

Exhibit A

AMENDED IN BOARD
6/15/10

FILE NO. 100104

ORDINANCE NO. 155-10

1 [Cell Phones; Retailers' Duty to Disclose Specific Absorption Rate Values.]

2
3 Ordinance amending the San Francisco Environment Code by adding Chapter 11,
4 Sections 1100 through ~~1106~~ 4406, to require retailers to disclose Specific Absorption
5 Rate values for cell phones, and making environmental findings.

6 Note: Additions are single-underline italics Times New Roman,
7 deletions are ~~strike-through italics Times New Roman~~.
8 Board amendment additions are double underlined.
Board amendment deletions are ~~strike-through normal~~.

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

10
11 Section 1. Findings.

12 (a) Government agencies and scientific bodies in the European Union (EU) and Israel
13 have recognized the potential harm of long-term exposure to radiation emitted from cell
14 phones and, as a result, have issued warnings about their use, especially their use by
15 children.

16 (b) The United States Federal Communications Commission ("the FCC") has
17 established a maximum allowable Specific Absorption Rate ("SAR") rating that manufacturers
18 must disclose to the government when offering a portable wireless device (cell phone) for
19 sale. The SAR is a value that corresponds to the relative amount of radiofrequency energy
20 absorbed in the head or body of a user of a wireless handset. At the time of adoption of this
21 ordinance, the FCC limit for public exposure from cellular telephones is an SAR level of
22 1.6 watts per kilogram (1.6 W/kg) for spatial peak (local) SAR, such as SAR in the user's
23 head, as averaged over any 1 gram of tissue.

24 (c) The SAR values for different makes and models of cell phones differ widely, but
25 consumers are not able to make informed purchasing decisions because there is no

Mayor Newsom, Supervisor Maxwell
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1 requirement that the retailer provide the applicable SAR values to the consumer at the point
2 when the consumer is deciding between various makes and models.

3 (d) Cell phones are an important communication tool, especially during emergencies,
4 and radiation exposure from cell phones can be reduced by using a speakerphone or a
5 headset, or by sending text messages.

6
7 Section 2. The San Francisco Environment Code is hereby amended by adding
8 Chapter 11, Sections 1100 through 1106 1105, to read as follows:

9
10 **CHAPTER 11: CELL PHONE DISCLOSURE REQUIREMENTS**

11
12 **SEC. 1100. TITLE.**

13 *This Chapter may be known as the "Cell Phone Right-to-Know Ordinance."*

14
15 **SEC. 1101. DEFINITIONS.**

16 *For the purposes of this Chapter, the following terms shall have the following meanings, unless*
17 *the context requires otherwise:*

18 *(a) "Cell phone" means a portable wireless telephone device that is designed to send or receive*
19 *transmissions through a cellular radiotelephone service, as defined in Section 22.99 of Title 47 of the*
20 *Code of Federal Regulations. A cell phone does not include a wireless telephone device that is*
21 *integrated into the electrical architecture of a motor vehicle.*

22 *(b) "Cell phone retailer" means any person or entity within the City which sells or leases cell*
23 *phones to the public or which offers cell phones for sale or lease. "Cell phone retailer" shall include a*
24 *"formula cell phone retailer." "Cell phone retailer" shall not include anyone selling or leasing cell*
25 *phones over the phone, by mail, or over the internet. "Cell phone retailer" shall also not include*

1 anyone selling or leasing cell phones directly to the public at a convention, trade show, or conference,
2 or otherwise selling or leasing cell phones directly to the public within the City for fewer than 10 days
3 in a year.

4 (c) "Cell phone service provider" means a telecommunications common carrier authorized to
5 offer and provide cellular service for hire to the general public.

6 (d) "Director" means the Director of the Department of the Environment, or his or her
7 designee.

8 (e) "Display materials" means informational or promotional materials posted adjacent to a
9 sample phone or phones on display at the retail location that describe or list the features of the phone.
10 "Display materials" shall not include any tag, sticker, or decal attached to a cell phone by the
11 manufacturer, the manufacturer's packaging for a cell phone, or materials that list only the price and
12 an identifier for the phone.

13 (f) "Formula cell phone retailer" means a cell phone retailer which sells or leases cell phones
14 to the public, or which offers cell phones for sale or lease, through a retail sales establishment located
15 in the City which, along with eleven or more other retail sales establishments located in the United
16 States, maintains two or more of the following features: a standardized array of merchandise; a
17 standardized facade; a standardized decor and color scheme; a uniform apparel; standardized
18 signage; or, a trademark or service mark.

19 (g) "SAR value" means the maximum whole-body and spatial peak Specific Absorption Rate for
20 a particular make and model of cell phone as registered with the Federal Communications
21 Commission. (See, generally, Section 2.1093 of Title 47 of the Code of Federal Regulations.)

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1 **SEC. 1104. DEPARTMENTAL FACTSHEETS: ASSISTANCE WITH COMPLIANCE.**

2 (a) Following a public hearing, the Department of the Environment, in consultation with the
3 Department of Public Health, shall develop a supplemental factsheet regarding SAR values and the use
4 of cell phones, as well as templates for display materials and store posters required by this Chapter.
5 The Department of the Environment shall hold the initial public hearing by September 1, 2010, and
6 complete the supplemental factsheet by November 1, 2010. The supplemental factsheet shall be no
7 larger than 8.5 inches by 11 inches.

8 (b) By November 1, 2010, the Department of the Environment shall issue regulations specifying
9 the contents and format for the elements required by Section 1103, subsections (a) and (b), for display
10 materials and store posters, respectively. By that date, the Department of the Environment shall also
11 adopt templates for display materials and store posters.

12 (c) The Department shall develop content for all of these materials that is based on and
13 consistent with the relevant information provided by the FCC or other federal agencies having
14 jurisdiction over cell phones, explaining the significance of the SAR value and potential effects of
15 exposure to cell phone radiation. The materials shall also inform customers of actions that can be
16 taken by cell phone users to minimize exposure to radiation, such as turning off cell phones when not in
17 use, using a headset and speaker phone, or texting.

18
19 **SEC. 1105. IMPLEMENTATION AND ENFORCEMENT.**

20 (a) Notwithstanding those provisions of Section 1103(a) and (b) applicable to formula cell
21 phone retailers, requiring them to make certain disclosures and statements in connection with cell
22 phone sales and leases, the City shall not enforce those provisions until May 1, 2011. During the
23 period between the operative date for those requirements, February 1, 2011, and May 1, 2011, the
24 Department of the Environment shall conduct an education and assistance program for formula cell
25

1 Chapter is not a misdemeanor, and the Board of Supervisors intends that the requirements of
2 this Chapter be enforced only through administrative fines as provided in this Section.

