

1 BY AUTHORITY

2 ORDINANCE NO. \_\_\_\_\_  
3 SERIES OF \_\_\_\_\_

COUNCIL BILL NO. 11-0459  
COMMITTEE OF REFERENCE:  
4 General Government & Finance

5 A BILL

6  
7 For an ordinance amending Article II of Chapter 10.5, D.R.M.C., eliminating the  
8 Office of Telecommunications and transferring authority for administration of cable  
9 television franchises to the Technology Services agency of the city.

10  
11 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

12 **Section 1.** That article II of Chapter 10.5 of the Denver Revised Municipal Code shall be  
13 amended by deleting the language stricken and adding the language underlined, to read as  
14 follows:

15  
16 **ARTICLE II. - OFFICE OF TELECOMMUNICATIONS CABLE TELEVISION FRANCHISES**

17  
18 **Sec. 10.5-51. - Definitions.**

19  
20 As used in this article, the following words or terms shall have the meanings respectively  
21 ascribed to them, unless the context otherwise requires:

22  
23 (1) ~~Director shall mean the director of the office of telecommunications.~~ Chief  
24 Information Officer (CIO) shall mean the person in charge of the city's technology  
25 services agency or the CIO's designee.

26  
27 (2) ~~Office shall mean the office of telecommunications.~~ Technology services  
28 agency shall mean the agency under the mayor that includes among its functions  
29 the administration and oversight of the city's public, educational and governmental  
30 access cable television channels.

31  
32 (3) ~~Permit shall mean a nonexclusive permit granted by the city council for the~~  
33 ~~installation and operation of a cable telecommunications system in, upon, along,~~

1 across, above, over and under the streets, alleys or public ways and places in the  
2 city; provided, however, that any such permit shall be revocable for any violation of  
3 its terms and conditions, and that the right to make such revocation shall be  
4 expressly reserved in every such permit which may be granted hereunder.

5 Franchise shall mean any franchise for a cable system that has been granted by  
6 the city to a cable operator in order to provide cable service within the city.

7  
8 (4) ~~Permittee shall mean any person, firm, company or corporation which has been~~  
9 ~~designated by the city council to receive a permit and which has entered into an~~  
10 ~~agreement with the city to provide cable telecommunication services as specified~~  
11 ~~within the said agreement. Cable Operator shall have the same meaning as is~~  
12 ~~provided at 47 U.S.C. § 522 (5), as amended.~~

13  
14 (5) ~~System shall mean a cable telecommunications system of antennas, cables,~~  
15 ~~wires, lines, towers, waveguides or other conductors, converters, equipment or~~  
16 ~~facilities designed and constructed for the purpose of producing, receiving,~~  
17 ~~transmitting, amplifying and distributing audio, video and other forms of electronic or~~  
18 ~~electrical signals, located in the city. Cable system shall have the same meaning as~~  
19 ~~is provided at 47 U.S.C. § 522 (7).~~

20  
21 (6) Cable service shall have the same meaning as is provided at 47 U.S.C. 522 (6)  
22 as amended.

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25  
26 **Sec. 10.5-52. - Establishment. Former Office of telecommunications; transfer of functions**  
27 **to technology services.**

28  
29 There shall be and hereby is established an office of telecommunications as an agency  
30 under the city council. The council shall appoint a director of the office of telecommunications and  
31 other staff as they deem necessary. The director and staff shall serve at the pleasure of council,  
32 and shall not occupy positions in the career service. On and after August 1, 2011, the powers  
33 and duties formerly performed by the office of telecommunications in relation to the administration  
34 of any franchise granted to any cable operator within the city shall be transferred to and assumed

1 by the Technology Services agency of the city. Any contract of the city, including any franchise  
2 heretofore granted by the city, that assigns any function to the office of telecommunications or to  
3 the director of the office of telecommunications shall, on and after August 1, 2011, be construed  
4 to refer to Technology Services and the chief information officer or his designee respectively.  
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6

7 **Sec. 10.5-53. - Duties and responsibilities.**  
8

9 (a) ~~The office~~ Technology services shall be responsible for the administration and  
10 regulation of the permit and for planning and developing cable telecommunication services any  
11 franchise granted to a cable operator within the city.  
12

