

CHAPTER 38

OUTDOOR PAY TELEPHONES

38.01 DEFINITIONS

For the purposes of this Chapter, the following definitions shall apply:

(a) *Outdoor pay telephone* is any publicly accessible self-service, coin, or credit card operated telephone.

(b) *Private outdoor pay telephone* is any outdoor pay telephone located outside of a building which is not a public outdoor pay telephone.

(c) *Public outdoor pay telephone* is any outdoor pay telephone any portion of which, or its enclosure, is situated on, projects over, or hangs over a portion of the public right-of-way; or is situated such that it can be used by a person standing on the public right-of-way.

(d) *Public right-of-way* is the full width of any dedicated street, alley or highway, including any parkway and public sidewalk.

38.02 OUTDOOR PAY TELEPHONES-LICENSE REQUIRED

It shall be unlawful for any person to own or maintain an outdoor pay telephone without having obtained a license issued for that specific location. A license application shall list all locations by street address and shall list the telephone number for each outdoor pay telephone. No outdoor pay telephone shall be located on any private property without the permission of the property owner. The address listed in the application shall be used by the City for sending any required notices. The annual license fee shall be \$100 per year plus an additional \$10 for each outdoor pay telephone. Licenses shall be issued on an annual basis for the period of January 1 through December 31. The City Clerk shall issue a license within 10 days provided that there are no violations of this chapter.

38.03 PUBLIC OUTDOOR PAY TELEPHONES-PERMIT REQUIRED

It shall be unlawful for any person to install, construct or maintain a public outdoor pay telephone without obtaining a permit from the City. The Mayor is hereby authorized to grant permits for a period not exceeding 3 years for the privilege of installing and maintaining a public outdoor pay telephone upon such terms and conditions as deemed necessary in order to protect the public health, safety and welfare. A permit may provide for the payment of consideration to the City.

38.04 PRIVATE OUTDOOR PAY TELEPHONES-PERMITTED LOCATIONS

It shall be unlawful for any person to install, own or maintain a private outdoor pay telephone under any of the following conditions:

- (a) On any vacant property.
- (b) On any property where there is an abandoned building.
- (c) On any property which has a premises licensed for the sale of alcoholic liquor.
- (d) On any property used for residential purposes.

(e) At a location within 100 feet of and where the users of the telephone can be heard from a residential dwelling unit.

(f) At a location where use from a vehicle is allowed (i.e. posts are not installed to prohibit use from a vehicle) which would cause the vehicle to stand in a driveway or aisle in a parking lot.

(g) On any property or at any location which has been determined by the Mayor to create a nuisance based upon prior actual use.

38.05 DETERMINATION OF NUISANCE

The Mayor is hereby authorized to make the determination that the maintenance and operation of an outdoor pay telephone at a specific location constitutes a nuisance such that it has a deleterious impact upon the surrounding neighborhood or upon the public health, safety and welfare. Prior to such determination the City shall send a notice to the licensee stating that the licensee has the right to file a written request within 7 days asking for a public hearing with regard to the issue of nuisance declaration. The public hearing shall be held within 10 days after receipt of the licensee's request and shall be conducted with fundamental fairness. Formal or technical rules of evidence shall not apply. The Mayor shall make a decision within 7 days after the adjournment of the public hearing. If there is no request for a public hearing by the licensee, the Mayor may summarily determine that a nuisance exists based upon available information. Upon determination of a nuisance, the outdoor pay telephone shall be removed by the licensee within 7 days. Any outdoor pay telephone not so removed may be abated or removed by the City and may be reclaimed by the owner within 30 days after removal upon reimbursement to the City for removal and storage costs. Any outdoor pay telephone not so reclaimed may be disposed of as unclaimed property.

38.06 REMOVAL OF PRIVATE OR PUBLIC OUTDOOR PAY TELEPHONES

The Police Department is hereby authorized to remove any private or public outdoor pay telephone which does not have a current permit or license, such being declared a public nuisance. The City shall send written notice to the owner or operator at least 7 days prior to removal stating that the outdoor pay telephone is subject to removal unless the permittee or licensee provides evidence that a permit or license has been granted by the City for such location. Any outdoor pay telephone removed by the City may be reclaimed by the owner within 30 days after removal upon reimbursement to the City for removal and storage costs. Any outdoor pay telephone not so reclaimed may be disposed of as unclaimed property.

38.07 RESTRICTIONS ON SERVICE PROVIDED

In order to combat loitering, street gangs, illegal activities, unsightly graffiti, or conduct detrimental to the tranquility of the neighborhood, the City may require that an outdoor pay telephone:

- (a) Provide only one-way service such that incoming calls cannot be received.
- (b) Prohibit the transmittal of messages to pagers or other devices by disabling the ability to input data other than the phone number called.
- (c) Prohibit the acceptance of coin authorized calls from 7:30 p.m. to 4:00 a.m. (or other limited hours), during which hours only credit card, third number, collect, 9-1-1, repair, and information calls can be placed.

Such decision shall be made by the Chief of Police based upon reported or documented incidents of loitering, street gangs, illegal activities, unsightly graffiti, or conduct detrimental to the tranquility of the neighborhood. The City Clerk shall condition any license or permit upon compliance with such restrictions.