



City of Philadelphia

City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

BILL NO. 000408

Introduced June 1, 2000

Councilmembers DiCicco, Tasco and Nutter

**Referred to the
Committee on Public Property and Public Works**

AN ORDINANCE

Amending Section 9-210 of The Philadelphia Code, entitled "Telephone Booths," by prohibiting installation or maintenance of any public pay telephone in or encroaching on the public right-of-way without the grant of a concession by the Department of Public Property and by imposing requirements for the operation and maintenance of such telephones, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Section 9-210 of The Philadelphia Code is amended to read as follows:

§9-210. [Telephone Booths.] *Public Pay Telephones.*

(1) *Definitions. Whenever used in this chapter:*

(a) *"Public pay telephone" or "telephone" shall mean a telephone and associated equipment, from which calls can be paid for at the time they are made by a coin, credit card, prepaid debit card or in any other manner, which is available for use by the public and provides access to the switched telephone network for the purpose of voice or data communications. The term "public pay telephone" or "telephone" shall include any pedestal or telephone bank supporting one or more such telephones, associated enclosures, signage and other associated equipment.*

(b) *"Person" shall mean a natural person, a corporation, a partnership, an association, or any entity that conducts business activities in the City of Philadelphia.*

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[(1)] (2) Prohibited Conduct. No person shall erect, install or maintain a public [telephone booth] *pay telephone* on any sidewalk [as defined in §11-101(4) of this Code] or *public right-of-way* [except as authorized in this Section] unless he or she:

(a) *Has been awarded a concession by the Department of Public Property and the Department of Streets granting the right to place and operate public pay telephones in or encroaching on the public right-of-way.*

(.1) *Concessions shall be for a term of not more than three (3) years.*

(.2) *Concessions shall be non-exclusive and shall be awarded by competitive process.*

(.3) *Concessions shall provide for payment to the City of such minimum concession fees as are determined by the Department of Public Property and the Department of Streets.*

(b) *Has obtained a permit from the Department of Licenses and Inspections for the particular location on which the telephone is to be installed and maintained.*

(.1) *Permits shall be for a term of one year, renewable throughout the term of the applicable concession if the permittee is in compliance with the provisions of this Section, the applicable concession, and applicable regulations of the Department of Licenses and Inspections, the Department of Streets, and the Department of Public Property.*

(.2) *Permits shall be non-transferable, except as may be authorized by regulation.*

[(2)] (3) Permits. [No person shall erect, install or maintain a public telephone booth unless he has obtained a permit from the Department of Licenses and Inspections.]

[(a)] No permit shall be issued unless:

(a) *the applicant has been awarded a concession;*

[(.1)] (b) the applicant submits a plan specifying the precise location of the [booth] *telephone* and the size, shape, type of construction and materials of such [booth] *telephone*;

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[(.2)] (c) the plan has been approved by *the Department of Streets and the Department of Public Property, in consultation with the Police Department and the Department of Licenses and Inspections, and after notice and an opportunity for public comment as hereinafter provided*, as to the location of the [booth] *telephone*, such approval to be withheld if the maintenance of a [booth] *telephone* at the proposed location will tend to obstruct passage or create a pedestrian or other traffic hazard or public nuisance or may otherwise be contrary to the public interest.

(.1) *Notice of application for a permit shall be published in one daily newspaper of general circulation in the City of Philadelphia not less than ten days prior to approval or disapproval of the application, and whenever feasible, in the judgment of the Department of Streets, shall also be prominently displayed at or near the location for which the permit is sought for a period of not less than ten days prior to approval or disapproval of the application. The notice shall identify the applicant and state the number of telephones applied for at the location, and shall invite members of the public to submit comments on the application to the Department of Public Property and the Department of Streets, in writing or such other manner as may be established by regulation.*

[(.3)] (d) the plan has been approved by the Art Commission as to the design and location of the structure;

[(.4)] (e) the plan has been approved by the Department of Licenses and Inspections as to *compliance with all applicable building, electrical, fire, and other codes*;

[(.5)] (f) the *written consent of the abutting land owner has been obtained, and is attached to the application*;

(.1) *Such consent shall specifically authorize any opening, drilling, construction, affixing to or other interference with the abutting owner's property or any openings between the building line and the curb line. Absent such specific consent, no such interference with the abutting owner's property shall be allowed.*

(g) *the applicant submits a plan, acceptable to the Department of Public Property, for access to the "911" emergency dispatch system.*

[(.6)] (h) the applicant pays an initial fee [of \$10.00] *or renewal fee, as determined by the Department of Licenses and Inspection, by regulation*;

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[(.7)] (i) the applicant agrees that the [booth] *telephone* will be removed within 10 days of receipt of notice from the Department of Licenses and Inspections that the Department has determined that the [booth] *telephone* tends unduly to obstruct passage or creates a pedestrian or other traffic hazard or public nuisance, or is being used improperly, or its maintenance is found otherwise to be contrary to the public interest, *or the abutting property owner has withdrawn his or her consent;*

[(.8)] (j) the applicant agrees to indemnify and save harmless the City, its officers, employees and agents from and against any and all loss resulting from injury to or death of persons or damage to property arising out of, resulting from or in any manner caused by the presence, location, use, operation, installation, maintenance, repair, replacement or removal of such telephone [booth], or by the acts or omissions of the employees or agents of the applicant in connection with such telephone [booth], except only if such injury, death or damage is caused by the sole act or omissions of the City, its officers, employees or agents.