3 (f) For purposes of this Chapter, each individual item that is sold or leased, or offered for sale
4 or lease, contrary to the provisions of this Chapter or any regulation issued under this Chapter shall
5 constitute a separate violation.

6
7 **SEC. 1106. DISCLAIMER:**

8 In adopting and implementing this Chapter, the City and County of San Francisco is
9 assuming an undertaking only to promote the general welfare. It is not assuming, nor is it
10 imposing on its officers and employees, an obligation for breach of which it is liable in money
11 damages to any person who claims that such breach proximately caused injury.

12
13 **Section 3. Additional Provisions.**

14 ~~(a) Disclaimer. In adopting and implementing this Chapter, the City and County of San~~
15 ~~Francisco is assuming an undertaking only to promote the general welfare. It is not assuming,~~
16 ~~nor is it imposing on its officers and employees, an obligation for breach of which it is liable in~~
17 ~~money damages to any person who claims that such breach proximately caused injury.~~

18 **(a) (b) Conflict with State or Federal Law.** This Chapter shall be construed so as not
19 to conflict with applicable federal or State laws, rules or regulations. Nothing in this Chapter
20 shall authorize any City agency or department to impose any duties or obligations in conflict
21 with limitations on municipal authority established by State or federal law at the time such
22 agency or department action is taken.

23 **(b) (c) Severability.** If any of the provisions of this Chapter or the application thereof
24 to any person or circumstance is held invalid, the remainder of those provisions, including the
25 application of such part or provisions to persons or circumstances other than those to which it

Mayor Newsom, Supervisor Maxwell
BOARD OF SUPERVISORS



City and County of San Francisco
Tails
Ordinance

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

File Number: 100104

Date Passed: June 22, 2010

Ordinance amending the San Francisco Environment Code by adding Chapter 11, Sections 1100 through 1108, to require retailers to disclose specific absorption rate values for cell phones, and making environmental findings.

June 08, 2010 Board of Supervisors - CONTINUED ON FIRST READING

Ayes: 9 - Alloto-Pier, Campos, Chiu, Chu, Daly, Elsbernd, Mar, Maxwell and Mirkarimi
Noes: 2 - Avalos and Dufty

June 15, 2010 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

Ayes: 11 - Alloto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi

June 15, 2010 Board of Supervisors - PASSED ON FIRST READING AS AMENDED

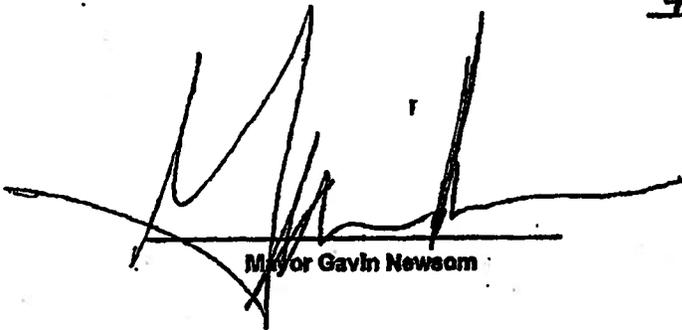
Ayes: 10 - Alloto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Mar, Maxwell and Mirkarimi
Noes: 1 - Elsbernd

June 22, 2010 Board of Supervisors - FINALLY PASSED

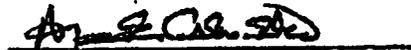
Ayes: 9 - Avalos, Campos, Chiu, Chu, Daly, Dufty, Mar, Maxwell and Mirkarimi
Noes: 1 - Elsbernd
Excused: 1 - Alloto-Pier

File No. 100104

I hereby certify that the foregoing Ordinance was **FINALLY PASSED** on 6/22/2010 by the Board of Supervisors of the City and County of San Francisco.



Mayor Gavin Newsom



Angela Calvillo
Clerk of the Board

JULY 1, 2010
Date Approved

Exhibit B

Amendment of the Whole – 7/11/11
ORDINANCE NO. 165-11

FILE NO. 110656

1 [Environment Code—Cell Phone Disclosure Requirements]

2
3 **Ordinance amending the San Francisco Environment Code Sections 1101 through 1105**
4 **to require cell phone retailers to provide their customers with information regarding**
5 **how to limit exposure to the radiofrequency energy emitted by cell phones in place of**
6 **the mandatory disclosure of Specific Absorption Rate values for cell phone models.**

7 NOTE: Additions are single-underline italics Times New Roman;
8 deletions are ~~strike-through 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 1. It is the policy of the City and County of San Francisco to adhere to the
13 Precautionary Principle, which provides that the government should not wait for scientific
14 proof of a health or safety risk before taking steps to inform the public of the potential for
15 harm.

16 2. There is a debate in the scientific community about the health effects of cell phones.

17 3. Numerous studies have identified evidence of an increased risk of brain cancer and
18 other illnesses as a result of cell phone use, as well as heightened health concerns for
19 children and pregnant women.

20 4. Leading epidemiologists who have studied the effects of radiofrequency energy
21 absorbed from cell phones have recommended that the public be informed of the potential for
22 adverse health effects from long-term cell phone use, particularly for children. See Cardis and
23 Sadetski, "Indications of possible brain-tumour risk in mobile-phone studies: Should we be
24 concerned?," Journal of Occupational and Environmental Medicine, Jan. 24, 2011.

25
Supervisor Avalos , Mar
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1 5. Most cellular phone user manuals disclose, in fine print, that if a user holds a phone
2 too close to his or her body, his or her phone may exceed the radiofrequency energy
3 exposure limitation set by the Federal Communications Commission ("FCC").

4 6. FCC regulations presently do not require cell phone manufacturers to measure the
5 amount of radiofrequency energy an average user will absorb from each model of cell phone.
6 The amount of radiofrequency energy a user will absorb from a particular model of cell phone
7 depends on numerous factors, including how the phone is used, the frequency on which it
8 operates and the communication system it uses (for example, CDMA technology or GSM
9 technology).

10 7. The Board urges the FCC and the scientific community to develop a metric for
11 measuring the actual amount of radiofrequency energy an average user will absorb from each
12 model of cell phone. Such a metric would better enable consumers concerned about the
13 potential effects of radiofrequency emissions to compare cell phone models and make
14 informed purchasing decisions.

