



OFFICE OF THE CITY ATTORNEY
Long Beach, California

ORD-15

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Assistant City Attorney

May 8, 2012

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HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Adopt Ordinance amending Long Beach Municipal Code Chapter 5.71 related to Publicly Accessible Exterior Pay Telephones read the first time and laid over to the next regular meeting of the City Council for final reading. (Citywide)

DISCUSSION

Chapter 5.71 of the Long Beach Municipal Code regulates the location and operation of exterior pay telephones ("PATS") in the City. On May 3, 2011, the City Council adopted a minute order declaring a one-year moratorium precluding the issuance of any new permits for the installation of publicly accessible exterior pay telephones. This action was taken to allow City staff to review Chapter 5.71 to determine whether an amendment to the Municipal Code would be appropriate to address various nuisance conditions/behaviors reported at exterior pay telephone locations in the City.

City staff from the Departments of Development Services, Police, City Attorney and Financial Management met to discuss the challenges associated with pay telephone locations and potential remedies. After a review of Chapter 5.71, and after meeting with involved stakeholders from the public and the pay phone industry, it was determined that the current regulations contained in Chapter 5.71 are not an effective tool when dealing with complaints of nuisance conditions and behavior issues associated with pay telephone locations.

Based on this information, City staff is recommending significant changes to the current pay telephone regulations in order to better equip the City and City staff with the tools needed to effectively regulate exterior pay telephone locations City-wide. If adopted, the revised regulations would:

- 1) improve the current application process to better insure that new PATS are installed and maintained in a manner that will be more compatible with surrounding neighborhoods; and

- 2) provide the City Manager with more flexibility to impose various operational conditions to insure neighborhood compatibility and reduce the risk of nuisance related activity. Such conditions could include requiring the installation of so called "smart phones" that can be remotely controlled by the adjacent property owner, limiting the phone's ability to receive incoming calls, requiring volume controls, limiting hours of operation if necessary, requiring adjacent trash receptacles, requiring an aesthetically pleasing and safe telephone surround, and also requiring that the PAT be located so that it is clearly visible to the adjacent business (to prevent loitering and other inappropriate behavior).

In addition to imposing operating conditions, the revised regulations would require that all existing PATS be brought into compliance with the new regulations within one year of adoption (for "good cause" the City Manager could extend this period for an additional year). The new regulations would prevent PATS from being installed at locations where "hard liquor" is sold, would require the issuance of electrical permits (if necessary), would prohibit a PAT from being installed in such a manner that it encroached on public property or in public right of ways, would require proof from the property owner that he or she has consented to the installation of the PAT, would prevent installation of the PAT in designated landscape areas, and would likewise prevent installation of a PAT in close proximity to bus shelters, crosswalks, fire hydrants, and the like.

If adopted, the new regulations also provide procedures for the required removal of a PAT if the City Manager determines that the PAT is causing a nuisance in the community. Likewise, the regulations would permit the City to issue an administrative citation in accordance with Chapter 9.65 of the Municipal Code if the PAT operator fails to abide by the newly adopted regulations or otherwise allows the PAT to become a nuisance.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

ROBERT E. SHANNON, City Attorney

By


MICHAEL J. MAIS
Assistant City Attorney

MJM:kjm
Attachment

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING LONG BEACH
MUNICIPAL CODE SECTION 5.71, RELATING TO
PUBLICLY ACCESSIBLE EXTERIOR PAY TELEPHONES

Section 1. The Long Beach Municipal Code is hereby amended by
amending Chapter 5.71 to read as follows:

Chapter 5.71
PUBLICLY ACCESSIBLE EXTERIOR PAY TELEPHONES

5.71.010 Definitions.

A. ~~“City Manager” Director~~ shall mean the City Manager Director of Financial Management of the City of Long Beach or his or her designee.

B. ~~“Chief of Police” shall mean the Chief of Police of the City of Long Beach or his or her designee.~~

BC. “Publicly Accessible Exterior Pay Telephones” (“PAT”) shall mean an exterior pay telephone including any pay telephone enclosure or other structure surrounding the “PAT” located on public property or on private property if the private property is open or accessible to the public, into which money may be deposited, or through which a credit card or telephone credit card number may be entered, for purposes of obtaining a telecommunications link to communicate with another who receives the communication by telephone or pager.

CD. The “PAT Operator” shall mean any person[s] or entity authorized to sell, lease, install or otherwise contract for the sale, use, maintenance or

1 installation of a PAT.

2 DE. "Unimproved Property" shall mean any vacant lot, land, parcel, or
3 other real property that lacks any building or structure.

4 EF. "Vacant Building", for the purpose of this Chapter, shall mean any
5 roofed structure built for the support, shelter or enclosure of persons, animals,
6 chattel or property of any kind which has not been used for a period of three
7 (3) or more months.

