

FILE NO. 020193

ORDINANCE NO. 71-02

1 [Emergency Response Fee Amendments]

2 **Ordinance Amending Articles 6 And 10a of The San Francisco Business And Tax**
 3 **Regulations Code by amending Sections 6.1-1, 750, 751, 753, 755 and 757, deleting**
 4 **section 756 and adding sections 752.2 And 755.1 to clarify the application of the Code's**
 5 **common administrative provisions to the Emergency Response Fee; to provide for use**
 6 **of Emergency Response Fee Revenues for operating costs of the 911 Communication**
 7 **System; to update the findings supporting the fee; to increase the amount of the**
 8 **annual cap on fee payments per account, per service location to reflect inflation; to**
 9 **increase the fee rate for trunk line subscribers and add a rate for high capacity trunk**
 10 **line subscribers; and to eliminate the fee sunset, and amending section 10.100-67 of**
 11 **the San Francisco Administrative Code to allow for use of monies in the Emergency**
 12 **Communications 911 Emergency Response Fund for operating costs of the 911**
 13 **Communication System.**

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

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

18 Section 1. The San Francisco Business and Tax Regulation Code is hereby amended
 19 by amending Sections 6.1-1, 750, 751, 753, 755, and 757, deleting Section 756 and adding
 20 Sections 752.2 and 755.1 to read as follows:

21 SEC. 6.1-1. COMMON ADMINISTRATIVE PROVISIONS.

22 (a) Except where the specific language of the Part III of the Municipal Code or
 23 context otherwise requires, these common administrative provisions shall apply to Articles 7,
 24 9, 10, 10A, 11, 12-A and 12-B of Part III of the Municipal Code.

25
 Supervisors Peskin, Daly, Ammiano, Newsom
 Emergency Communications /Department
 BOARD OF SUPERVISORS

1 (b) All statutory references in this Article shall refer to such statutes as amended
2 from time to time and shall include successor provisions. Any reference to a "tax" shall
3 include the Emergency Response Fee of Article 10A where appropriate; provided, however that
4 nothing in the operation of this provision shall affect the underlying legal character of the Emergency
5 Response Fee or suggest that the fee is a tax.

6 (c) For purposes of this Article, a domestic partnership established pursuant to
7 Chapter 62 of the San Francisco Administrative Code shall be treated the same as a married
8 couple.

9 SEC. 750. TITLE/PURPOSE.

10 (a) In order to substantially improve the performance of the City's 911
11 communication system, the City and County must impose a fee. This ordinance shall be
12 known as the "Emergency Response Fee Ordinance" and the fee imposed herein shall be
13 known as the "Emergency Response Fee."

14 (b) The purpose of this ordinance is to require subscribers to telephone service in
15 the City and County to pay a fee which is directly related to the benefit subscribers derive from
16 the improvements to and operation of the 911 communication system that will be financed by
17 fee revenues.

18 (c) The emergency response fee is the most practical and equitable ~~temporary~~
19 revenue mechanism to finance the acquisition and construction of land, equipment, software,
20 and facilities which are needed to provide an adequate and reliable 911 communication
21 system under a single uniform command structure and to operate that improved 911
22 communication system. The fee is intended to recover all costs related to the benefits the
23 improved system will provide to nonexempt telephone subscribers. Benefits provided to
24 exempt telephone subscribers will be financed through other revenue mechanisms.

1 (d) The fee imposed by the provisions of this Article is intended solely to provide
2 revenue for eligible project costs and eligible operating costs, as defined in this Article. Fee
3 revenues shall be deposited by the Controller in the 911 Emergency Response Fund
4 authorized by Section 10.100-67 of the San Francisco Administrative Code. The provisions of
5 this Article are not enacted for regulatory purposes or for general revenue purposes.