15 8. The Board finds that until such a metric is developed, it is in the interest of the public
16 health to require cell phone retailers to inform consumers about the potential health effects of
17 cell phone use, and about measures they can take to reduce their exposure to radiofrequency
18 energy from cell phones. The purpose of this legislation is to improve and strengthen the
19 disclosures required under the original Cell Phone Right-to-Know Ordinance to better achieve
20 this public health purpose.

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1 Section 2. The San Francisco Environment Code is hereby amended by amending
2 Sections 1101 through 1105, to read as follows:

3 **SEC. 1101. DEFINITIONS.**

4 For the purposes of this Chapter, the following terms shall have the following
5 meanings, unless the context requires otherwise:

6 (a) "Cell phone" means a portable wireless telephone device that is designed to send
7 or receive transmissions through a cellular radiotelephone service, as defined in Section
8 22.99 of Title 47 of the Code of Federal Regulations. A cell phone does not include a wireless
9 telephone device that is integrated into the electrical architecture of a motor vehicle.

10 (b) "Cell phone retailer" means any person or entity within the City which sells or
11 leases cell phones to the public or which offers cell phones for sale or lease. *"Cell phone
12 retailer" shall include a "formula cell phone retailer."* "Cell phone retailer" shall not include
13 anyone selling or leasing cell phones solely over the phone, by mail, or over the internet. "Cell
14 phone retailer" shall also not include anyone selling or leasing cell phones directly to the
15 public at a convention, trade show, or conference, or otherwise selling or leasing cell phones
16 directly to the public within the City for fewer than 10 days in a year.

17 (c) "Cell phone service provider" means a telecommunications common carrier
18 authorized to offer and provide cellular service for hire to the general public.

19 (d) "Director" means the Director of the Department of the Environment, or his or her
20 designee.

21 (e) "Display materials" means informational or promotional materials posted adjacent
22 to a sample phone or phones on display at the retail location that describe or list the features
23 of the phone. "Display materials" shall not include any tag, sticker, or decal attached to a cell
24 phone by the manufacturer, the manufacturer's packaging for a cell phone, or materials that
25 list only the price and an identifier for the phone.

1 ~~(f) "Formula cell phone retailer" means a cell phone retailer which sells or leases cell phones~~
 2 ~~to the public, or which offers cell phones for sale or lease, through a retail sales establishment located~~
 3 ~~in the City which, along with eleven or more other retail sales establishments located in the United~~
 4 ~~States, maintains two or more of the following features: a standardized array of merchandise; a~~
 5 ~~standardized facade; a standardized decor and color scheme; a uniform apparel; standardized~~
 6 ~~signage; or, a trademark or service mark.~~

7 ~~(g) "SAR value" means the maximum whole body and spatial peak Specific Absorption Rate for~~
 8 ~~a particular make and model of cell phone as registered with the Federal Communications~~
 9 ~~Commission. (See, generally, Section 2.1093 of Title 47 of the Code of Federal Regulations.)~~

10
 11 **SEC. 1102. REQUIREMENTS FOR CELL PHONE SERVICE PROVIDERS.**

12 ~~(a) Beginning September 1, 2010, any Any cell phone service provider that sells its service~~
 13 ~~through a retailer in the City must provide a list of those retail locations to the Department of~~
 14 ~~the Environment in a form determined by the Department. The service provider must update~~
 15 ~~the list annually. The Department shall adopt regulations governing the form and submission~~
 16 ~~of the lists.~~

17 ~~(b) Beginning November 1, 2010, any cell phone service provider that sells its service through~~
 18 ~~a retailer in the City must provide those retailers with the SAR value for each make and model of cell~~
 19 ~~phone sold or leased at that location in connection with cell phone service from the provider. The~~
 20 ~~service provider must update the information it provides to retailers whenever new makes and models~~
 21 ~~of cell phones covered by the service provider are added or old makes and models dropped, or~~
 22 ~~whenever the service provider receives new information on the SAR values of any of the phones.~~

23 ~~(c) If a cell phone service provider is unable to provide this information (in subsection b) to~~
 24 ~~retailers in the City, then the Department of Environment upon the request of the service provider shall~~
 25 ~~provide assistance in procuring that information.~~

1
2 **SEC. 1103. REQUIREMENTS FOR CELL PHONE RETAILERS.**

3 (a) Beginning 15 days after the Department of the Environment adopts the regulations required
4 under Section 1104(d) 1104(b), cell phone retailers must display in a prominent location visible to the
5 public, within the retail store, an informational poster developed by the Department of the Environment
6 as referenced in Section 1104.

7 (b) Beginning 15 days after the Department of the Environment adopts the regulations required
8 under Section 1104(d) 1104(b), cell phone retailers must provide to every customer that purchases a
9 cell phone a free copy of an informational factsheet developed by the Department of the Environment
10 as referenced in Section 1104. A copy of this factsheet must also be provided to any customer who
11 requests it, regardless of whether they purchase a cell phone or not.

12 (c) ~~(a)~~ Beginning 30 days after the Department of the Environment adopts the regulations
13 required under Section 1104(d) 1104(b), if If a cell phone retailer posts display materials in
14 connection with sample phones or phones on display, the display materials must include
15 these three informational statements, whose contents, and size, and format as printed, shall
16 be determined by the Department of the Environment elements:

17 (1) A statement explaining that cell phones emit radiofrequency energy that is absorbed
18 by the head and body;

19 (2) A statement referencing measures to reduce exposure to radiofrequency energy from
20 the use of a cell phone; and,

21 (3) A statement that the informational factsheet referenced in subsection (b) is available
22 from the cell phone retailer upon request.