8 EG. "Property Owner", for the purpose of this Chapter, shall mean the
9 owner of record on any such parcel of real property as designated on the
10 County Assessor's tax roll, or a holder of a subsequently recorded deed to the
11 property.

12 5.71.020 5-71-070 Publicly Accessible Exterior Pay Telephones; exterior
13 pay telephone permit required.

14 No PAT shall be permitted in the City unless located completely within
15 an enclosed building space ~~or~~ unless a valid exterior pay telephone permit is
16 first obtained for each PAT by the PAT Operator with the written consent of
17 the Property Owner and according to the provisions of this Chapter. A new
18 exterior pay telephone permit shall be required for any change or transfer of
19 ownership of the PAT, or relocation of the PAT. The permit may be issued by
20 the City Manager Director only after payment of fee[s] established by
21 resolution of the City Council adopted pursuant to Section 5.04.040. All
22 PAT's shall be removed within fifteen (15) days of expiration or revocation of
23 the Business License, or revocation of the exterior pay telephone permit of
24 the PAT Operator.

25 5.71.030 5-71-100 Permit required for existing Publicly Accessible
26 Exterior Pay Telephones.

27 A permit shall be required for any PAT ~~lawfully~~ installed on any
28 improved property outside of a building as of the effective date of this Section.

1 ~~Such permit shall be obtained no later than two (2) years after the effective~~
2 ~~date of this Section.~~ Any PAT which was lawfully installed on any improved
3 property outside of a building as of the effective date of this Section which
4 does not comply in whole or in part with the requirements of this Chapter shall
5 be removed or otherwise brought into full compliance within ~~two (2)~~one (1)
6 ~~years~~ of the effective date of this Section. For those PAT's lawfully installed
7 on any improved property outside of a building which cannot be brought into
8 compliance because they do not meet the requirements of this Chapter, the
9 use may be extended for only one (1) additional one year period of time (not
10 to exceed ~~two (2) years)~~one (1) year), to be determined by the City Manager
11 ~~Director~~ upon a showing by the PAT Operator that such extension is
12 reasonably necessary to permit the PAT Operator adequate time to amortize
13 or otherwise recover any long term investment in the PAT operation.

14 Any request for an extension of the ~~two (2) year~~ amortization period
15 must be made in writing by the owner of the PAT to the ~~Director~~City Manager
16 by filing a request in writing with the Commercial Services Bureau of the
17 Department of Financial Management no later than ninety (90) days prior to
18 the end of the initial one (1) ~~two (2)~~ year period provided for in this Section.

19 If no permit is obtained as required by this Section, the City may
20 remove or cause to be removed such PAT, and the City's reasonable costs of
21 removal shall be a personal obligation of the owner of such PAT, payable to
22 the City on demand.

23 5.71.040 5.71.080 Permit application.

24 An application for an exterior pay telephone permit shall be filed in
25 compliance with Chapter 5.04 and shall at a minimum contain the following
26 information:

27 A. A site plan showing the location of the proposed PATs;

28 B. An elevation of the proposed PAT design, including lighting, colors,

1 design, and enclosure configuration;

2 C. The name, address, and telephone numbers of the PAT operator,
3 of the property owner where the PAT will be located, the business owners, if
4 applicable, and the name, address, and telephone number of the proposed
5 vending company responsible for installation, maintenance, and billing of the
6 proposed PAT;

7 D. Such other information as required by the City Manager.

8 5.17.050 5.71.020 Prohibited locations.

9 A. No PAT shall be installed, located or maintained on a Vacant
10 Building, Unimproved Property, or property upon which exists a Vacant
11 Building;

12 B. No PAT shall be installed, located or maintained on any private
13 property or any public right-of-way adjacent thereto, that has a premises
14 licensed for the sale of alcoholic beverages (other than beer or wine);

15 C. No PAT shall be installed, located or maintained at a location
16 where use from a vehicle is possible which would cause the vehicle to stand
17 in a driveway or aisle in a parking lot or in the right-of-way;

18 D. No PAT shall be installed, located or maintained within five (5) feet
19 of any area used for vehicular ingress or egress or an aisle way or parking
20 area for vehicular travel;

21 E. No PAT shall be installed, located or maintained within five (5) feet
22 of the entrance or exit to any structure, a crosswalk, a bus shelter, a fire exit
23 or escape, a mail box, parking meter, traffic control box, fire hydrant or that
24 otherwise blocks or restricts free passage of pedestrians or vehicles;

25 F. No PAT shall be installed, located or maintained on any property or
26 at any location that has been determined by the City Manager to create a
27 nuisance based upon prior actual use;

28 G. A PAT shall not be located within a required landscape area and

1 access to the PAT shall not require walking in or standing on any required
2 landscaped area;