13 (b) The duties and responsibilities of the ~~director~~ chief information officer or the CIO's  
14 designee shall include but not be limited to the following:  
15

16 (1) Serves as liaison for the city with ~~the permittee~~ any cable operator, state and  
17 federal authorities concerned with cable telecommunications service and with any  
18 organization which may be established or approved by the city to administer any  
19 ~~community access or public~~ public, educational, or governmental access channels.  
20

21 (2) Receives and investigates complaints concerning the operation of the any cable  
22 system.  
23

24 (3) Assures ~~permittee's~~ cable operators' compliance with all applicable ordinances  
25 and laws and upon determination of any violation of same, takes all necessary and  
26 appropriate actions to enforce the applicable ordinance or law.  
27

28 (4) Monitors the ~~permittee's~~ cable operators' performance and adherence to the  
29 terms of the permit franchise, including but not limited to construction schedule,  
30 installation policy, rates, operational standards, services provided pursuant to the  
31 permit franchise, maintenance, technical standards, system design, use of public  
32 ways, service continuity, and the provision of support and facilities for ~~public access~~  
33 and community public, educational and governmental access programming.  
34

1 (5) Receives for review and evaluation all data and reports required of the  
2 ~~permittee~~ cable operators and where appropriate, forwards such data to interested  
3 or affected city departments.

4  
5 (6) Makes such recommendations and reports to the city council and the mayor as  
6 may be deemed necessary for the regulation and development of the any cable  
7 system.

8  
9 (7) Represents the city in communicating with the public with regard to cable  
10 telecommunications systems and cable services.

11  
12 (8) Monitors all developments in the regulation of cable telecommunications  
13 systems and cable services at the state and federal level.

14  
15 (9) Receives all rate change requests, performs studies and evaluations of such  
16 requests, and makes recommendations and serves as advisor to the mayor and to  
17 the city council in such matters.

18  
19 (10) Coordinates and oversees the development of the ~~municipal access network~~  
20 government access television channels and any institutional network (I-net)  
21 constructed pursuant to the terms of a franchise.

22  
23 (11) Acts as the representative of the city in matters pertaining to the development  
24 and programming of the ~~municipal access network~~ government access television  
25 channels and any institutional network (I-net) constructed pursuant to the terms of a  
26 franchise.

27  
28 ~~(12) Supervises such additional personnel as may be required, subject to approval~~  
29 ~~by the council, to carry out the functions of the office.~~

30  
31 ~~(13) Performs other related duties as directed by the council.~~

32  
33 (12) Negotiates any new franchise or the renewal of any existing franchise in  
34 consultation with the mayor and the city council.

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**Sec. 10.5-54. - Promulgation of rules and regulations.**

The ~~director~~ chief information officer may, with the approval of council and as authorized under article VI of chapter 2, promulgate such rules and regulations necessary to carry out the duties and responsibilities of the office set forth in section 10.5-53.

**~~Sec. 10.5-55. - Collection of capital contribution fees from cable operators.~~**

~~The director shall administer and enforce on behalf of the city the provisions of any cable television franchise requiring the cable operator to collect and remit any capital contribution fee for the purpose of funding public, educational and governmental access and institutional network capital. The director shall, after consultation with the council, transmit such notices to cable operators as may be necessary to confirm the obligation of the operator to begin collecting any such fee, or to adjust the amount of the fee within the limitations set forth in the franchise and in this section. Upon timely receipt of any such notice, any cable operator shall collect and remit the capital contribution fee in accordance with the franchise unless and until the director transmits a subsequent notice on behalf of the city changing or eliminating the fee. In addition to the limitations set forth in any franchise, the director shall not require any cable operator to collect and remit a capital contribution fee in excess of the following amounts:~~