6 SEC. 751. ADDITIONAL DEFINITIONS.

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

9 (a) 911 Communication System. "911 communication system" means an enhanced
10 emergency telephone service which automatically connects a person dialing the digits 9-1-1 to
11 an answering point established within a City department and shall incorporate all aspects of
12 the call delivery system, the call processing system and the call dispatch system, including,
13 but not limited to, selective routing, automatic number identification (ANI), automatic location
14 identification (ALI), and wireless 911. "911 communication system" includes the functions of the
15 ~~primary dispatch center operated, at the time this Article was adopted, by the San Francisco Police~~
16 ~~Department and the secondary dispatch centers operated by the San Francisco Fire Department and~~
17 ~~the San Francisco Department of Public Health~~ Emergency Communications Department; however, it
18 does not include the Police Department, and Fire Department, ~~and Health Department~~ staff who
19 respond to requests for assistance by traveling to a site to which they are dispatched as a
20 result of an emergency call.

21 (b) Access Line. "Access line" means any connection from a customer location to a
22 provider of local telephone service offered to the public for compensation. Within the meaning
23 of this ordinance, and without limitation, access lines include connections providing residential
24 basic exchange service, business basic exchange service, PBX service (private branch
25 exchange), foreign exchange service, and Centrex service.

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

6 (d) Exempt Operating Costs. "Exempt Operating Costs means the portion of Operating
7 Costs reflecting the benefits estimated to be provided by operation of the 911 Communication System to
8 telephone subscribers who are exempted from the fee by Section 754 of this Article or are otherwise not
9 required to pay the fee imposed by the provisions of this Article.

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

15 (f) Exempt Project Costs. "Exempt project costs" means the portion of project costs
16 reflecting the benefits estimated to be provided by the project to telephone subscribers who
17 are exempted from the fee by Section 754 of this Article or are otherwise not required to pay
18 any fee imposed by the provisions of this Article.

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

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

24 (i) Lifeline Service. "Lifeline service" means discounted telephone service available
25 to eligible low- income residential customers.

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

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

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

13 (l) Project Costs. "Project costs" means any costs of: acquiring land on which to
14 locate a 911 communication system facility or backup 911 communication system facility,
15 acquiring and installing computerized call delivery processing and dispatch equipment and
16 software, and/or any other acquisition or construction necessary to combine 911
17 communication staff, to the maximum extent consistent with the Charter, under a single
18 uniform command structure and to house 911 communication system equipment and staff in a
19 seismically safe and fireproof facility or backup facility, including any debt service payments
20 related thereto.

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

24 (n) Service Supplier. "Service supplier" means any person supplying local
25 telephone service to any telephone subscriber, pursuant to authority granted by the California

1 Public Utilities Commission, at a location within the City and County of San Francisco. Service
2 suppliers may include, without limitation, local exchange carriers, interexchange carriers,
3 competitive access providers, cable television providers offering telecommunications services,
4 and any other entity offering direct connections between their premises and the premises of
5 telephone subscribers.

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

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

11 (q) Trunk Line ~~Service~~. "Trunk line ~~service~~" means ~~access to local telephone service~~
12 ~~provided by means of a central office line to or from a line between a service supplier's switching~~
13 ~~device and a private branch exchange, or automatic call distributing system, or other similar~~
14 ~~service device~~ at a telephone subscriber location.

15 SEC 752.2. ADDITIONAL FINDINGS.

16 (a) The 911 communication system provides immediate access to emergency services for
17 telephone subscribers. Subscribers to telephone service derive significant benefit from ongoing
18 operation of the modernized integrated system installed at the Combined Emergency Communications
19 Center at 1011 Turk Street. This improved 911 communication system has enhanced call delivery, call
20 processing and call dispatch and thus provided for more speedy and reliable emergency services.
21 Telephone subscribers will benefit from maintaining and upgrading the improved 911 communication
22 system so it continues to operate at a state of the art level and will further benefit from providing a
23 backup 911 communication system and facility that can be immediately available and operational in
24 the event of a failure at the Combined Emergency Communications Center. A portion of the costs
25 associated with operating, maintaining and upgrading the 911 Communications System and facility and

1 backup 911 Communication System and facility should be allocated among all telephone subscribers
2 because telephone subscribers will reap this significant benefit.