3 H. A PAT shall not be located on or encroach over any public property
4 or right-of-way unless an occupancy permit is first obtained as required by
5 Title 14 of this Code;

6 I. No PAT shall be installed which utilizes an electrical supply unless
7 an electrical permit is first obtained as required by Title 18 of this Code;

8 J. No PAT shall be located such that its installation or use interferes
9 with any operation of the legally established use of the property or other land
10 use requirements such as emergency fire exits or parking;

11 K. No PAT shall be installed in such a manner that would require or
12 allow the user of the PAT to stand or otherwise be located in the public right
13 of way. Any existing PAT which is located or maintained in violation of
14 Subsection (A) shall be removed within thirty (30) days after the effective date
15 of this ordinance.

16 L. No PAT shall be installed within five (5) feet of any premises
17 property line.

18 ~~5.71.060~~ ~~5.71.090~~ Minimum standards for a publicly accessible exterior pay
19 telephone permit.

20 Installation, operation, and maintenance of PAT's shall be in
21 accordance with all applicable codes, laws, rules, regulations, and statutes
22 including the ~~City's g~~General ~~p~~Plan, any applicable specific plans, the local
23 coastal program, and all zoning regulations of the applicable district and the
24 following minimum standards:

25 A. The PAT Operator shall have a valid City business license;

26 B. ~~That~~ the PAT Operator ~~shall have~~ ~~has the~~ written consent of the
27 current Property Owner for the placement of the ~~PAT, exterior pay telephone.~~
28 Said written consent shall be provided to the City at the time the application

1 for a permit is filed;

2 C. No PAT shall be installed in violation of the provisions of the
3 Americans with Disabilities Act or equivalent California disability access
4 regulations;

5 D.H. All PAT's shall have the following operating features at all times:

- 6 1. Display of ~~an~~ a valid City permit identification number;
7 2. Display of PAT Operator identification;~~;~~

8 E.I. All PAT's shall be maintained in a clean, neat, damage-free, and
9 unless otherwise required, operable manner at all times;~~;~~

10 ~~J. No PAT shall be located such that its installation or use interferes~~
11 ~~with any operation of the legally established use of the property or other land~~
12 ~~use requirements such as emergency fire exits or parking.~~

13 F.K. Installation and operation of PAT's shall at all times be
14 maintained in accordance with all applicable requirements of the California
15 Public Utilities Commission and the Federal Communications Commission;~~;~~

16 G.L. Lighting shall be provided and permanently maintained for all
17 PAT's to ensure that any user of the PAT can be clearly visible to nearby
18 traffic, pedestrians, or public areas and that the level of light will be a
19 minimum of one (1) foot candle measured not less than two (2) feet from the
20 base of the instrument. Such lighting shall be directed away or screened from
21 any adjacent residential uses;~~;~~

22 H.M. PAT's shall, at all times, have posted on the pay phone a clearly
23 visible number to call for consumer rights information, complaints and other
24 information related to consumer protection, or as otherwise required by law or
25 other regulatory agencies, or as required by the ~~Director~~ City Manager;~~;~~

26 I.N. Any other feature, signage, or information as required by the City
27 Manager. ~~PAT's shall at all times, have posted on the pay phone a valid~~
28 ~~permit issued by the City of Long Beach.~~

1 5.71.070 Operating conditions.

2 The City Manager may impose any and all additional conditions as
3 may be reasonably required to maintain the public health, safety and welfare
4 of the community, including, but not limited to, the following:

5 A. A requirement that the PAT be located in close proximity to the
6 place of business so that the PAT is clearly visible to the interior of the
7 adjacent business or businesses;

8 B. Restrictions relating to the telephone style/mounting or mounting
9 configuration;

10 C. Restrictions to prevent the use of pagers or beepers or the use of
11 electronic wiring, not telephone wire, for electronic connections;

12 D. A restriction rendering the PAT incapable of receiving incoming
13 calls;

14 E. A requirement that PATs shall be either a so-called "smart phone"
15 equipped with a built in computer or a "smart line" phone having the capability
16 of making the telephone inoperative for designated periods of time;

17 F. A requirement to provide lists to the City upon request of each
18 outgoing call as to the number called, its duration, and the date and time of
19 the call;

20 G. A requirement that each PAT be equipped with a built-in volume
21 control and a key pad that prevents the use of pagers or beepers;

22 H. Requirements limiting the hours of PAT operation together with
23 appropriate signage related to said hours of operation;

24 I. A requirement to install a timer or manual switch that would allow
25 the property owner or operator of the location of the PAT to control the
26 functionality of the PAT remotely;

27 J. A requirement to provide suitable trash receptacles adjacent to the
28 PAT;

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K. A requirement to program the PAT so that said PAT may not be used or operated other than during the hours of operation specifically permitted.

