

1 [Requiring Activation of Closed Captions on Television Receivers.]

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3 **Ordinance amending the San Francisco Police Code by adding Article 44, Sections**
4 **4400 to 4407 to require the activation of closed captioning on television receivers**
5 **intended for use by the general public and authorizing the imposition of civil penalties**
6 **and/or criminal fines for violations of this requirement.**

7 Note: Additions are *single-underline italics Times New Roman*;
8 deletions are *strikethrough italics Times New Roman*.
9 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

11 Section 1. FINDINGS.

12 (a) Hearing loss is a significant problem in the United States. It is estimated that
13 approximately one in 20 Americans are hearing impaired. This means that nearly 10,000,000
14 Americans are hearing impaired, nearly 1,000,000 of these are functionally deaf.

15 (b) As television increasingly becomes a more important means of communication,
16 it is critical that hearing impaired persons have full access to this medium. Since 1980, closed
17 captioning has been used to provide this assistance.

18 (c) Closed captioning consists of a transcript or dialog of the audio portion of a
19 television program that is displayed along the bottom portion of the television receiver screen
20 when the user activates the feature.

21 (d) In 1993, the Federal Communications Commission ("FCC") required that all
22 analog television receivers manufactured and sold in the United States with screens larger
23 than 13 inches contain built-in decoder circuitry to display closed captions. In 2002, the FCC
24 imposed a similar requirement on digital television receivers. As a result, it is likely that most
25 televisions in use today have this capability.

1 (e) In 1996, Congress amended the Communications Act to require that all video
2 program distributors (including broadcasters, cable operators, etc.) add closed captioning to
3 certain video programming and authorized the FCC to establish a transition schedule for
4 complying with this requirement.

5 (f) Under the FCC's rules, since January 1, 2006 video program distributors have
6 been required to add closed captioning to all new English language programming. Starting on
7 January 1, 2010, a similar requirement will apply to Spanish language programming. The
8 FCC also required video program distributors to add closed captioning to a certain percentage
9 of their previously broadcast programs. As a result, a high percentage of television programs
10 that are broadcast today are likely to have closed captions.

11 (g) Television receivers are increasingly in use in facilities that are open to the
12 general public. Hospital waiting rooms, bars and restaurants, health clubs, bus stations,
13 airport lounges, appliance stores, etc. are the types of locations where the general public can
14 gain access to television broadcasts.

15 (h) Television receivers in these locations enable members of the general public to
16 obtain the latest news reports in an emergency, watch their local sports teams in action, or
17 simply pass the time while waiting for an appointment or service to be completed. Hearing-
18 impaired persons should not be excluded from these activities.

19 (i) Federal requirements under the Americans with Disabilities Act ("ADA") are
20 limited in this regard. While the ADA requires places of "public accommodation" to ensure
21 that disabled persons are not discriminated against because of the absence "auxiliary aides
22 and services" including closed caption decoders, regulations promulgated by the United
23 States Department of Justice only require the use of closed captioned television receivers in
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1 hotels with five or more rooms and hospital waiting rooms. The ADA, however, does not
2 prevent the City and County of San Francisco from imposing more stringent requirements.

3 (j) This ordinance, therefore, requires that television receivers located in any part of
4 a facility open to the general public have closed captioning activated at all times when the
5 facility is open and the television receiver is in use.

6 Section 2. The San Francisco Police Code is hereby amended by add Article 44,
7 Sections 4400 to 4407, to read as follows:

8 SEC. 4400. TITLE.

9 This Article shall be known as the Closed Captions Activation Requirement Ordinance.

10 SEC. 4401. DEFINITIONS.

11 The following words and phrases, whenever used in this Article, shall be construed as defined in
12 this Section:

13 (a) "City" means the City and County of San Francisco.

14 (b) "Closed-Captioned Television Receiver" means a television receiver that has a built-in
15 decoder to display Closed Captioning.

16 (c) "Closed Captioning" means a transcript or dialog of the audio portion of a television
17 program that is displayed on the bottom portion of a television receiver screen when the user activates
18 the feature.

19 (d) "Person" means a natural person or any legal entity, including but not limited to a
20 corporation, firm, partnership or trust.

21 (e) "Public Area" means that part of a Public Facility that is open to members of the
22 general public. By way of example only, Public Area includes the following: (1) lobbies and reception
23 areas of businesses open to the public; (2) waiting rooms in hospitals, out patient clinics and other
24 medical offices; (3) service areas of bars and restaurants; (4) exercise, lounge, dressing and bar and

1 restaurants areas of health clubs; (6) sales areas of retail stores; (7) classrooms and other parts of
2 school buildings serving students and faculty members; and (8) service areas of barbershops, hair or
3 nail salons.