(k) *all telephones then owned or operated by the applicant are currently in compliance with all provisions of this Section and applicable regulations.*

[(3) Annual Renewal. Annually, at such time as may be specified by the Department of Licenses and Inspections after the original permit has been granted, an application for renewal for an additional year shall be made and the applicant shall pay a renewal fee of \$5.00.]

(4) *Regulations. The Department of Licenses and Inspections, the Department of Streets, and the Department of Public Property shall jointly issue regulations regarding the administration of this Section, including regulations setting forth:*

(a) *A procedure and timetable for review by the Departments, and other appropriate agencies, of applications for permits.*

(b) *The fees to be charged for issuance and renewal of permits. Such fees shall be sufficient to compensate the City for the administrative expense of issuing or renewing a permit and the expense of inspections, enforcement and other activities related thereto.*

(c) *Standards governing the location of public pay telephones that shall ensure that such telephones will not unreasonably interfere with the use of the street by the public and with the use of the abutting property.*

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(d) *Standards and procedures governing the installation, removal, operation, cleaning and maintenance of public pay telephones, including procedures for the expedited removal of any public pay telephone determined to constitute a public nuisance or determined to be used in furtherance of unlawful activity or otherwise not to be in the public interest;*

(e) *Standards and procedures governing the affixing of advertisements to public pay telephones.*

(f) *Standards and procedures governing access to the 911 emergency dispatch system from public pay telephones;*

(g) *Such other standards as the Departments deem necessary to protect the public safety and to safeguard the interests of the City.*

[(4)] (5) Maintenance of [Booths] *Telephones*. Applicant shall maintain each [booth] *telephone* in good, safe and clean condition.

[(5)] (6) Electrical Connections. No person shall make an electrical connection from a telephone [booth] to any source of electric current paid for by the City without the approval of the Department of Public Property. The fee for use of electric current from sources paid for by the City shall be the estimated cost of furnishing such electric current as determined by the Department of Public Property. Payment for such use shall be made annually in advance either at the time of the original making of the connection or at the time of the making of application for renewal, as the case may be.

[(6)] (7) Revocation of Permit. Any permit issued pursuant to this Section may be revoked by the Department of Licenses and Inspections if:

(a) the permit holder violates any of the requirements of this Section *or the applicable concession or applicable regulations*; or

(b) continued maintenance of the [booth] *telephone* at its location is found by the Department of Licenses and Inspections to constitute an undue obstruction to passage or a hazard to pedestrian or other traffic or a public nuisance; or

(c) the [booth] *telephone* is being used improperly *or in the furtherance of unlawful activity*; or

(d) continued maintenance of the [booth] *telephone* is otherwise contrary to the public interest; or

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(e) *the permit holder owns, operates, or is otherwise responsible for any other public pay telephone in violation of this Section, the applicable concession, or applicable regulations.*

[(7)] (8) *Removal of [booths] Public Pay Telephones.*

(a) *Any person who erects, installs or maintains a telephone [booth] on any sidewalk shall remove the [booth] telephone and restore the premises to its original condition immediately upon notice that the permit has been revoked or upon expiration of the permit without renewal or upon failure to obtain a permit under this Section. If any person fails to remove such telephone [booth], then the City, after giving fifteen days' notice in writing mailed to the address of the permit holder as it appears in the application or, if there is no application, to any address that may be prominently displayed on the telephone, may cause the [booth] telephone to be removed and charge the cost of such removal, the storage thereof and the cost of restoring the premises, against the permit holder or the owner of the telephone. The permit holder or owner may recover the [booth] telephone and equipment upon payment of all such costs, but if it shall fail to do so within sixty days after such removal, the permit holder's rights therein shall be forfeited without prejudice to the right of the City to recover the difference between the salvage value of the [booth] telephone and equipment and the costs incurred in its removal, storage and subsequent sale, if any.*

(b) *In any instance where removal is authorized, the Department of Licenses and Inspections, at its discretion, may instead render the Telephone inoperable except, at its discretion, for emergency telephone service through the 911 system.*

(c) *The Department may dispense with or shorten the period of pre-removal notice required by this subsection, in the event of imminent threat to life or property, as determined by the Department.*

(9) *Previously Issued Permits. Any person who was previously issued a permit to operate a public pay telephone pursuant to Section 9-210 prior to the effective date of this subsection 9 may continue to operate the permitted telephone pursuant to such permit for a period of eighteen (18) months following the effective date of this subsection (9) or until ninety (90) days following the date on which the holder of the permit is either awarded, or notified in writing that he or she is not awarded, a concession granting him or her the right to place and operate public pay telephones on the public right-of-way, whichever is the later date. Upon the expiration of such period, the previously issued permit shall be deemed to be revoked, and unless a new permit for the telephone has been issued pursuant to subsection (3), the telephone shall be subject to removal pursuant to subsection (8). Throughout such period, the previously issued*

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permit and the operation of the telephone shall be subject to subsections (2)(b), (3)(b)-(j), and (5)-(8), and such regulations as are issued pursuant to subsection (4).

SECTION 2. The provisions of this Ordinance shall be severable, and if any provision or application is held illegal, such illegality shall not affect the remaining provisions. It is the legislative intent of the Council that this ordinance would have been adopted if such illegal provision had not been included and any illegal application had not been made.

Explanation:

[Brackets] indicate matter deleted.
Italics indicate new matter added.

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