L. Limiting the hours of operation of the PAT, except that 911 service shall be operable at all times;

M. Relocating the PAT to a different location on the property as approved by the City Manager;

N. Rendering of the PAT inoperable for a period to be determined by the City Manager;

O. Relocating the PAT inside the business;

P. Blocking of all incoming calls.

5.71.080 5.71.030 Public nuisance.

Any PAT which is used as an instrumentality for or contributes substantially by its presences to any of the following conditions is hereby declared to be a public nuisance:

A. Selling or giving away controlled substances (as defined in Division 10 of the California Health and Safety Code);

B. Soliciting, agreeing to engage in, or engaging in an act of prostitution; or other criminal activity;

C. Consumption of alcoholic beverages on nearby outdoor public or private property except where outdoor consumption of alcoholic beverages is specifically authorized pursuant to a license issued by the Department of Alcoholic Beverage Control;

D. Loitering on nearby public or private property;

E. Excessive noise;

F. Disturbance of the peace, public drunkenness, harassment of passerby, gambling, public urination or lewd conduct.

As used in this Section, "loitering" shall mean standing, sitting, lying or

1 remaining on any property under such circumstances that a reasonable
2 person would conclude that the person who remains on the property does not
3 have a purpose connected with the usual and ordinary use to which such
4 property is put, does not have a bona fide intent to exercise a constitutional
5 right, and is causing public inconvenience or annoyance.

6 ~~5.71.090~~ ~~5.71.040~~ Abatement generally.

7 ~~A.—Whenever the City Manager or designee Chief of Police determines~~
8 ~~that any PAT constitutes a public nuisance, as defined in Sections 5.71.020,~~
9 ~~5.71.030 or 21.15.1870 of this Code, the City Manager Director may~~
10 ~~commence proceedings to either suspend or revoke the permit or impose one~~
11 ~~(1) or more of the operating conditions set forth in Section 5.71.070, as~~
12 ~~appropriate.~~

13 ~~B. No proceedings to abate a public nuisance defined in Sections~~
14 ~~5.71.020, 5.71.030 or 21.15.1870 shall be commenced unless the Director~~
15 ~~first has made a reasonable effort to work with the Property Owner where the~~
16 ~~PAT is located or the PAT Operator to eliminate the conditions described in~~
17 ~~Sections 5.71.020, 5.71.030 or 21.15.1870 by voluntary measures, such as:~~

18 ~~_____ 1. Limiting the hours of operation of the PAT, except that 911~~
19 ~~service shall be operable at all times;~~

20 ~~_____ 2. Relocating the PAT to a different location on the property as~~
21 ~~approved by the Director;~~

22 ~~_____ 3. Rendering of the PAT inoperable for a period to be~~
23 ~~determined by the Director;~~

24 ~~_____ 4. Relocating the PAT inside the business;~~

25 ~~_____ 5. Blocking of incoming calls;~~

26 ~~_____ 6. Other operating restrictions or modifications to the above~~
27 ~~may be required by the Director as necessary to address regulatory or~~
28 ~~technological changes or other public nuisance issues that may develop.~~

1 5.71.100 5.71.150. PAT permit - Suspension or revocation - Hearing.

2 A. No permit issued pursuant to the provisions of this Chapter shall be
3 suspended or revoked until after a hearing is held by the City Manager,
4 Director, relating to such suspension or revocation, notice of which hearing
5 shall be given in writing to the permittee and served at least ten (10) days
6 prior to the date of the hearing thereon. ~~;~~ s Such service shall be upon the
7 holder of such permit or his/her manager or agent, which notice shall state the
8 ground of suspension or revocation and shall also state the time when, and
9 the place where, such hearing will be held. The notice shall be served upon
10 the holder of the permit ~~by delivering the same to the person, his/her~~
11 ~~manager or agent, or to any person in charge of, or employed in the place of~~
12 ~~business of the holder, or, if the person has no place of business, then, at~~
13 ~~his/her place of residence, or by leaving the notice at the place of business or~~
14 ~~residence of the person with some person of suitable age and discretion. In~~
15 ~~the event the holder of the permit cannot be found and the service of the~~
16 ~~notice cannot be made upon him/her in the manner provided, then a copy of~~
17 ~~the notice shall be mailed, by mailing a copy of the notice,~~ postage fully
18 prepaid, addressed to the permittee at the address set forth in the permit
19 application ~~his/her place of business or residence at~~ least ten (10) days prior
20 to the date of the hearing.