23 (1) The SAR value of that phone and the maximum allowable SAR value for cell phones
24 set by the FCC;

25 (2) A statement explaining what a SAR value is; and,

1 ~~(3) A statement that additional educational materials regarding SAR values and cell~~
2 ~~phone use are available from the cell phone retailer.~~

3 ~~The Department of the Environment shall adopt regulations specifying the content and format~~
4 ~~for the elements required by this subsection (a), and shall develop a template for those elements. The~~
5 ~~SAR values and header text shall be printed in type no smaller than the size and readability equivalent~~
6 ~~of "Arial" 11 point, and the copy text shall be printed in type no smaller than the size and readability~~
7 ~~equivalent of "Arial" 8 point.~~

8 ~~Formula cell phone retailers must comply with the requirements of this subsection (a) beginning~~
9 ~~May 1, 2011. All other cell phone retailers must comply by February 1, 2012.~~

10 ~~(b) If a cell phone retailer does not post display materials in connection with sample phones or~~
11 ~~phones on display, the retailer must display, in a prominent location within the retail location visible to~~
12 ~~the public, a poster that includes these three elements:~~

13 ~~(1) The SAR value of each make and model of cell phone offered for sale or lease at that~~
14 ~~retail location and the maximum allowable SAR value for cell phones set by the FCC;~~

15 ~~(2) A statement explaining what a SAR value is; and,~~

16 ~~(3) A statement that additional educational materials regarding SAR values and cell~~
17 ~~phone use are available from the cell phone retailer.~~

18 ~~The Department of the Environment shall adopt regulations specifying the content and format~~
19 ~~for the elements required by this subsection (b), and shall develop a template for those elements. The~~
20 ~~store poster shall be no smaller than 8.5 inches by 11 inches.~~

21 ~~Formula cell phone retailers must comply with the requirements of this subsection (b) beginning~~
22 ~~May 1, 2011. All other cell phone retailers must comply by February 1, 2012.~~

23 ~~(d) (e)~~ The Director may, in his or her discretion, authorize a retailer to use alternate
24 means to comply with the requirements of subsections (a), ~~(b) and (c) and (b)~~. The Director
25 shall authorize such alternate means through the adoption of a regulation after a noticed

1 hearing, and no retailer may sell or lease cell phones to the public or offer to sell or lease cell
2 phones to the public using any alternate means of compliance with this Chapter unless
3 specifically authorized to do so in advance in writing by the Director.

4 ~~(d) Retailers shall provide any customer who requests one with a free copy of the supplemental~~
5 ~~factsheet prepared by the Department of the Environment under Section 1104(a), as referenced in~~
6 ~~subsections (a)(3) and (b)(3).~~

7
8 **SEC. 1104. REQUIREMENTS FOR THE DEPARTMENT OF THE ENVIRONMENT**
9 **DEPARTMENTAL FACTSHEETS; ASSISTANCE WITH COMPLIANCE.**

10 (a) Following a public hearing, the Department of the Environment, in consultation with
11 the Department of Public Health, shall develop: ~~a supplemental factsheet regarding SAR values~~
12 ~~and the use of cell phones, as well as templates for display materials and store posters required by this~~
13 ~~Chapter.~~

14 (1) An informational poster, as referenced in Section 1103(a);

15 (2) An informational factsheet, as referenced in Section 1103(b); and,

16 (3) A set of statements that must be included in display materials, as referenced in
17 Section 1103(c).

18 (b) The materials shall inform consumers of issues pertaining to radiofrequency energy
19 emissions from cell phones and actions that can be taken by cell phone users to minimize exposure to
20 radiofrequency energy, such as turning off cell phones when not in use, using a headset and speaker
21 phone, or using the phone to send text messages ("texting").

22 (c) The Director may by regulation require the inclusion of additional information in the
23 poster, the factsheet, and/or the statements required in connection with display materials.

1 ~~The Department of the Environment shall hold the initial public hearing by September 1, 2010,~~
2 ~~and complete the supplemental factsheet by November 1, 2010. The supplemental factsheet shall be no~~
3 ~~larger than 8.5 inches by 11 inches.~~

4 ~~(d) (b) By November 1, 2010, Within 15 days after the effective date of this ordinance or as~~
5 ~~soon thereafter as is practicable, the Department of the Environment shall, after a noticed public~~
6 ~~hearing, issue regulations specifying the contents, size, and format for the elements the poster, the~~
7 ~~factsheet, and the statements required in connection with display materials as referenced in~~
8 ~~subsection (a), and provide templates of them for use by retailers.~~

9 ~~(1) The informational poster shall be a maximum size of 11 inches by 17 inches;~~

10 ~~(2) The informational factsheet shall be a maximum size of 5.5 inches by 11 inches~~
11 ~~(half-sheet of paper); and,~~

12 ~~(3) The informational statements shall be printed in a space no smaller than 1 inch by~~
13 ~~2.625 inches.~~
14 ~~required by Section 1103, subsections (a) and (b), for display materials and store posters, respectively.~~
15 ~~By that date, the Department of the Environment shall also adopt templates for display materials and~~
16 ~~store posters.~~

17 ~~(e) The Department shall develop content for all of these materials that is based on and~~
18 ~~consistent with the relevant information provided by the FCC or other federal agencies having~~
19 ~~jurisdiction over cell phones, explaining the significance of the SAR value and potential effects of~~
20 ~~exposure to cell phone radiation. The materials shall also inform customers of actions that can be taken~~
21 ~~by cell phone users to minimize exposure to radiation, such as turning off cell phones when not in use,~~
22 ~~using a headset and speaker phone, or texting.~~

23 ~~(c) Should the scientific community or the FCC develop a new metric to measure the actual~~
24 ~~amount of radiofrequency energy an average user will absorb from each model of cell phone, the~~

1 Department of the Environment shall make recommendations to the Board of Supervisors for
2 amendments to this Chapter to require notification to the public of this metric at the point of sale.

3
4 **SEC. 1105. ~~IMPLEMENTATION AND ENFORCEMENT.~~**

5 ~~(a) During the period leading up to May 1, 2011, the Department of the Environment shall~~
6 ~~conduct an education and assistance program for formula cell phone retailers regarding the provisions~~
7 ~~of Section 1103(a), (b), and (d), and shall visit the retailers and assist them with meeting the~~
8 ~~requirements of the subsections.~~

9 ~~(b) Notwithstanding those provisions of Section 1103(a), (b) and (d) applicable to all cell~~
10 ~~phone retailers other than formula cell phone retailers, requiring them to make certain disclosures and~~
11 ~~statements in connection with cell phone sales and leases, the City shall not enforce those provisions~~
12 ~~until August 1, 2012. During the period between the operative date for those requirements, February 1,~~
13 ~~2012, and August 1, 2012, the Department of the Environment shall conduct an education and~~
14 ~~assistance program for those cell phone retailers, and shall visit the retailers and assist them with~~
15 ~~meeting the requirements of the subsections.~~

16 ~~(a) (e)~~ The City Administrator shall issue a written warning to any person he or she
17 determines is violating provisions of this Chapter or any regulation issued under this Chapter.
18 If 30 days after issuance of the written warning the City Administrator finds that the person
19 receiving the warning has continued to violate the provisions of the Chapter or any regulation
20 issued under this Chapter, the City Administrator may impose administrative fines as provided
21 below in subsections ~~(b), (c) and (d)~~ ~~(d), (e), and (f)~~.