4 (f) "Public Facility" means any building, business, store, office or indoor or outdoor
5 facility of any kind that is open to all members of the general public or only to certain members of the
6 general public (i.e., customers, patients, guests, residents, ticket holders, passengers, students, clients,
7 members). By way of example only, a Public Facility includes the following: (1) hospitals, out-patient
8 clinics, or other medical facilities; (2) restaurants, bars, clubs, or other establishments that serve food
9 and/or drinks for consumption on the premises; (3) health, golf, tennis, swim or boat clubs, gyms, or
10 other facilities used for recreation or exercise; (4) hair or nail salons, barbershops, cleaners, day spas,
11 laundromats, travel agencies, or other facilities that offer personal services; (5) offices used by doctors,
12 dentists, accountants, lawyers, architects, engineers, insurance agents or adjustors, or other
13 professionals; (6) service stations, stores or shops for the repair or maintenance of appliances, shoes,
14 motor vehicles, or other items or products; (7) automobile and motorcycle dealerships, or other
15 showrooms for the display of merchandise offered for sale; (8) grocery and specialty food stores, or
16 other stores that sell consumable products; (9) clothing, shoe, cookware, photo, general merchandise,
17 gift, appliance, department, furniture and hardware stores, pharmacies, or other stores that sell goods
18 or merchandise; (10) video arcades, game rooms, pool halls, bowling alleys, amusement parks, or
19 other recreation or amusement center; (11) banks, savings and loan offices, brokerage houses, or other
20 businesses offering financial services; (12) inns, hotels and motels, or other places that provide
21 accommodations to the public; (13) motion picture houses, theaters, concert halls, stadiums, arenas, or
22 other places used for exhibitions or entertainment; (14) libraries, book, music, and video stores, or
23 other places that lend or sell reading, listening or viewing materials; (15) auditoriums, convention
24 centers, lecture halls, or other places used for public gatherings; (16) terminals, depots, or other

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1 stations used for public transportation (including the San Francisco International Airport); (17)
2 museums, galleries, or other places used to display exhibitions of art or other items; (18) public or
3 private nursery, elementary, secondary, undergraduate, or postgraduate schools, or other places of
4 education; (19) day care centers, senior citizen centers, homeless shelters, food banks, adoption
5 agencies, or other social service centers or establishments; (20) parks, open spaces, zoos, or other
6 outdoor recreation areas; and (21) City government offices.

7 (g) “Regular Hours” means the hours of any day in which a Public Facility is generally
8 open to members of the general public.

9 SEC. 4402. ACTIVATION OF CLOSED CAPTIONING REQUIRED.

10 It shall be unlawful for any Person owning or managing a Public Facility to fail to keep Closed
11 Captioning activated on any Closed-Captioned Television Receiver that is in use during Regular Hours
12 in any Public Area.

13 SEC. 4403. REMEDIAL ACTION NOT REQUIRED.

14 Nothing in this Article should be construed to require any Person owning or managing a Public
15 Facility to make a Closed Captioned Television Receiver available for viewing in a Public Area if:
16 (a) no television receiver of any kind is available in a Public Area of the Public Facility; (b) the only
17 television receiver available in a Public Area of the Public Facility is not a Closed Captioned
18 Television Receiver.

19 SEC. 4404. CIVIL PENALTIES AND FEES.

20 Any Person who violates this Article may be liable for a civil penalty not to exceed \$500 for
21 each day such violation is committed or permitted to continue. Such penalty shall be assessed and
22 recovered in a civil action brought in the name of the people of the City by the City Attorney in any
23 court of competent jurisdiction. In assessing the amount of the civil penalty, the court may consider
24 any one or more of the relevant circumstances presented by any of the parties to the case including, but
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1 not limited to, the following: the nature and seriousness of the violations, the number of violations, the
2 persistence of the violations, the length of time over which the violations occurred, the willfulness of the
3 Person charged with the violations, and the assets, liabilities, and net worth of the Person charged with
4 the violations. The City Attorney also may seek recovery of the attorney's fees and costs incurred in
5 bringing a civil action pursuant to this Section.

6 SEC. 4405. CRIMINAL FINES.

7 (a) Any Person who violates this Article shall be deemed guilty of an infraction. Every
8 violation determined to be an infraction is punishable by: (1) a fine not exceeding \$100 for the first
9 violation within one year; (2) a fine not exceeding \$200 for a second violation within one year from the
10 date of the first violation; (3) a fine not exceeding \$500 for the third and each additional violation
11 within one year from the date of the first violation.

12 (b) When a government official authorized to enforce this Article pursuant to Subsection (a)
13 has reasonable cause to believe that any Person has committed an infraction in the official's presence
14 that is a violation of this Article the official may issue a citation to that Person pursuant to California
15 Penal Code, Part II, Title 3, Chapters 5, 5C, and 5D.

16 SEC. 4406. DISCLAIMER.

17 In enforcing this Article, the City is assuming an undertaking only to promote the general
18 welfare. The City is not assuming, nor is it imposing on its officers and employees, an obligation for
19 which a breach by the City could result in the City being liable in money damages to any person who
20 claims that such breach proximately caused injury.

21 SEC. 4407. SEVERABILITY.

22 If any provision of this Article, or the application of any such provision to any Person or
23 circumstances, shall be held invalid, the remainder of this Article, to the extent it can be given effect, or
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1 the application of those provisions to Persons or circumstances other than those to which it is held
2 invalid, shall not be affected thereby, and to this end the provisions of this Article are severable.

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4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

6 By: _____
7 WILLIAM K. SANDERS
8 Deputy City Attorney

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