

ORDINANCE NO.

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AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING LONG BEACH
MUNICIPAL CODE CHAPTER 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" 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

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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 5.71.050 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

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

5.71.120 Removal of publicly accessible exterior pay telephones.

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

5.71.130 Additional remedies.

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

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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

OFFICE OF THE CITY ATTORNEY
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