22 ~~(b) (d)~~ Violation of this Chapter or any regulation issued under this Chapter shall be
23 punishable by administrative fines in the amount of:

- 24 (1) Up to \$100.00 for the first violation;
25 (2) Up to \$250.00 for the second violation within a twelve-month period; and,

1 (3) Up to \$500.00 for the third and subsequent violations within a twelve-month
2 period.

3 ~~(c)~~ Except as provided in subsection ~~(b)~~ ~~(d)~~, setting forth the amount of
4 administrative fines, Administrative Code Chapter 100, "Procedures Governing the Imposition
5 of Administrative Fines," as may be amended from time to time, is hereby incorporated in its
6 entirety and shall govern the imposition, enforcement, collection, and review of administrative
7 citations issued by the City Administrator to enforce this Chapter or any regulation issued
8 under this Chapter. Violation of this Chapter is not a misdemeanor, and the Board of
9 Supervisors intends that the requirements of this Chapter be enforced only through
10 administrative fines as provided in this Section.

11 ~~(d)~~ For purposes of this Chapter, each individual item that is sold or leased, or
12 offered for sale or lease, contrary to the provisions of this Chapter or any regulation issued
13 under this Chapter shall constitute a separate violation.

14
15 **Section 3. Additional Provisions.**

16 (a) **Disclaimer.** In adopting and implementing this Chapter, the City and County of
17 San Francisco is assuming an undertaking only to promote the general welfare. It is not
18 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
19 is liable in money damages to any person who claims that such breach proximately caused
20 injury.

21 (b) **Conflict with State or Federal Law.** This Chapter shall be construed so as not to
22 conflict with applicable federal or State laws, rules or regulations. Nothing in this Chapter
23 shall authorize any City agency or department to impose any duties or obligations in conflict
24 with limitations on municipal authority established by State or federal law at the time such
25 agency or department action is taken.

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(c) **Severability.** If any of the words, phrases, clauses, sentences, sections, or provisions of this ordinance or the application thereof to any person or circumstance are held invalid, the remainder of this ordinance's words, phrases, clauses, sentences, sections, or provisions, including the application of such part or provisions thereof to persons or circumstances other than those to which it is held invalid, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this ordinance are severable.

(d) **Environmental Findings.** The Planning Department has determined that the actions contemplated in this ordinance are in compliance with the California Environmental Quality Act (Cal. Pub. Res. Code §§ 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 110656 and is incorporated herein by reference.

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

By: 
THOMAS J. OWEN
Deputy City Attorney



City and County of San Francisco
Tails
Ordinance

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

File Number: 110656

Date Passed: July 26, 2011

Ordinance amending the San Francisco Environment Code Sections 1101 through 1105 to require cell phone retailers to provide their customers with information regarding how to limit exposure to the radiofrequency energy emitted by cell phones in place of the mandatory disclosure of Specific Absorption Rate Values for cell phone models.

July 11, 2011 City Operations and Neighborhood Services Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

July 11, 2011 City Operations and Neighborhood Services Committee - RECOMMENDED AS AMENDED

July 19, 2011 Board of Supervisors - PASSED, ON FIRST READING

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Mirkarimi and Wiener

July 26, 2011 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Mirkarimi and Wiener

File No. 110656

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 7/26/2011 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor Edwin Lee

8/3/11
Date Approved

Exhibit C

San Francisco Department of the Environment Regulations SFE 11-07-CPO
Requirement for cell phone retailers to provide information to their customers
regarding how to limit their exposure to cell phone radiofrequency energy
Ordinance No. 165-11, Adopted July 11, 2011

Regulation Effective Date: September 30, 2011

A. Authorization

San Francisco Environment Code Chapter 11:

SEC. 1103. REQUIREMENTS FOR CELL PHONE RETAILERS.

(a) Beginning 15 days after the Department of the Environment adopts the regulations required under Section 1104(d), cell phone retailers must display in a prominent location visible to the public, within the retail store, an informational poster developed by the Department of the Environment as referenced in Section 1104.

(b) Beginning 15 days after the Department of the Environment adopts the regulations required under Section 1104(d), cell phone retailers must provide to every customer that purchases a cell phone a free copy of an informational factsheet developed by the Department of the Environment as referenced in Section 1104. A copy of this factsheet must also be provided to any customer who requests it, regardless of whether they purchase a cell phone or not.

(c) Beginning 30 days after the Department of the Environment adopts the regulations required under Section 1104(d), if a cell phone retailer posts display materials in connection with sample phones or phones on display, the display materials must include these three informational statements, whose contents, and size, and format as printed, shall be determined by the Department of Environment:

- (1) A statement explaining that cell phones emit radiofrequency energy that is absorbed by the head and body;
- (2) A statement referencing measures to reduce exposure to radiofrequency energy from the use of a cell phone; and,
- (3) A statement that the informational factsheet referenced in subsection (b) is available from the cell phone retailer upon request.

(d) The Director may, in his or her discretion, authorize a retailer to use alternate means to comply with the requirements of subsections (a), (b) and (c). The Director shall authorize such alternate means through the adoption of a regulation after a noticed hearing, and no retailer may sell or lease cell phones to the public or offer to sell or lease cell phones to the public using any alternate means of compliance with this Chapter unless specifically authorized to do so in advance in writing by the Director.

SEC. 1104. REQUIREMENTS FOR THE DEPARTMENT OF THE ENVIRONMENT

(a) Following a public hearing, the Department of the Environment, in consultation with the Department of Public Health, shall develop:

- (1) An informational poster, as referenced in Section 1103(a);
- (2) An informational factsheet, as referenced in Section 1103(b); and,
- (3) A set of statements that must be included in display materials, as referenced in Section 1103(c).

(b) The materials shall inform consumers of issues pertaining to radiofrequency energy emissions from cell phones and actions that can be taken by cell phone users to minimize exposure to radiofrequency energy, such as turning off cell phones when not in use, using a headset and speaker phone, or using the phone to send text messages ("texting").

(c) The Director may by regulation require the inclusion of additional information in the poster, the factsheet, and/or the statements required in connection with display materials.

(d) Within 15 days after the effective date of this ordinance or as soon thereafter as is practicable, the Department of the Environment shall, after a noticed public hearing, issue regulations specifying the contents, size, and format for the poster, the factsheet, and the statements required in connection with display materials as referenced in subsection (a), and provide templates of them for use by retailers.