21 ~~B. When an appeal is filed, the order of suspension or revocation shall~~
22 ~~be stayed pending the determination of the appeal by the City Council. The~~
23 ~~suspension or revocation shall be dissolved immediately if the decision of the~~
24 ~~City Council reverses the decision made by the Director.~~

25 ~~B.C.~~ Any permit revoked pursuant to the provisions of this Chapter
26 shall be surrendered by the permittee to the City Manager~~Director~~ who shall
27 transmit it to the business license section of the Department of Financial
28 Management. The PAT shall be surrendered ~~removed pursuant to Section~~

1 ~~5.71.110~~ within ten (10) days or other time frame as may be designated by
2 the City Manager ~~Director~~ or the City Council.

3 ~~5.71.130 PAT permit Suspension or revocation Grounds.~~

4 ~~The following shall constitute grounds for suspension and revocation of~~
5 ~~a PAT permit.~~

6 ~~A. Any of the grounds set forth in Section 5.06.020.~~

7 ~~B. The violation of any of the provisions of this Chapter or of any PAT~~
8 ~~standards and regulations prescribed by the Director pursuant to this Chapter.~~

9 ~~5.71.140. PAT system permit Suspension or revocation~~

10 ~~Authority.~~

11 ~~Any PAT permit issued under this Chapter may be suspended or~~
12 ~~revoked by the Director for the grounds listed in this Section.~~

13 5.71.110 ~~5.71.160~~ PAT permit - Suspension or revocation - Appeal.

14 A. Any applicant for a permit, pursuant to which may be required
15 ~~under~~ this Chapter, whose application for such permit has been denied by the
16 City Manager, Director, or any permittee whose permit has been suspended
17 or revoked by the City Manager, Director, may, within ten (10) days after such
18 denial, suspension or revocation, appeal to the City Council pursuant to the
19 provisions of Section 5.06.030. The disposition of the appeal by the City
20 Council shall be final;

21 B. When an appeal is filed, the order of suspension or revocation shall
22 be stayed pending the determination of the appeal by the City Council. The
23 suspension or revocation shall be dissolved immediately if the decision of the
24 City Council reverses the decision made by the City Manager.

25 ~~5.71.050 Replacement prohibited.~~

26 ~~If the permit to be revoked is one defined in Section 5.71.030, the~~
27 ~~hearing notice required shall specify that the revocation shall consist of~~
28 ~~removal of the PAT and that no PAT shall be installed on the same parcel, or~~

1 on any contiguous parcel owned by the same Property Owner for a period of
2 one (1) year from the date of removal.

3 ~~5.71.120 PAT permit Cancellation or denial.~~

4 ~~A. The Director may cancel a PAT permit pursuant to the provisions of~~
5 ~~Section 5.06.025.~~

6 ~~B. The Director may deny an application for a PAT for not conforming~~
7 ~~to the standards and requirements of this Chapter or for the grounds~~
8 ~~prescribed in Chapters 5.04 or 5.06 of this Code.~~

9 ~~5.71.060 List of abated locations.~~

10 ~~The Director shall maintain and make available upon request a list of~~
11 ~~locations where installation of PAT's is prohibited pursuant to Section~~
12 ~~5.71.050.~~

13 ~~5.71.120 5.71.110~~ Removal of publicly accessible exterior pay telephones.

14 If any PAT permit is cancelled, suspended, or revoked, ~~as provided for~~
15 ~~in Sections 5.71.120, 5.71.130, 5.71.140 and 5.71.150~~, and the PAT is not
16 removed by the Property Owner or PAT Operator within the time period
17 designated by the ~~Director~~City Manager, the PAT shall be deemed a public
18 nuisance and the abatement of said nuisance will be accomplished by either
19 City forces or private contractor, and the ~~Director~~City Manager is expressly
20 authorized to enter the premises for such purpose. Upon failure to claim the
21 PAT and pay the expenses of removal and storage within thirty (30) days
22 after removal, the PAT will be discarded or will be sold if determined to have
23 value. The Property Owner or PAT Operator, as appropriate, shall be liable
24 for the City's costs incurred in the removal and storage of such PAT, and said
25 costs may constitute a lien upon said property until paid.

26 ~~5.71.130 Additional remedies.~~

27 ~~In addition to any other remedy set forth in this Chapter, the City~~
28 ~~Manager or designee may cause the issuance of an administrative citation for~~

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
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Long Beach, CA 90802-4664

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any violation of this Chapter in accordance with Chapter 9.65 of this Code.

Section 2. I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 20__, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

Approved: _____
(Date)

Mayor

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

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ORDINANCE NO.

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CITY OF LONG BEACH AMENDING LONG BEACH
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PUBLICLY ACCESSIBLE EXTERIOR PAY TELEPHONES

5.71.010 Definitions.

A. "City Manager" shall mean the City Manager of the City of Long
Beach or his or her designee.

B. "Publicly Accessible Exterior Pay Telephones" ("PAT") shall mean
an exterior pay telephone including any pay telephone enclosure or other
structure surrounding the "PAT" located on public property or on private
property if the private property is open or accessible to the public, into which
money may be deposited, or through which a credit card or telephone credit
card number may be entered, for purposes of obtaining a telecommunications
link to communicate with another who receives the communication by
telephone or pager.

