inward dial lines).

1 Section 2. The San Francisco Business and Tax Regulations Code is hereby amended
2 by amending Section 754, to read as follows:

3 **SEC. 754. ADDITIONAL EXEMPTIONS.**

4 Nothing in this Article shall be construed as imposing a fee upon the access lines of:

- 5 (a) A lifeline customer of a service supplier; or
6 (b) A ~~telephone corporation~~ service supplier; or
7 (c) Coin-operated telephones; or
8 (d) A nonprofit hospital which is exempt from federal income tax under
9 Section 501(a) of the United States Code; or
10 (e) A nonprofit educational organization which is exempt from income tax
11 under Section 501(a) of the United States Code; or
12 (f) Any person when imposition of such fee upon that person would violate
13 the Constitution of the United States or that of the State of California or preemptive federal or
14 State law.

15
16 Section 3. The San Francisco Business and Tax Regulations Code is hereby amended
17 by amending Section 757, to read as follows:

18 **SEC. 757. COLLECTION OF FEE.**

19 (a) The fee imposed by this Article shall be collected from the telephone subscriber
20 by the service supplier. Service suppliers shall hold fee revenues in trust for the City and shall
21 remit the revenues collected as the fee to the Tax Collector on a monthly basis on or before
22 the last day of the following month.

23 (b) The fee required to be collected by service suppliers under this ordinance shall
24 be added to and stated separately as the "San Francisco eEmergency #Response fFee" in
25 the service supplier's billings to telephone subscribers. The charge identified as the San

1 Francisco Emergency Response Fee shall include only the amount authorized by this Article, and shall
2 not include any additional charges or fees which may be imposed by the service supplier to recover the
3 cost of collecting the fee.

4 (c) If the amount paid by a telephone subscriber is less than the full amount of the
5 charges for service and the emergency response fee which have accrued for the billing
6 period, a proportionate share of both the charges for service and the fee shall be deemed to
7 have been paid.

8 (d) The duty to collect the fee from a telephone subscriber shall commence with
9 bills issued on or after the operative date of this Article.

10 (e) Nothing in this Article is intended to regulate the ability of a service supplier to recover
11 any costs of collecting the fee imposed under this Article, to the extent such that recovery may be
12 authorized by state or federal law.

13
14 Section 4. The San Francisco Business and Tax Regulations Code is hereby amended
15 by amending Section 759, to read as follows:

16 **SEC. 759. LIABILITY FOR FEE.**

17 (a) Any fee required to be paid by a telephone subscriber under the provisions of
18 this Article shall be deemed a debt owed by the telephone subscriber to the City until it has
19 been paid to the City, except that payment to a service supplier is sufficient to relieve the
20 subscriber from further liability for the fee.

21 (b) Subject to the limitations set forth in this Section, Any fee required to be collected
22 under the provisions of this Article shall be deemed a debt owed to the City and County of
23 San Francisco by the person required to collect and remit such fee.

24 (c) So long as a service supplier charges the applicable fee to every local telephone service
25 subscriber, makes a good faith effort to collect the Emergency Response Fee, and remits all fees paid

1 by such subscribers to the City. ~~Nothing~~ in this Section shall impose any duty on a service
2 supplier to take any legal action to enforce the collection of the fee hereinabove imposed.
3 However, whenever a service supplier remits funds collected as an emergency response fee
4 to the City, the service supplier shall also provide the City with the name and address of any
5 telephone subscriber refusing or failing to pay the fee for a period of four or more billing
6 periods and shall state the amount of such fee remaining unpaid. The Tax Collector shall
7 notify the telephone subscriber that the Tax Collector has assumed responsibility to collect the
8 fees due for the stated periods and demand payment of such fees.

9 (d) Any person owing money to the City under the provisions of this Article shall be
10 liable to an action brought in the name of the City and County for the recovery of such
11 amount.

12 (e) In connection with any actions or claims relating to or arising from the alleged
13 invalidity of the Emergency Response Fee, in whole or in part, the service supplier shall not be liable to
14 any customer as a consequence of collecting the fee.

15
16 Section 5. The San Francisco Business and Tax Regulations Code is hereby amended
17 by amending Sections 761 and 762, to read as follows:

18 **SEC. 761. INTEREST AND PENALTIES.**

19 (a) Fees required to be collected from a telephone subscriber which are not
20 remitted to the Tax Collector on or before the due date provided in this Article are delinquent.

21 (b) **Service Suppliers.** Interest and penalties for delinquency in remittance of any
22 fee not remitted shall be assessed as follows:

23 (i) Any service supplier who fails to remit any fee ~~imposed~~ required to be
24 collected by this Article within 10 days after receipt of written notice from the Tax Collector of
25 such failure shall pay a penalty of 10 percent of the amount of the fee, except to the extent that a

1 service supplier has billed a customer the applicable fee and made a good faith effort to collect the fee,
2 and the customer has failed to pay the amount of the fee.

3 (ii) If the Tax Collector determines that the nonpayment of any ~~remittance due~~
4 ~~hereunder~~ fee required to be collected under this Article is due to fraud, a penalty of 100 percent of
5 the amount of the fee shall be added thereto in addition to the penalty stated in Subparagraph
6 (i) of this subsection.

7 (iii) In addition to the penalties imposed in this Subsection (b), any service
8 supplier who fails to remit any fee ~~imposed~~ required to be collected by this Article, shall pay
9 interest on the amount of the fee, exclusive of penalties, from the date on which the
10 remittance first became delinquent until paid. Interest shall be paid at the rate of one percent
11 per month, or fraction thereof.