- (1) The informational poster shall be a maximum size of 11 inches by 17 inches;
- (2) The informational factsheet shall be a maximum size of 5.5 inches by 11 inches (half-sheet of paper); and,
- (3) The informational statements shall be printed in a space no smaller than 1 inch by 2.625 inches.

(e) Should the scientific community or the FCC develop a new metric to measure the actual amount of radiofrequency energy an average user will absorb from each model of cell phone, the Department of the Environment shall make recommendations to the Board of Supervisors for amendments to this Chapter to require notification to the public of this metric at the point of sale.

B. Policy or Findings

According to the World Health Organization (WHO),

- Mobile phone use is ubiquitous with an estimated 4.6 billion subscriptions globally.
- The electromagnetic fields produced by mobile phones are classified by the International Agency for Research on Cancer as possibly carcinogenic to humans.
- Studies are ongoing to more fully assess potential long term effects of mobile phone use.
- WHO will conduct a formal risk assessment of all studied health outcomes from radiofrequency fields exposure by 2012.

Leading epidemiologists who have studied the effects of radiofrequency energy absorbed from cell phones have recommended that the public be informed of the potential for adverse health effects from long-term cell phone use, particularly for children.

Cell phones are an important communication tool, especially during emergencies, and radiation exposure from cell phones can be reduced by using a speakerphone or a headset, or by sending text messages.

C. Applicability

This regulation applies to all San Francisco cell phone retailers, defined by the San Francisco Environment Code Chapter 11, Section 1101 as:

(b) "Cell phone retailer" means any person or entity within the City which sells or leases cell phones to the public or which offers cell phones for sale or lease. "Cell phone retailer" shall not include anyone selling or leasing cell phones over the phone, by mail, or over the internet. "Cell phone retailer" shall also not include anyone selling or leasing cell phones directly to the public at a convention, trade show, or conference, or otherwise selling or leasing cell phones directly to the public within the City for fewer than 10 days in a year.

D. Requirements

- SEC. 1103(a): Informational poster. See poster (Attachment A).

The attached poster is formatted to fit standard paper size of 11 x 17 inches. The cell phone retailer must display the poster identical to attachment A (in size, content, format and graphics).

The Department will provide hardcopy posters to cell phone retailers and make replacements available upon request. The cell phone retailers are responsible for contacting the Department to obtain the poster and future replacements in order to ensure compliance with this law. The request for posters can be made in two ways:

- In person at The Department of the Environment, M-F (9AM to 5PM):
11 Grove St. San Francisco, CA 94102
- A written request to:
 - Toxics Reduction Program, SF Department of the Environment, 11 Grove St. San Francisco, CA 94102; Or
 - cellphone@sfenvironment.org

- SEC. 1103(b): Department factsheet. See factsheet template (Attachment B).

The attached supplemental factsheet template is formatted to fit standard paper size 8.5 x 11 inches, with two 8.5 x 5.5 inches sized factsheets per sheet. Cell phone retailers are required to provide this factsheet to customers upon request and with every cell phone sale. The factsheet provided to customers must be identical in content, format, color and graphics.

The Department shall make the factsheet template available in PDF or Microsoft Word format for printing by cell phone retailers. The Department shall provide starter kits to retailers with 50 factsheets each, and retailers are responsible for making color copies for distribution thereafter.

- SEC. 1103(c): Statements to include in display materials. See label template (Attachment C)

The attached sticker template is formatted to fit on Avery standard 5160-address labels. The font type and size are Futura size 12. A cell phone retailer may print and paste stickers on cell phone display materials or include the content of the sticker in cell phone display materials in a manner that preserves the font size, type and meets the space requirement of no smaller than 1 x 2.625 inches.

The Department shall make the sticker template available in PDF or Microsoft Word format for printing by cell phone retailers.

E. Attachments

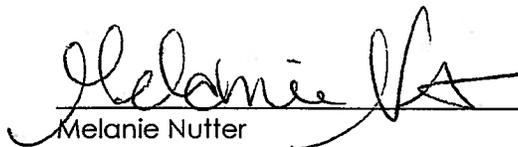
Attachment A: Informational poster

Attachment B: Informational factsheet

Attachment C: Sticker template for inclusion of informational statements in display materials

The Director of the Department of the Environment hereby adopts these regulations as of the date specified below.

Approved:


Melanie Nutter

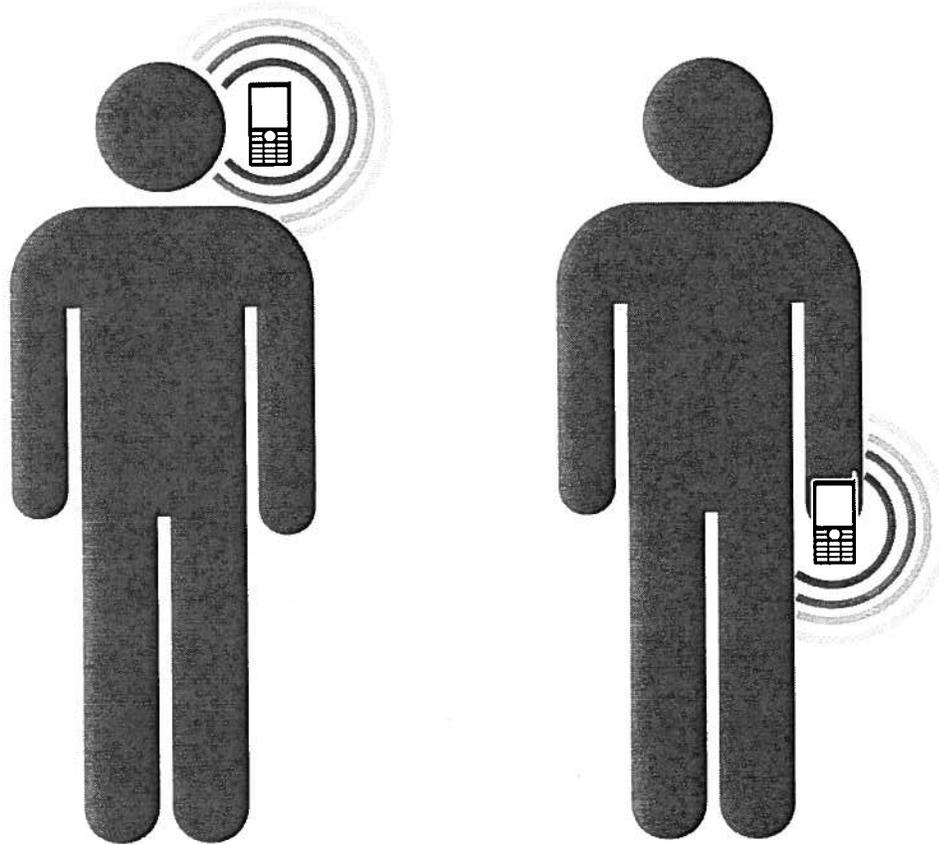
9/30/11
Date

Director, Department of the Environment

Exhibit D



Cell Phones Emit Radio-frequency Energy



Studies continue to assess potential health effects of mobile phone use.