C. The "PAT Operator" shall mean any person[s] or entity authorized
to sell, lease, install or otherwise contract for the sale, use, maintenance or
installation of a PAT.

D. "Unimproved Property" shall mean any vacant lot, land, parcel, or

1 other real property that lacks any building or structure.

2 E. "Vacant Building", for the purpose of this Chapter, shall mean any
3 roofed structure built for the support, shelter or enclosure of persons, animals,
4 chattel or property of any kind which has not been used for a period of three
5 (3) or more months.

6 F. "Property Owner", for the purpose of this Chapter, shall mean the
7 owner of record on any such parcel of real property as designated on the
8 County Assessor's tax roll, or a holder of a subsequently recorded deed to the
9 property.

10 5.71.020 Publicly Accessible Exterior Pay Telephones; exterior pay
11 telephone permit required.

12 No PAT shall be permitted in the City unless located completely within
13 an enclosed building space unless a valid exterior pay telephone permit is
14 first obtained for each PAT by the PAT Operator with the written consent of
15 the Property Owner and according to the provisions of this Chapter. A new
16 exterior pay telephone permit shall be required for any change or transfer of
17 ownership of the PAT, or relocation of the PAT. The permit may be issued by
18 the City Manager only after payment of fee[s] established by resolution of the
19 City Council adopted pursuant to Section 5.04.040. All PAT's shall be
20 removed within fifteen (15) days of expiration or revocation of the business
21 license, or revocation of the exterior pay telephone permit of the PAT
22 Operator.

23 5.71.030 Permit required for existing Publicly Accessible Exterior Pay
24 Telephones.

25 A permit shall be required for any PAT installed on any improved
26 property outside of a building as of the effective date of this Section. Any
27 PAT which was lawfully installed on any improved property outside of a
28 building as of the effective date of this Section which does not comply in

1 whole or in part with the requirements of this Chapter shall be removed or
2 otherwise brought into full compliance within one (1) year of the effective date
3 of this Section. For those PAT's lawfully installed on any improved property
4 outside of a building which cannot be brought into compliance because they
5 do not meet the requirements of this Chapter, the use may be extended for
6 only one (1) additional one (1) year period of time (not to exceed two (2)
7 years), to be determined by the City Manager upon a showing by the PAT
8 Operator that such extension is reasonably necessary to permit the PAT
9 Operator adequate time to amortize or otherwise recover any long term
10 investment in the PAT operation.

11 Any request for an extension of the amortization period must be made
12 in writing by the owner of the PAT to the City Manager by filing a request in
13 writing with the Commercial Services Bureau of the Department of Financial
14 Management no later than ninety (90) days prior to the end of the initial one
15 (1) year period provided for in this Section.

16 If no permit is obtained as required by this Section, the City may
17 remove or cause to be removed such PAT, and the City's reasonable costs of
18 removal shall be a personal obligation of the owner of such PAT, payable to
19 the City on demand.

20 5.71.040 Permit application.

21 An application for an exterior pay telephone permit shall be filed in
22 compliance with Chapter 5.04 and shall at a minimum contain the following
23 information:

- 24 A. A site plan showing the location of the proposed PATs;
- 25 B. An elevation of the proposed PAT design, including lighting, colors,
26 design, and enclosure configuration;
- 27 C. The name, address, and telephone numbers of the PAT operator,
28 of the property owner where the PAT will be located, the business owners, if

1 applicable, and the name, address, and telephone number of the proposed
2 vending company responsible for installation, maintenance, and billing of the
3 proposed PAT;

4 D. Such other information as required by the City Manager.

5 5.17.050 Prohibited locations.

6 A. No PAT shall be installed, located or maintained on a Vacant
7 Building, Unimproved Property, or property upon which exists a Vacant
8 Building;

9 B. No PAT shall be installed, located or maintained on any private
10 property or any public right-of-way adjacent thereto, that has a premises
11 licensed for the sale of alcoholic beverages (other than beer or wine);

12 C. No PAT shall be installed, located or maintained at a location
13 where use from a vehicle is possible which would cause the vehicle to stand
14 in a driveway or aisle in a parking lot or in the right-of-way;

15 D. No PAT shall be installed, located or maintained within five (5) feet
16 of any area used for vehicular ingress or egress or an aisle way or parking
17 area for vehicular travel;