12 (c) **Telephone Subscribers.** Failure by a telephone subscriber to pay any fee
13 herein imposed shall result in the following interest and penalties on the telephone subscriber:

14 (i) Any telephone subscriber who fails to pay any fee imposed by this Article
15 within 120 days of the date of the receipt of notice of the amount of fee due from the service
16 supplier shall pay a penalty of 10 percent of the amount of the fee.

17 (ii) Any telephone subscriber who fails to pay any delinquent remittance
18 within 180 days after the date of the receipt of notice of the amount of fee due from the
19 service supplier shall pay a second delinquency penalty of 10 percent of the amount of the fee
20 in addition to the ten percent penalty first imposed.

21 (iii) In addition to the penalties imposed in this Subsection (c), any telephone
22 subscriber who fails to pay any fee imposed by this Article, shall pay interest on the amount of
23 the fee, exclusive of penalties, from the date on which the fee first became delinquent until
24 paid plus an additional collection charge for each delinquent account in an amount to be
25 determined by rules and regulations of the Tax Collector. The Tax Collector shall establish

1 collection charges which reimburse the costs incurred by the City for collecting delinquent
2 fees. Interest shall be paid at the rate of one percent per month, or fraction thereof.

3 (iv) The penalties, interest and collection charges imposed in this Subsection
4 (c) shall not be collected by the service supplier, but shall be determined and collected by the
5 City and County as set forth hereinafter.

6 (d) Every penalty imposed and such interest as accrues under the provisions of this
7 Section shall become a part of the fee herein required to be paid.


8 **SEC. 762. FAILURE TO COLLECT AND REPORT FEE; DETERMINATION OF FEE**
9 **BY TAX COLLECTOR.**

10 If any service supplier shall fail or refuse to: (1) bill subscribers for, and make a good faith
11 effort to collect; or (2) fails to remit to the City any fee ~~imposed~~ required to be collected by this
12 Article and to make, within the time provided in this Article, any report and remittance of said
13 fee or any portion thereof required by this Article, the Tax Collector shall proceed in such
14 manner as he may deem best to obtain facts and information on which to base his estimate of
15 the fee due. As soon as the Tax Collector shall procure such facts and information as he is
16 able to obtain upon which to base the assessment of any fee imposed by this Article and
17 payable by any service supplier who has failed or refused to collect the same and to make
18 such report and remittance, he shall proceed to determine and assess against such service
19 supplier the fee, interest and penalties provided by this Article. In case such determination is
20 made, the Tax Collector shall give a notice of the amount so assessed by serving it personally
21 or by depositing it in the United States mail, postage prepaid, addressed to the service
22 supplier so addressed at its last known place of address. Such service supplier may within 10
23 days after the serving or mailing of such notice make application in writing to the Tax Collector
24 for a hearing on the amount assessed. If application by the service supplier for a hearing is
25 not made within the time prescribed, the fee, interest and penalties, if any, determined by the

1 Tax Collector shall become final and conclusive and immediately due and payable. If such
2 application is made, the Tax Collector shall give not less than five days' written notice in the
3 manner prescribed herein to the service supplier to show cause at a time and place fixed in
4 said notice why said amount specified therein should not be fixed for such fee, interest and
5 penalties. At such hearing, the service supplier may appear and offer evidence why such
6 specified fee, interest and penalties should not be so fixed. After such hearing, the Tax
7 Collector shall determine the proper fee to be remitted and shall thereafter give written notice
8 to the service supplier in the manner prescribed herein of such determination and the amount
9 of such fee, interest and penalties. The amount determined to be due shall be payable after
10 15 days unless an appeal is taken as provided hereinafter.

11 APPROVED AS TO FORM:

12 DENNIS J. HERRERA, City Attorney

13 By: 
14 DAVID A. GREENBURG
15 Deputy City Attorney

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City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Ordinance

File Number: 060534

Date Passed:

Ordinance amending Article 10A of the Business and Tax Regulations Code by amending Section 751 to amend the definition of "Service supplier" and delete the definition of "Telephone corporation" in order to reflect changes in communications technology and regulation, and amend the definition of "Trunk line" to clarify that it does not include Direct Inward Dial telephone lines; amending Section 754 by replacing the term "Telephone corporation" with the term "Service supplier," and amending Sections 757, 759, 761 and 762 to clarify responsibilities on the part of the City and service providers for collection of the fee.

June 6, 2006 Board of Supervisors — PASSED ON FIRST READING

Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Ma, Maxwell,
McGoldrick, Mirkarimi, Peskin, Sandoval

June 13, 2006 Board of Supervisors — FINALLY PASSED

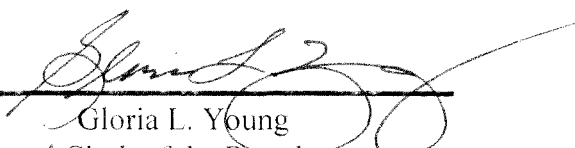
Ayes: 10 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Maxwell, McGoldrick,
Mirkarimi, Peskin, Sandoval
Excused: 1 - Ma

File No. 060534

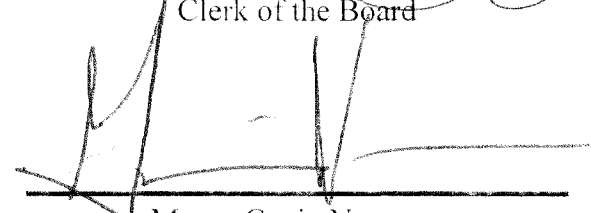
I hereby certify that the foregoing Ordinance
was **FINALLY PASSED** on June 13, 2006 by
the Board of Supervisors of the City and
County of San Francisco.

06.22.2006

Date Approved



Gloria L. Young
Clerk of the Board



Mayor Gavin Newsom