

FILE NO. 040752

ORDINANCE NO.

1 [Amending the Powers and Duties of the Telecommunications Commission.]

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3 **Ordinance amending the San Francisco Administrative Code by amending Sections**  
4 **~~11.84, 11.85, and 11.86, and repealing Sections 11.87, 11.88, and 11.89, to dissolve re-~~**  
5 **define the duties, responsibilities and authority **the Telecommunications Commission.****

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

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

10 Section 1. The San Francisco Administrative Code is hereby amended by amending  
11 Sections ~~11.84, 11.85, and 11.86~~ 11.87, 11.88 and 11.89, to read as follows:

12 Sec. 11.84. FINDINGS AND PURPOSE.

13 (a) Technological innovations are making a variety of new audio, video and  
14 data transfer telecommunications technologies available. Many existing and new  
15 telecommunications systems require the placement of facilities under, on, and over the City  
16 streets and on both private and public structures to provide telecommunications services to  
17 subscribers and users. Substantial public concern has been raised as to the appropriateness  
18 of the City's approval process for these requests. The increased number of  
19 telecommunications suppliers seeking to locate these facilities in the streets increases  
20 burdens on the physical infrastructure of the streets, as well as increasing the administrative  
21 work load of various City agencies in evaluating the impact of these facilities. In order to  
22 manage these increased burdens, the City must expand its planning for the use of the streets,  
23 foster public-private cooperation, ensure that the public receives fair compensation for  
24 ongoing and comprehensive use of public property by private entities, and ensure that the

1 City's regulations regarding the use of the streets are adequate to protect the health, safety  
2 and welfare of City residents and that administrative costs are covered.

3 (b) Within the limits of preemptive federal and/or State law, the City should  
4 do everything possible to promote open and fair competition among telecommunications  
5 providers within the City; to ensure that new telecommunications services are made available  
6 to San Francisco residents and businesses on a fair and nondiscriminatory basis; to ensure  
7 that the principle of universal access to telecommunications services is upheld within the City;  
8 to ensure that public, educational and municipal access to video programming channels is  
9 preserved; to promote the safe and efficient use of the streets by telecommunications  
10 providers; to ensure that new telecommunications technologies do not interfere with the City's  
11 emergency communications systems; to ensure that the public receives fair compensation for  
12 the use of the public rights-of-way and the costs of approving and, if necessary, monitoring,  
13 the various devices sought to be installed by telecommunications providers; and to ensure  
14 that the City itself has access to telecommunications services which improve public safety,  
15 public access to government and the efficient delivery of public information and services.

16 (c) In light of the developments and circumstances described above, the  
17 Board finds it necessary and appropriate to promote the public health, safety and general  
18 welfare by creating a Department of Telecommunications and Information Services and to  
19 create a Telecommunications Commission.

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21 SEC. 11.85. DEFINITIONS.

22 For purpose only of this Article IX, the following words shall have the meanings  
23 given herein:

24 (a) "Article" means Article IX of Chapter 11 of the San Francisco  
25 Administrative Code.

- 1 (b) "Board" means the San Francisco Board of Supervisors.
- 2 (c) "Charter" means the Charter of the City and County of San Francisco.
- 3 (d) "City" means the City and County of San Francisco.
- 4 (e) "Commission" means the Telecommunications Commission created by  
5 this Article.
- 6 (ef) "Department" means the Department of Telecommunications and  
7 Information Services created by this Article.
- 8 (fg) "Telecommunications" means the one- or two-way transmission of  
9 messages, information, and/ or programming by electronic means, including the provision of  
10 facilities for the generation, transmission, switching, signaling, control and/or reception of  
11 messages, information and/or programming; provided however that "telecommunications"  
12 shall not mean broadcasting as defined in 47 U.S.C. Section 153(o).

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14 SEC. 11.86. ESTABLISHMENT OF DEPARTMENT; POWERS AND DUTIES.