3 (b) The specific findings of the Board of Supervisors that supported the structure of the
4 Emergency Response fee as it was originally adopted remain valid and applicable to the fee to the
5 extent that it supports the ongoing Operating Costs of the 911 Communication System as well as
6 Project Costs. In particular:

7 (i) Every telephone access line can provide independent access to the 911
8 communication system. Therefore, allocating Operating Costs on a per line basis fairly
9 distributes these costs according to the benefit telephone subscribers derive from
10 standby availability of a modernized 911 communication system.

11 (ii) Subscribers who maintain trunk lines and high capacity trunk lines derive more
12 benefit, in terms of access to emergency communication service, from each telephone
13 line than other subscribers and therefore should pay a higher fee.

14 (iii) The concentration of a large number of lines in a single location diminishes the
15 marginal benefit of improved access provided by each additional line; therefore it is
16 appropriate to place a cap on the number of lines per account per service location on
17 which the fee is charged.

18 (c) Since original adoption of the emergency response fee in 1993, there have been
19 substantial business, technical and regulatory developments in the telecommunications industry. The
20 Board finds based on current information that the increased access to the 911 communication system
21 available to trunk line subscribers relative to access lines subscribers is greater than the Board
22 originally estimated. Based on information from the California Public Utilities Commission, the
23 Federal Communications Commission and the Department of Telecommunications and Information
24 Services, the Board now finds that, on average, a trunk line provides 7.5 times the access to the 911
25 communication system provided by a single access line. In addition, there is some basis for concluding

1 that a high capacity trunk line provides 24 times the benefit provided by a trunk line, and the Board
2 hereby finds that such a rate would be reasonable. However, in some locations, the City itself
3 subscribes to high capacity trunk lines that serve a lower average number of end-users, and the
4 Department of Telecommunications and Information Services believes that other high capacity trunk
5 line subscribers may similarly use them to serve fewer end users. As a result, the Board now finds that
6 it is more reasonable to conclude that, on average, a high capacity trunk line provides 18 times the
7 benefit provided by a trunk line or 135 times the benefit provided by a single access line.

8 (d) Based on information provided by Service Suppliers who remitted 85% of the total
9 emergency response fees remitted to the City between October, 2001 and February, 2002, the Board
10 estimates that 83% of the access line equivalents (including trunk lines and high capacity trunk lines)
11 servicing subscribers to local telephone service within the City and County of San Francisco are subject
12 to the fee and 17% are exempt from the fee.

13 (e) The portion of Operating Costs reflecting the benefits estimated to be provided by operation
14 of the 911 Communication System to telephone subscribers who are subject to the fee ("Eligible
15 Operating Costs") may be financed from emergency response fee revenues. The portion of Operating
16 Costs reflecting the benefits estimated to be provided by operation of the 911 Communication System to
17 telephone subscribers who are exempted from the fee ("Exempt Operating Costs") may not be financed
18 from emergency response fee revenues.

19 SEC. 753. IMPOSITION OF EMERGENCY RESPONSE FEE.

20 (a) Commencing on the date specified in Section 772 of this Article, there There is hereby
21 imposed an emergency response fee on every person who maintains access to the 911
22 communication system by subscribing to local telephone service within the City and County of
23 San Francisco. For purposes of this Article, with respect to mobile telecommunications services, a
24 person shall be construed to subscribe to local telephone service within the City and County of San
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1 San Francisco if he or she has a "place of primary use", as such term is defined in the Mobile
2 Telecommunications Sourcing Act, 4. U.S.C. §124(8), within the geographic boundaries of the City.

