

AMENDED
ORDINANCE NO. 95-038

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF AUG 15 1995

AN ORDINANCE ADDING SECTIONS 61.12.1207 AND 61.12.1208 TO THE SACRAMENTO CITY CODE, RELATING TO PERMITS FOR THE INSTALLATION OF PAY TELEPHONES ON IMPROVED PROPERTY, ADOPTED AS AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY UPON ADOPTION

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Sections 61.12.1207 and 61.12.1208 are hereby added to the Sacramento City Code to read as follows:

- 61.12.1207 Installation of pay telephones on improved property; permit required.
- (a) No pay telephone shall be installed on any improved property outside of a building unless a permit for its installation is first issued by the Chief of Police.
 - (b) The permit shall be applied for on a form provided by the Chief of Police. The application shall contain the name of the applicant, the name of the owner of the real property, the lessee, if any, and the owner and the installer of the proposed pay telephone. The application shall also contain such information as the Chief of Police deems relevant to his/her consideration of the application. At the time of filing the application, the applicant shall pay a fee for the City's costs of processing and administering the permit, in an amount established by resolution of the City Council.
 - (c) The Chief of Police shall forward the application to the Neighborhood Services Department for consideration and recommendation prior to his or her decision on the application.

- 1 -

FOR CITY CLERK USE ONLY

95-038

ORDINANCE NO. _____

DATE ADOPTED: AUG 15 1995

- (d) Prior to taking action on the permit application, the Chief of Police shall give notice to the applicant and to the owners of property adjacent to the property for which the application is made of their right to request a hearing on the application. Such notification shall be by mail and shall give all notice recipients ten (10) days from the date of the notice to request the hearing. If no such hearing request is made, the Chief of Police shall proceed to decide whether to grant the application and shall give the applicant and all adjacent property owners notice of his or her decision.
- (e) Any hearing request shall be made in writing and shall be filed with the Chief of Police within ten (10) days of the date on the notice. If a hearing request is made, the Chief of Police shall set the application for hearing within thirty (30) days of the receipt of the hearing request. Notice shall be given by mail to the applicant and to the person requesting the hearing, if different than the applicant, of the date, time and location of the hearing at least ten (10) days before the hearing.
- (f) After the hearing, if there is one, and after considering the application, the recommendation of the Neighborhood Services Department and such other information as he or she deems relevant, the Chief of Police shall decide whether to grant the application.
- (g) Any permit granted under subsections (a) through (f) of this section may be revoked by the Chief of Police. No such permit shall be revoked unless a hearing has first been held thereon by the Chief of Police. At least ten days' notice of such hearing shall be given to the permit holder. The notice of the hearing shall give the reason(s) on which the intent to revoke is based. The Chief of Police may consider any voluntary measures, such as blocking incoming calls, adding lighting or changing the telephone's location on the parcel, that are proposed by the permit holder to resolve the problem(s) upon which the intent to revoke is based. Any decision to revoke shall be accompanied by findings supporting the decision.
- (h) If a permit is revoked in accordance with subsection (g) above, the permit holder shall remove the pay telephone authorized by the permit immediately upon receiving notice of the decision to revoke by the Chief of Police. The City may remove or cause to be removed said telephone if such telephone is not removed by the permit holder within thirty (30) days after said notice, and the City's reasonable costs of removal shall be a personal obligation of the permit holder, payable to the City on demand.

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95-038

ORDINANCE NO. _____

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- (i) No application for a permit shall be denied, pursuant to subsections (d) or (f) of this section, nor shall any permit be revoked, pursuant to subsection (g) of this section, unless the Chief of Police finds that granting the application or allowing the permit to remain valid would result in any of the conditions described in section 61.12.1202 of this code, or would otherwise be detrimental to the public health, safety or welfare in the area where the pay telephone would be located. Any decision of the Chief of Police to deny an application, pursuant to subsections (d) or (f) of this section, or to revoke a permit, pursuant to subsection (g) of this section, shall be final and conclusive, subject to appeal to the city council in accordance with the provisions of chapters 2.05 and following of this code.