If you wish to reduce your exposure, the City of San Francisco recommends that you:

- **Keep distance between your phone and body**
- **Use a headset, speakerphone, or text instead**
- **Ask for a free factsheet with more tips**



SF Environment
Our home. Our city. Our planet.
A Department of the City and County of San Francisco

Learn More:

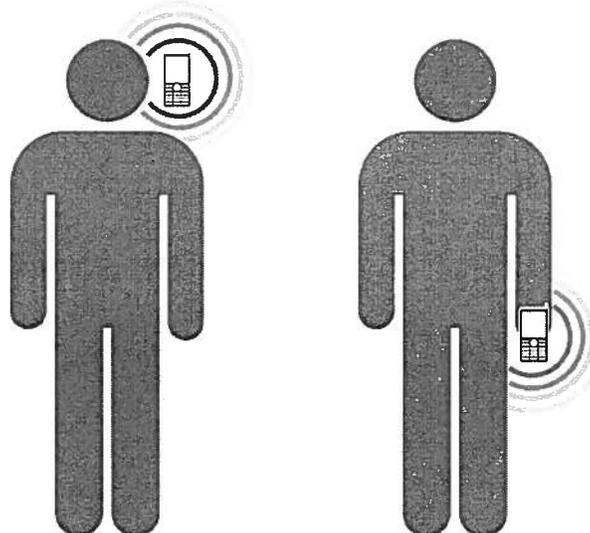
SF Department of Environment @ SFEnvironment.org/cellphoneradiation
Federal Communications Commission @ FCC.gov/cgb/consumerfacts/mobilephone.html
World Health Organization @ WHO.int/mediacentre/factsheets/fs193/en/

Exhibit E

Exhibit F



You can limit exposure to Radio-frequency (RF) Energy from your cell phone.



Although studies continue to assess potential health effects of mobile phone use, the World Health Organization has classified RF Energy as a possible carcinogen.

This material was prepared solely by the City and County of San Francisco and must be provided to consumers under local law.

09/11

If you are concerned about potential health effects from cell phone RF Energy, the City of San Francisco recommends:

- **Limiting cell phone use by children**
Developing brains and thinner skulls lead to higher absorption in children.
- **Using a headset, speakerphone or text instead**
Exposure decreases rapidly with increasing distance from the phone.
- **Using belt clips and purses to keep distance between your phone and body**
Do not carry on your body to at least meet the distance specified in your phone's user manual
- **Avoiding cell phones in areas with weak signals (elevators, on transit, etc.)**
Using a cell phone in areas of good reception decreases exposure by allowing the phone to transmit at reduced power.
- **Reducing the number and length of calls**
Turn off your cell phone when not in use.



Learn More:

SF Department of the Environment @ SFEnvironment.org/cellphoneradiation • (415) 355-3700

Federal Communications Commission @ FCC.gov/cgb/consumerfacts/mobilephone.html

World Health Organization @ WHO.int/mediacentre/factsheets/fs193/en/

This material was prepared solely by the City and County of San Francisco and must be provided to consumers under local law.

09/11

Exhibit G

FILE NO. R-2009-06-COE

RESOLUTION NO. 002-10-COE

1 **[CELL PHONE RADIATION SAFETY AND DISCLOSURE]**

2

3 **Resolution recommending measures for educating the public on and**
4 **reducing exposure to radiation from cell phones, including disclosure of**
5 **radiation information at point of sale.**

6 **WHEREAS, The Policy Committee of the Commission on the Environment met**
7 **on December 14, 2009 and unanimously adopted the findings and recommendations**
8 **listed below; and**

9 **WHEREAS, More than 270 million people in the United States (US) use cell**
10 **phones with an increasing number of them children; and,**

11 **WHEREAS, Cell phones are an important tool of communication, especially**
12 **during times of emergency; and,**

13 **WHEREAS, A cell phone emits Radio Frequency (RF) radiation from the antenna**
14 **of the device, often in a 360-degree pattern, as the device seeks to make a connection**
15 **with the cell tower; and,**

16 **WHEREAS, Recently published long-term studies looking at cell phone use for**
17 **10 years have indicated evidence of increasing occurrence of brain and salivary cancers**
18 **especially on the side of the head where cell phones are held; and,**

19 **WHEREAS, Children are potentially more vulnerable to this radiation exposure**
20 **due to their smaller head size, thinner skulls, different composition of tissues, and still-**
21 **developing brains and bodies; and,**

22 **WHEREAS, Governments around the world including France, Israel, Germany,**
23 **Finland, and Switzerland, have issued warnings about prolonged cell phone use,**
24 **especially for children; and,**

FILE NO. R-2009-06-COE

RESOLUTION NO. 002-10-COE

1 WHEREAS, The French Senate is considering legislation that would restrict the
2 promotion and sale of cell phones for use by children and would require companies to
3 offer headsets with each phone sold; and,

4 WHEREAS, The maximum level of radiation emitted from a cell phone and
5 absorbed by the human brain and body is called the Specific Absorption Rate (SAR) and
6 these values range in cell phones from 0.2 to 1.6 W/kg, the maximum legal value in the
7 US; and,

8 WHEREAS, The United States Food and Drug Administration (FDA) does not
9 review the safety of cell phones before they come to market but does have the authority
10 to take action against the unsafe exposure to radiation from these products; and,

11 WHEREAS, The United States Federal Communications Commission (FCC) has
12 accepted the safety standards for cell phone radiation set by the electronics professional
13 trade association, the Institute of Electrical and Electronic Engineers (IEEE); and,