3 (b) The amount of the fee imposed by this Section shall be paid, on a per-~~access~~-line
4 basis, by the person paying for such local telephone service; however, no telephone
5 subscriber shall be required to pay fees in excess of \$10,000 per account per service location in
6 any twelve-month period ending on or before December 31, 1997. Commencing in 1998, no
7 telephone subscriber shall be required to pay fees in excess of \$20,000 per account per service
8 location in any calendar year. Commencing in 2002, no telephone subscriber shall be required to pay
9 fees in excess of \$25,000 per account per service location in any calendar year. The cost of wireless
10 telecommunications services shall not be considered for purposes of this subsection (b). The amount of
11 the cap established by this subsection shall be adjusted annually by the Consumer Price Index: All
12 Urban Consumers for the San Francisco / Oakland / San Jose Area for All Items as reported by the
13 United States Bureau of Labor Statistics.

14 (c) Only one payment of the fee herein imposed shall be required for any access
15 line, trunk line or high capacity trunk line, notwithstanding that access lines of more than one
16 person are used in furnishing local telephone service to a telephone subscriber.

17 (d) Revenues generated by the emergency response fee shall be deposited in the
18 911 emergency response fund authorized by Section ~~10.204~~10.100-67 of the San Francisco
19 Administrative Code and shall be used exclusively to pay for eligible project costs and eligible
20 operating costs, including eligible operating costs accruing in Fiscal Year 2001-2002 before adoption
21 of the ordinance in Board of Supervisors File Number 02-0193.

22 SEC. 755. FEE SCHEDULE.

23 The amount of the fee shall be \$.50 per month per access line or \$2.50 (5 x \$.50) per month
24 per trunk line. Commencing on December 1, 1997, the amount of the fee shall be \$1.00 per
25 month per access line or \$5.00 per month per trunk line. Commencing on August 1, 2002, the

1 amount of the fee shall be \$1.00 per month per access line, \$7.50 per month per trunk line, and \$135
2 per month per high capacity trunk line.

3 SEC. 755.1 REPORTS.

4 a) No later than April 1 each year, the Controller shall estimate the percentage of access lines
5 that were subject to payment of the emergency response fee during the immediately prior calendar
6 year. This percentage shall be identified as the percentage of Project Costs and Operating Costs that
7 are Eligible Operating Costs and Eligible Operating Costs for the following fiscal year. The
8 Controller's report shall also identify the adjusted amount of the fee cap established by subsection (b)
9 of Section 753 that will apply in the following calendar year.

10 b) No later than April 1 in each odd numbered year, the Controller will evaluate information
11 from industry sources, regulatory bodies and City experience to determine whether the fee rates for
12 trunk lines and high capacity trunk lines continue to reasonably reflect the increased estimated access
13 to the 911 communication system provided to trunk line and high capacity trunk line subscribers
14 relative to access line subscribers.

15 ~~SEC. 756. SUNSET OF FEE.~~

16 ~~The fee imposed by this Article shall expire upon the Controller's written certification to the Clerk of~~
17 ~~the Board of Supervisors, at least 120 days before the expiration date, that total fee revenues will have~~
18 ~~been sufficient to recover actual eligible project costs, as these costs have been determined by the~~
19 ~~Controller. However, under no circumstances shall total fee revenues exceed \$100,000,000. The Tax~~
20 ~~Collector shall notify service suppliers within 15 days of a Controller's certification that the fee will~~
21 ~~expire as of the date identified in the certification.~~

22 SEC. 757. COLLECTION OF FEE.

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

3 (b) The fee required to be collected by service suppliers under this ordinance shall
4 be added to and stated separately as the San Francisco emergency response fee in the
5 service supplier's billings to telephone subscribers.

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

10 (d) The duty to collect the fee from a telephone subscriber shall commence with
11 bills issued on or after the operative date of this Article, ~~as specified by Section 772 and shall~~
12 ~~cease on the date identified by the Controller or the Tax Collector under Section 756 of this Article .~~

13 Section 2. The San Francisco Administrative Code is hereby amended by amending
14 Section 10.100-67 to read as follows:

15 SEC. 10.100-67. EMERGENCY COMMUNICATIONS 911 EMERGENCY RESPONSE
16 FUND.

17 (a) Establishment of Fund. The Emergency Communications 911 Emergency
18 Response Fund is established as a category four fund to receive all monies collected
19 pursuant to Article 10A of Part III of the San Francisco Municipal Code and any other monies
20 transferred into the fund.