18 E. No PAT shall be installed, located or maintained within five (5) feet
19 of the entrance or exit to any structure, a crosswalk, a bus shelter, a fire exit
20 or escape, a mail box, parking meter, traffic control box, fire hydrant or that
21 otherwise blocks or restricts free passage of pedestrians or vehicles;

22 F. No PAT shall be installed, located or maintained on any property or
23 at any location that has been determined by the City Manager to create a
24 nuisance based upon prior actual use;

25 G. A PAT shall not be located within a required landscape area and
26 access to the PAT shall not require walking in or standing on any required
27 landscaped area;

28 H. A PAT shall not be located on or encroach over any public property

1 or right-of-way unless an occupancy permit is first obtained as required by
2 Title 14 of this Code;

3 I. No PAT shall be installed which utilizes an electrical supply unless
4 an electrical permit is first obtained as required by Title 18 of this Code;

5 J. No PAT shall be located such that its installation or use interferes
6 with any operation of the legally established use of the property or other land
7 use requirements such as emergency fire exits or parking;

8 K. No PAT shall be installed in such a manner that would require or
9 allow the user of the PAT to stand or otherwise be located in the public right
10 of way. Any existing PAT which is located or maintained in violation of
11 Subsection (A) shall be removed within thirty (30) days after the effective date
12 of this ordinance.

13 L. No PAT shall be installed within five (5) feet of any premises
14 property line.

15 5.71.060 Minimum standards for a publicly accessible exterior pay
16 telephone permit.

17 Installation, operation, and maintenance of PAT's shall be in
18 accordance with all applicable codes, laws, rules, regulations, and statutes
19 including the City's General Plan, any applicable specific plans, the local
20 coastal program, and all zoning regulations of the applicable district and the
21 following minimum standards:

22 A. The PAT Operator shall have a valid City business license;

23 B. The PAT Operator shall have written consent of the current
24 Property Owner for the placement of the PAT. Said written consent shall be
25 provided to the City at the time the application for a permit is filed;

26 C. No PAT shall be installed in violation of the provisions of the
27 Americans with Disabilities Act or equivalent California disability access
28 regulations;

1 D. All PAT's shall have the following operating features at all times:

2 1. Display of a valid City permit identification number;

3 2. Display of PAT Operator identification;

4 E. All PAT's shall be maintained in a clean, neat, damage-free, and
5 unless otherwise required, operable manner at all times;

6 F. Installation and operation of PAT's shall at all times be maintained
7 in accordance with all applicable requirements of the California Public Utilities
8 Commission and the Federal Communications Commission;

9 G. Lighting shall be provided and permanently maintained for all
10 PAT's to ensure that any user of the PAT can be clearly visible to nearby
11 traffic, pedestrians, or public areas and that the level of light will be a
12 minimum of one (1) foot candle measured not less than two (2) feet from the
13 base of the instrument. Such lighting shall be directed away or screened from
14 any adjacent residential uses;

15 H. PAT's shall, at all times, have posted on the pay phone a clearly
16 visible number to call for consumer rights information, complaints and other
17 information related to consumer protection, or as otherwise required by law or
18 other regulatory agencies, or as required by the City Manager;

19 I. Any other feature, signage, or information as required by the City
20 Manager.

21 5.71.070 Operating conditions.

22 The City Manager may impose any and all additional conditions as
23 may be reasonably required to maintain the public health, safety and welfare
24 of the community, including, but not limited to, the following:

25 A. A requirement that the PAT be located in close proximity to the
26 place of business so that the PAT is clearly visible to the interior of the
27 adjacent business or businesses;

28 B. Restrictions relating to the telephone style/mounting or mounting

- 1 configuration;
- 2 C. Restrictions to prevent the use of pagers or beepers or the use of
- 3 electronic wiring, not telephone wire, for electronic connections;
- 4 D. A restriction rendering the PAT incapable of receiving incoming
- 5 calls;
- 6 E. A requirement that PATs shall be either a so-called "smart phone"
- 7 equipped with a built in computer or a "smart line" phone having the capability
- 8 of making the telephone inoperative for designated periods of time;
- 9 F. A requirement to provide lists to the City upon request of each
- 10 outgoing call as to the number called, its duration, and the date and time of
- 11 the call;
- 12 G. A requirement that each PAT be equipped with a built-in volume
- 13 control and a key pad that prevents the use of pagers or beepers;
- 14 H. Requirements limiting the hours of PAT operation together with
- 15 appropriate signage related to said hours of operation;
- 16 I. A requirement to install a timer or manual switch that would allow
- 17 the property owner or operator of the location of the PAT to control the
- 18 functionality of the PAT remotely;
- 19 J. A requirement to provide suitable trash receptacles adjacent to the
- 20 PAT;
- 21 K. A requirement to program the PAT so that said PAT may not be
- 22 used or operated other than during the hours of operation specifically
- 23 permitted.
- 24 L. Limiting the hours of operation of the PAT, except that 911 service
- 25 shall be operable at all times;
- 26 M. Relocating the PAT to a different location on the property as
- 27 approved by the City Manager;
- 28 N. Rendering of the PAT inoperable for a period to be determined by

1 the City Manager;

2 O. Relocating the PAT inside the business;

3 P. Blocking of all incoming calls.

4 5.71.080 Public nuisance.