15 (a) There is hereby created a Department of Telecommunications and  
16 Information Services within the executive branch which shall consist of a Director and such  
17 officers and employees as are authorized pursuant to the budgetary and fiscal provisions of  
18 the Charter. The Director shall serve as appointing officer for the Department.

19 (b) The Department shall assume responsibility for:

20 (1) All functions previously performed by the Department of Electricity and  
21 Telecommunications, including all functions assigned by Chapters 22 and 22B of the  
22 Administrative Code;

23 (2) All functions previously performed by the Information Services Division of  
24 the Controller's office;

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1 (3) Negotiating and recommending to the Board cable television franchises;  
2 (4) Regulating rates for cable television service, consistent with Applicable Law and  
3 subject to approval of the Mayor and the Board of Supervisors;

4 (5) Ensuring good customer service by each Cable Service Operator;

5 (6) Overseeing the use and operation of the cable television public, educational and  
6 governmental access channels;

7 (7) Reviewing every 36 months and revising as necessary the Telecommunications  
8 Plan adopted by the Board in January 2002. The Telecommunications Plan should propose City  
9 policies and procedures to guide the establishment of technologies within the City, facilitate the  
10 deployment of new technologies within the City, maximize the availability of telecommunications  
11 services to City residents, businesses and departments, preserve City property and resources, and  
12 protect the health, safety, and welfare of City residents. Before proposing any revision to the  
13 Telecommunications Plan, the Department shall consult with the public, including residents and  
14 independent experts. Any revision shall be submitted to the Mayor and the Board for adoption; and.

15 (8) Providing staff support to the Telecommunications Commission; and

16 (94) All additional functions assigned by the Mayor pursuant to Section 4.132  
17 of the Charter.

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19 Section 2. ~~The San Francisco Administrative Code is hereby amended by repealing~~  
20 ~~Sections 11.87, 11.88, and 11.89, in their entirety.~~

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22 SEC. 11.87. ESTABLISHMENT OF COMMISSION.

23 (a) Establishment of Commission. A Telecommunications Commission for  
24 the City and County of San Francisco is hereby created consisting of five voting members.

1           (b) Appointment of Commissioners. Commission members shall be  
2 appointed by the Mayor, subject to approval or rejection by Resolution of the Board. Members  
3 may be removed by the Mayor. No person shall be eligible to serve as a member who is a  
4 telecommunications provider or is employed by a telecommunications provider within the City  
5 that may have business before the Commission.

6           (c) Composition of Commission. Appointments, qualifications and  
7 composition of the Commission shall be consistent with the requirements of Section 4.101 of  
8 the Charter. At least one member of the Commission shall be drawn from among people with  
9 expertise in fields related to the Commission's work, including, but not limited to  
10 telecommunications management and telecommunications engineering. At least one member  
11 of the Commission shall represent the public, educational and government access to  
12 telecommunications and information services technologies. At least two members shall  
13 represent the interests of consumers and the general public.

14           (d) Terms of Office. The Mayor shall designate one member who is first  
15 appointed to serve a term of one year, two of the members who are first appointed to serve for  
16 terms of two years and two of the members who are first appointed to serve for terms of three  
17 years. Thereafter, members shall serve for terms of three years. At its first meeting, and  
18 annually thereafter, the Commission shall elect a chair from among its members for a term of  
19 one year.

20           (e) Resignation by Operation of Law/Removal of Commissioners. Any  
21 member whom the Commission certifies to have missed three regularly scheduled meetings  
22 of the Commission in any 12-month period without prior authorization of the Commission shall  
23 be deemed to have resigned from the Commission effective on the date of the written  
24 certification from the Commission.

1           (f) Compensation. Members shall receive \$25 for each meeting of the  
2 Commission actually attended; provided, however, that no member shall be paid for attending  
3 more than three Commission meetings in any one calendar month.

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5           SEC. 11.88. COMMISSION POWERS AND DUTIES.