<u>Number of Subscribers Served by Cable Operator</u>	<u>Maximum Fee</u>
<del>Less than 10,000</del>	<del>\$0.00</del>
<del>10,000 - 14,999</del>	<del>\$0.50/sub/month</del>
<del>15,000 - 24,999</del>	<del>\$0.55/sub/month</del>
<del>25,000 - 49,999</del>	<del>\$0.63/sub/month</del>
<del>50,000 - 74,999</del>	<del>\$0.70/sub/month</del>
<del>75,000 - 99,999</del>	<del>\$0.87/sub/month</del>
<del>More than 100,000</del>	<del>\$1.00/sub/month</del>

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**Section 2.** Section 18-51, D.R.M.C. shall be amended by deleting the language stricken,  
to read as follows:

**DIVISION 3. - EMPLOYEES NOT IN THE CAREER SERVICE**

**Sec. 18-51. - Applicability.**

The provisions of this division 3 shall apply to the following employees not in  
the career service:

- (a) Employees appointed to serve at the pleasure of the mayor pursuant to Charter section 9.1.1(E)(iv);
- (b) Employees and certified public accountants appointed to serve at the pleasure of the auditor pursuant to Charter section 9.1.1(E)(viii);
- (c) Employees appointed to serve at the pleasure of the career service board pursuant to Charter section 9.1.1(E)(xii);
- (d) Reserved;
- (e) Employees of the Denver Art Museum;
- (f) Employees of the Denver Public Library;
- (g) Employees of the city council;
- (h) ~~Employees of the office of telecommunications;~~
- (i) Employees of the board of adjustment-zoning;
- (j) Employees appointed to serve at the pleasure of the clerk and recorder pursuant to Charter section 9.1.1(E)(xiv);

1  
2 (k) Employees of the civil service commission.

3  
4 (l) Employees of the office of independent monitor.  
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6

7 **Section 3.** Subsection 18-71 (a), D.R.M.C. shall be amended by deleting the  
8 language stricken, to read as follows:  
9

10 **DIVISION 4. - INCENTIVE PAY AND RECOGNITION BONUSES**  
11

12 **Sec. 18-71. - Applicability.**  
13

14 (a) This division 4 shall apply to employees in all classifications in the career  
15 service except deputy sheriffs, deputy sheriff majors, deputy sheriff division chiefs;  
16 and to the following employees in classifications not in the career service to the  
17 extent authorized by the appointing authority for these employees:  
18

19 (1) Employees of the city council, ~~office of telecommunications~~, library commission,  
20 civil service commission, and the board of adjustment;  
21

22 (2) Employees of the Denver art museum;  
23

24 (3) Employees appointed by the mayor pursuant to the authority of Charter section  
25 9.1.1(E)(iv);  
26

27 (4) Employees appointed by the auditor pursuant to the authority of Charter section  
28 9.1.1(E)(viii).  
29

30 (5) Employees appointed by the clerk and recorder pursuant to the authority of  
31 Charter section 9.1.1(E)(xiv).  
32

33 **Section 4.** Any current employee of the office of telecommunications as of August

1 1, 2011 who has heretofore been treated as a city council employee and therefore exempt  
2 from the career service shall retain his or her position as an employee within the  
3 Technology Services agency of the city if the employee qualifies to retain the position in  
4 accordance with the rules of the Career Service Board.

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COMMITTEE APPROVAL DATE: \_\_\_\_\_, 2011.  
MAYOR-COUNCIL DATE: \_\_\_\_\_, 2011.  
PASSED BY THE COUNCIL \_\_\_\_\_ 2011

\_\_\_\_\_ - PRESIDENT

APPROVED: \_\_\_\_\_ - MAYOR \_\_\_\_\_ 2011

ATTEST: \_\_\_\_\_ - CLERK AND RECORDER,  
EX-OFFICIO CLERK OF THE  
CITY AND COUNTY OF DENVER

NOTICE PUBLISHED IN THE DAILY JOURNAL \_\_\_\_\_ 2011; \_\_\_\_\_ 2011

PREPARED BY: David W. Broadwell, City Attorney; DATE: June 7, 2011

Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed ordinance. The proposed ordinance **is not** submitted to the City Council for approval pursuant to § 3.2.6 of the Charter.

David W. Broadwell  
City Attorney

BY: \_\_\_\_\_, \_\_\_\_\_ City Attorney  
DATE: \_\_\_\_\_