21 (b) Use of Fund. The fund shall be used solely for the following purposes:

22 1. For the payment of costs of acquiring land on which to locate a 911
23 communication system facility or backup 911 Communication System facility, acquiring and
24 installing computerized call delivery processing and dispatch equipment and software, and/or
25 any other acquisition or construction necessary to combine 911 communication staff under a

1 single uniform command structure and to house 911 communication system equipment and
2 staff in a seismically safe and fireproof facility or backup facility, including any debt service
3 payments related thereto;

4 2. For the payment of operating, repair and maintenance expenses for the
5 911 communication system and backup 911 communication system, including but not limited to costs
6 for personnel, training, software and hardware maintenance and upgrades, facility maintenance and
7 repair and attorneys fees;

8 The term "911 communication system" shall have the meaning set forth in
9 Section 751(a) of Part III of the San Francisco Municipal Code.

10 (c) Administration of Fund. Expenditures from the fund -shall be made upon the
11 recommendation of the Director of Emergency Communications. Expenditures and
12 encumbrances from this fund shall be subject to the budget and fiscal provisions of the
13 Charter.

14
15 APPROVED AS TO FORM:
16 DENNIS J. HERRERA
17 City Attorney

17 By: Julia M. C. Friedlander
18 Julia M. C. Friedlander
19 Deputy City Attorney
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23
24
25



City and County of San Francisco

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

Tails Ordinance

File Number: 020193

Date Passed:

Ordinance amending Articles 6 and 10a of the San Francisco Business And Tax Regulations Code by amending Sections 6.1-1, 750, 751, 753, 755 and 757, deleting section 756 and adding sections 752.2 And 755.1 to clarify the application of the Code's common administrative provisions to the Emergency Response Fee; to provide for use of Emergency Response Fee Revenues for operating costs of the 911 Communication System; to update the findings supporting the fee; to increase the amount of the annual cap on fee payments per account, per service location to reflect inflation; to increase the fee rate for trunk line subscribers and add a rate for high capacity trunk line subscribers; and to eliminate the fee sunset, and amending section 10.100-67 of the San Francisco Administrative Code to allow for use of monies in the Emergency Communications 911 Emergency Response Fund for operating costs of the 911 Communication System.

April 29, 2002 Board of Supervisors — PASSED ON FIRST READING

Ayes: 10 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick,
Newsom, Peskin, Sandoval
Noes: 1 - Yee

May 6, 2002 Board of Supervisors — FINALLY PASSED

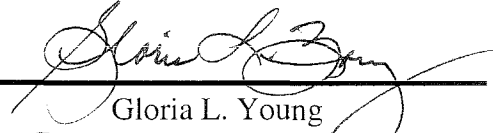
Ayes: 10 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick,
Newsom, Peskin, Sandoval
Noes: 1 - Yee

File No. 020193

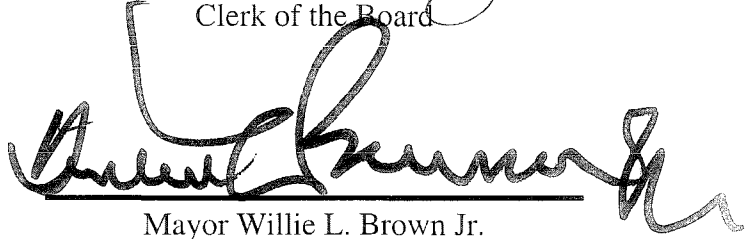
I hereby certify that the foregoing Ordinance was FINALLY PASSED on May 6, 2002 by the Board of Supervisors of the City and County of San Francisco.

MAY 10 2002

Date Approved



Gloria L. Young
Clerk of the Board



Mayor Willie L. Brown Jr.