6           The Commission's powers and duties shall include:

7           (a) Advising the Director of the Department of Telecommunications and  
8 Information Services in all matters related to the discharge of his or her duties; including, but  
9 not limited to, advice regarding the regulation of rates for the basic cable television service  
10 tier, customer service by cable television operators, and the use and operation of the cable  
11 television public, educational or governmental access channels.

12           ~~—— (b) — Monitoring and advising the Mayor, the Board of Supervisors and other City~~  
13 ~~departments about advances in the field of telecommunications and the impact of such advances on the~~  
14 ~~City;~~

15           ~~—— (c) — Establishing policies regarding the use and occupation of the public rights of~~  
16 ~~way for installation of telecommunications facilities;~~

17           ~~—— (d) — Within the limits of preemptive federal and/or State law, and consistent with~~  
18 ~~Section 4.104 of the Charter, adopting rules and procedures governing:~~

19           ~~—— (1) — Regulation of rates for the basic cable television service tier;~~

20           ~~—— (2) — Customer service by cable television operators;~~

21           ~~—— (3) — The use and operation of the cable television public, educational or~~  
22 ~~governmental access channels, and~~

23           ~~—— (4) — Any additional rules and regulations necessary for the conduct of its business;~~

1            ~~—— (e) —— Issuing orders to adjust, settle or compromise any controversy between any~~  
2 ~~cable operator, as defined in 47 U.S.C. Section 522 or any successor statute, and any subscriber~~  
3 ~~regarding the subscriber's bill, signal, services, or any other matter within the City's jurisdiction;~~

4            ~~—— (f) —— In addition to the functions prescribed in (a) through (e) above, the Commission~~  
5 ~~shall evaluate City policies and procedures affecting the provision of telecommunications services and~~  
6 ~~the installation of telecommunications facilities within the City and develop a City Telecommunications~~  
7 ~~Plan. The Telecommunications Plan should propose City policies and procedures to guide the~~  
8 ~~installation of telecommunications facilities in the City. These policies should facilitate the deployment~~  
9 ~~of new technologies within the City, maximize the availability of telecommunications services to City~~  
10 ~~residents, businesses and departments, preserve City property and resources, and protect the health,~~  
11 ~~safety and welfare of City residents. The Telecommunications Plan should be developed with maximum~~  
12 ~~public participation including residents, independent experts, Telecommunications Providers and City~~  
13 ~~departments. The Plan shall be submitted to the Mayor and the Board for adoption as the City's~~  
14 ~~Telecommunications Plan. It shall be updated, after public participation and hearings, and if~~  
15 ~~necessary, amended, every 24 months.~~

16            (b) In addition to the functions prescribed in (a) above, the Commission shall  
17 evaluate City policies and procedures affecting the provision of telecommunications services  
18 and the installation of telecommunications facilities within the City and develop a City  
19 Telecommunications Plan. The Telecommunications Plan should propose City policies and  
20 procedures to guide the installation of telecommunications facilities in the City. These policies  
21 should facilitate the deployment of new technologies within the City, maximize the availability  
22 of telecommunications services to City residents, businesses and departments, preserve City  
23 property and resources, and protect the health, safety and welfare of City residents. The  
24 Telecommunications Plan should be developed with maximum public participation including  
25 residents, independent experts, Telecommunications Providers and City departments. The

1 Plan shall be submitted to the Mayor and the Board for adoption as the City's  
2 Telecommunications Plan. It shall be updated, after public participation and hearings, and if  
3 necessary, amended, every 24 months.

4 SEC. 11.89. COMMISSION MEETINGS.

5 The Commission shall meet from time to time, at the request of Director of the  
6 Department, except that for purposes of review and adoption of the Telecommunication Plan  
7 described in (b), above, the Commission shall meet no sooner than six months before the  
8 Plan is to be adopted, and shall meet as necessary thereafter, for purposes of updating and  
9 amending the plan, until the plan is adopted.

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11 APPROVED AS TO FORM:  
12 DENNIS J. HERRERA, City Attorney

13 By: \_\_\_\_\_  
14 CHERYL ADAMS  
15 Deputy City Attorney

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