5 Any PAT which is used as an instrumentality for or contributes
6 substantially by its presences to any of the following conditions is hereby
7 declared to be a public nuisance:

8 A. Selling or giving away controlled substances (as defined in Division
9 10 of the California Health and Safety Code);

10 B. Soliciting, agreeing to engage in, or engaging in an act of
11 prostitution; or other criminal activity;

12 C. Consumption of alcoholic beverages on nearby outdoor public or
13 private property except where outdoor consumption of alcoholic beverages is
14 specifically authorized pursuant to a license issued by the Department of
15 Alcoholic Beverage Control;

16 D. Loitering on nearby public or private property;

17 E. Excessive noise;

18 F. Disturbance of the peace, public drunkenness, harassment of
19 passerby, gambling, public urination or lewd conduct.

20 As used in this Section, "loitering" shall mean standing, sitting, lying or
21 remaining on any property under such circumstances that a reasonable
22 person would conclude that the person who remains on the property does not
23 have a purpose connected with the usual and ordinary use to which such
24 property is put, does not have a bona fide intent to exercise a constitutional
25 right, and is causing public inconvenience or annoyance.

26 5.71.090 Abatement generally.

27 Whenever the City Manager or designee determines that any PAT
28 constitutes a public nuisance, the City Manager may commence proceedings

1 to either suspend or revoke the permit or impose one (1) or more of the
2 operating conditions set forth in Section 5.71.070, as appropriate.

3 5.71.100 PAT permit - Suspension or revocation - Hearing.

4 A. No permit issued pursuant to the provisions of this Chapter shall be
5 suspended or revoked until after a hearing is held by the City Manager,
6 relating to such suspension or revocation, notice of which hearing shall be
7 given in writing to the permittee and served at least ten (10) days prior to the
8 date of the hearing thereon. Such service shall be upon the holder of such
9 permit or his/her manager or agent, which notice shall state the ground of
10 suspension or revocation and shall also state the time when, and the place
11 where, such hearing will be held. The notice shall be served upon the holder
12 of the permit by mailing a copy of the notice, postage fully prepaid, addressed
13 to the permittee at the address set forth in the permit application at least ten
14 (10) days prior to the date of the hearing.

15 B. Any permit revoked pursuant to the provisions of this Chapter shall
16 be surrendered by the permittee to the City Manager who shall transmit it to
17 the business license section of the Department of Financial Management.
18 The PAT shall be surrendered within ten (10) days or other time frame as
19 may be designated by the City Manager or the City Council.

20 5.71.110 PAT permit - Suspension or revocation - Appeal.

21 A. Any applicant for a permit, pursuant to this Chapter, whose
22 application for such permit has been denied by the City Manager, or any
23 permittee whose permit has been suspended or revoked by the City Manager,
24 may, within ten (10) days after such denial, suspension or revocation, appeal
25 to the City Council pursuant to the provisions of Section 5.06.030. The
26 disposition of the appeal by the City Council shall be final;

27 B. When an appeal is filed, the order of suspension or revocation shall
28 be stayed pending the determination of the appeal by the City Council. The

1 suspension or revocation shall be dissolved immediately if the decision of the
2 City Council reverses the decision made by the City Manager.

3 5.71.120 Removal of publicly accessible exterior pay telephones.

4 If any PAT permit is cancelled, suspended, or revoked, and the PAT is
5 not removed by the Property Owner or PAT Operator within the time period
6 designated by the City Manager, the PAT shall be deemed a public nuisance
7 and the abatement of said nuisance will be accomplished by either City forces
8 or private contractor, and the City Manager is expressly authorized to enter
9 the premises for such purpose. Upon failure to claim the PAT and pay the
10 expenses of removal and storage within thirty (30) days after removal, the
11 PAT will be discarded or will be sold if determined to have value. The
12 Property Owner or PAT Operator, as appropriate, shall be liable for the City's
13 costs incurred in the removal and storage of such PAT, and said costs may
14 constitute a lien upon said property until paid.

15 5.71.130 Additional remedies.

16 In addition to any other remedy set forth in this Chapter, the City
17 Manager or designee may cause the issuance of an administrative citation for
18 any violation of this Chapter in accordance with Chapter 9.65 of this Code.

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OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

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Section 2. I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 2012, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

Approved: _____
(Date)

Mayor