- (j) In lieu of the procedure set forth in subsections (a) through (i) above for permits, any applicant may apply for a permit to cover more than one location for the installation of pay telephones. The application shall be made on a form provided by the Chief of Police and shall identify the locations of the pay telephones unless the Chief for good cause determines that the locations need not be identified. At the time of filing the application, the applicant shall pay a fee for the City's costs of processing and administering the permit, in an amount established by resolution of the City Council. The Chief of Police shall issue the permit if he/she finds that the applicant has entered into a written agreement with the City that provides substantially as follows:
 - (1) Applicant agrees to remove any pay telephone covered by the permit immediately upon order of the Chief of Police to do so;
 - (2) Applicant agrees to allow the City to remove any pay telephone covered by the permit that is ordered by the Chief of Police to be removed, if such telephone is not removed by the applicant within thirty (30) days of the date of the order;
 - (3) Applicant agrees to pay to the City on demand the reasonable costs of removal of a telephone by the City pursuant to paragraph (2) above;
 - (4) Applicant agrees that all of applicant's pay telephones within the City shall be deemed covered by the permit;
 - (5) Applicant agrees that applicant shall have no vested right to continue to operate or maintain any pay telephone covered by the permit except pursuant to the terms of this subsection (j).

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95-038

ORDINANCE NO. _____

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Any decision of the Chief of Police to order the removal of a pay telephone hereunder shall be final and conclusive in the absence of fraud or gross error, but shall be without prejudice to an application under subsections (a) through (f) of this section. At least ten (10) days prior to ordering any telephone removal pursuant to this section and any agreement thereunder, the Chief of Police shall notify the applicant of his/her intent to order the removal and shall invite the applicant to at least one meeting to attempt to resolve the problem(s) concerning the telephone. No vested right to continue to have any phone in any location approved in a permit granted under this subsection (j) shall accrue on account of the granting of such permit or the installation of the phone thereunder.

- (k) Permits issued pursuant to this section may contain such conditions as are deemed necessary by the Chief of Police to implement the provisions of this section.
- (l) The term "Chief of Police," as used in this section, shall mean the Chief of Police for the City of Sacramento or his or her authorized designee.
- (m) Whenever notice is required to be given under this section, it shall be deemed effective on the day such notice is deposited in the U.S. mail, first class, postage prepaid.

61.12.1208 Permits required for existing pay telephones.

A permit shall be required for any pay telephone installed on any improved property outside of a building prior to the effective date of the ordinance adopting section 61.12.1207 and this section. Such permit shall be obtained no later than three (3) years after the effective date of the ordinance. The procedures set forth in section 61.12.1207 shall govern the issuance and/or revocation of such permit. If no permit is obtained as required by this section, the City may remove or cause to be removed such pay telephone, and the City's reasonable costs of removal shall be a personal obligation of the owner of such pay telephone, payable to the City on demand.

SECTION 2.

If any section, subsection, sentence, clause, phrase or portion of this ordinance, or the application thereof to any person, firm, corporation, company, partnership or other entity, is for any reason held to be invalid, unconstitutional or contrary to law by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this ordinance.

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SECTION 3.

The City Council finds and declares that an emergency exists requiring the enactment of this ordinance immediately to prevent increases in crime, calls for police service, and the general decay and blight that will arise surrounding phones that may otherwise be hurriedly installed to circumvent this ordinance.

TITLE PUBLISHED IN FULL : August 18, 1995

DATE ENACTED: August 15, 1995

DATE EFFECTIVE: August 15, 1995

ATTEST:

Talene A. Burrows
CITY CLERK

Joe Lewis Jr.
MAYOR

- 5 -

FOR CITY CLERK USE ONLY

95-038

ORDINANCE NO. _____

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