14 WHEREAS, Cell phone radiation safety levels accepted by the FCC do not take
15 into account potential increased vulnerabilities of children nor the cumulative effects of
16 long-term use and do not provide sufficient protection in determining a maximum
17 allowable SAR value of 1.6 W/Kg for the human head and brain; and,

18 WHEREAS, San Francisco has adopted a Precautionary Principle Ordinance
19 that compels government agencies to heed early warning signs from the scientific
20 literature and to take protective action to prevent harm; and,

21 WHEREAS, Cell phone manufacturers are required to report the SAR values of
22 their phones to the FCC but are not obligated to make this information available to the
23 public; and,

24 WHEREAS, Consumers in San Francisco, and beyond, have the right to know
25 the level of radiation being emitted by cell phones as they make their purchasing
26 decisions; and,

FILE NO. R-2009-06-COE

RESOLUTION NO. 002-10-COE

1 WHEREAS, Consumers in San Francisco should be informed of any steps that
2 can be taken to minimize harm, such as the importance of using head-sets and texting
3 as an alternative to speaking directly into the phone; now, therefore, be it,

4 RESOLVED, That the San Francisco Commission on the Environment recommends,
5 as a matter of highest priority, that the:

6 a. City/County adopts legislation requiring that retailers of cell phones provide point-
7 of-sale information on SAR values and information on safer use. The SAR value
8 should be as visible to the consumer as the price.

9 FURTHER RESOLVED, that the San Francisco Commission on the Environment
10 recommends that the following options be considered for action in the future:

11 b. Federal Government conduct a public review of cell phone safety standards and
12 revise them based on peer-reviewed independent science, including the potential
13 effects on children and the effects of long-term use, and consider a ban on cell
14 phone advertising aimed at children.

15 c. State of California and the Federal Government adopt legislation that requires
16 warning labels be placed on all cell phone packaging regarding exposure to
17 radiation, especially for children.

18 d. City/County work closely with the School District to educate students, parents,
19 caregivers and teachers about cell phone radiation and the importance of
20 appropriate use of cell phones including: limiting their use to emergencies, use of
21 a headset, and keeping the phone away from the child's body to the maximum
22 extent possible.

23 e. City/County work closely with the School District to prohibit the distribution of cell
24 phone promotional materials and the use of cell phones as part of the curriculum
25 especially for elementary schools.

FILE NO. R-2009-06-COE

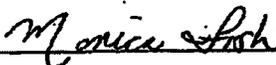
RESOLUTION NO. 002-10-COE

- 1 f. City/County explore ways to encourage cell phone companies to develop
2 technologies, products, and educational programs that facilitate the safest
3 possible use of cell phones.
- 4 g. Director of the Department of the Environment and the Department of
5 Technology, under the Precautionary Purchasing Ordinance, require that cell
6 phones purchased by City Departments minimize SAR values and come with a
7 headset when necessary and educational materials on minimizing exposure to
8 radiation.
- 9 h. Department of the Environment staff initiate an educational campaign that
10 includes a web page to help consumers identify low SAR value phones and
11 protective measures to reduce exposure to cell phone radiation.

12 I hereby certify that this Resolution was approved at the Commission on
13 the Environment's Meeting on January 26, 2010.

14

15



16

Monica Fish, Commission Secretary

17

Vote: Approved (5-1) (1 Absent)

18

Ayes: Commissioners Gravanis, Martin, Mok, Tuchow and Wald

19

Noes: Commissioner Pelosi Jr.

20

Absent: Commissioner King

21

22

23

24

25

Exhibit H

Press Release

Mayor Newsom Introduces Cell-Phone Radiation Labeling Legislation

Legislation would require cell phone retailers to post cell phone radiation levels at point of sale

01/26/10 – Mayor Gavin Newsom today announced major consumer right-to-know legislation that will require cell phone retailers to post cell phone radiation levels at point of sale. The ordinance will be introduced at the Board of Supervisors meeting today.

“Telephone manufacturers currently disclose cell phone radiation levels to the federal government,” said Mayor Newsom. “This same information should also be made easily accessible to the consumer.”

While more research needs to be conducted on the safety of cell phone radiation, recent studies published in internationally regarded journals indicate that long term exposure to cell phone radiation may be responsible for increased rates of brain and salivary cancer, as well as other serious health problems. With the growing number of people using cell phones on a daily basis and the increasing use by young children, the questions around potential health effects are significant enough to warrant precautionary action.

“In addition to protecting the consumers’ right to know,” said Mayor Newsom, “this legislation will encourage telephone manufacturers to redesign their devices to function at lower radiation levels. This is similar to Prop 65, which dramatically reduced public exposure to toxic materials because chemical companies removed toxic ingredients from their products in order to avoid product warnings.”

Cell phone radiation is regulated by both the FDA and the FCC, with a legal limit of 1.6 Watts per kilogram of SAR (specific absorption rate). Cell phone radiation varies widely depending on the model, with SAR’s between 0.19 and 1.6. There is no technological reason why a cell phone needs to emit the maximum allowed levels of radiation. Phones that emit lower amounts of radiation work just as well, and sport just as many features.

“I am not suggesting by any means that people should be fearful of using a cell phone,” said Mayor Newsom. “Cell phones are an integral part of modern life; however, there are simple things that can be done to minimize exposure to the radiation emitted by the telephone such as using a head set, speaker phone or texting, and turning off the phone when it’s not in use.”

Exhibit I

CITY AND COUNTY OF SAN FRANCISCO



DENNIS J. HERRERA
City Attorney

OFFICE OF THE CITY ATTORNEY

VINCE CHHABRIA
Deputy City Attorney

DIRECT DIAL: (415) 554-4674
E-MAIL: vince.chhabria@sfgov.org

January 28, 2011

Craig E. Stewart
Jones Day
555 California Street, 26th Floor
San Francisco, CA 94104-1500

Re: *CTIA v. CCSF*

Dear Craig:

This is to confirm that the City will delay enforcement of the Cell Phone Right-to-Know Ordinance (Ordinance No. 155-10, as amended by Ordinance No. 6-11), until June 15, 2011. This delay is intended to allow the San Francisco Department of the Environment to consider potential changes to the disclosure materials that cell phone retailers must provide their customers under the Ordinance, and to afford the retailers an opportunity to adjust to the new requirements before having to comply. CTIA and its members will, of course, have the opportunity to comment on a draft version of the new materials before they are finalized.

Sincerely,

DENNIS J. HERRERA
City Attorney

A handwritten signature in black ink, appearing to read "Vince Chhabria".

Vince Chhabria
Deputy City Attorney