

Chapter 12.40 - PUBLIC TELEPHONES

Sections:

12.40.010 - Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

"City" means the city of Elizabeth.

"Provider" means the person(s), partnership(s), corporation(s) or other entities who own and/or operate any public telephone placed in the city sidewalks and any other entity responsible for its maintenance or operation.

"Public telephone" means any self-service or coin-operated telephone available for use by the public and associated facilities such as enclosures, pedestals, and cable, located in or over the surface of any city sidewalk or street.

"Sidewalks" means the public sidewalks, and other public rights-of-way dedicated to the city for public use for pedestrian use in the city.

"Street" means all that area dedicated to public use for public street purposes and shall include but not be limited to roadways, parkways, alleys and sidewalks.

(Prior code § 109-1)

12.40.020 - Permit requirement.

No person, partnership or corporation or other entity (unless otherwise expressly authorized to place its facilities in the sidewalks or streets under applicable laws, regulations or ordinances) may place, maintain or operate any public telephone in, on or about the sidewalks and streets of the city without having first obtained a permit from the city pursuant to this chapter.

(Prior code § 109-2)

12.40.030 - Application for permit.

- A. Applications for such permits shall be made on a form specified by the city and shall be submitted to the city, department of health and human services, division of license, or its designated representative. The applications shall include the name and address of the applicant and the providers as defined above, the location for the public telephone(s) for which a permit is sought, a description of the public telephone, in sufficient detail to describe the size, location, type of equipment and means of installation.
- B. The division of licensing shall forward a copy of the application and plan to the city engineer, construction official, chief of the police department, zoning officer, and the director of the department of public works for review and recommendations before the issuance of a permit.
- C. Approval of the location and means of installation of the telephone shall be by the city council of the city, provided that the necessary installation application has been submitted to and approved by the construction official and provided that the city engineer, and zoning officer, director of public works and

the chief of the police department have approved the application and plan.

- D. Upon the written request of the chief of the police department acting on behalf of the city, the provider shall remove any public telephone when the chief of the police department certifies that receipt of incoming calls at that public telephone adversely impacts the city's law enforcement objectives.
- E. All applications for a permit submitted pursuant to this section shall be immediately forwarded to the city council by the director of the department of health and human services, division of license.

(Prior code § 109-3)

12.40.040 - Location and placement of public telephones.

- A. No public telephone shall be installed on residential properties.
- B. No public telephone shall be permitted to rest upon, in or over any public street or sidewalk when such installation, use or maintenance:
 1. Endangers the safety of persons or property;
 2. Unreasonably interferes with or impedes the flow of pedestrians or vehicular traffic, including any legally parked or stopped vehicles;
 3. Unreasonably interferes with the ingress or egress from any residence or place of business; or
 4. Interferes with the use of traffic signs or signals, hydrants or mailboxes permitted at or near said location;
 5. Is within three hundred (300) feet of any other pay telephone on the same side of the street and within line of sight of such other pay telephone on a sidewalk in a business district as described in the zoning ordinance of the municipality;
 6. Is in front of street addresses where there appears to be continuous criminal activity. Continuous criminal activity means reports to the police or more than four criminal incidents at an address in a month prior to the date of the application or more than ten (10) reported criminal incidents in a year prior to the date of the application.
- C. Public telephones shall be placed or otherwise secured so as to prevent their being blown down or around the public street or sidewalk but shall not be chained or otherwise secured to any traffic or street signs, signals, hydrants, or mailboxes.
- D. Provide the city four times a year with a current updated list of all public telephones which it operates.

(Prior code § 109-4)

12.40.050 - Permit fee.

There shall be a non-refundable initial permit fee of five hundred dollars (\$500.00) due upon filing an application with the division of licenses. Thereafter, there shall be an annual fee of one hundred dollars (\$100.00) for each public telephone, the annual fee to be due and payable on October 1. Upon transfer of ownership, there shall be a transfer fee of one hundred dollars (\$100.00) and the chief license inspectors shall approve all transfers prior to their taking effect.

(Ord. 3394 § 1, 2002; prior code § 109-5)

12.40.060 - Operation.

- A. Public telephones shall permit the following calls to be placed without charge:
 - 1. Calls to the 911 emergency number; and
 - 2. Emergency calls placed through operator assistance to the police and fire departments.
- B. Current telephone rates for a local coin call shall be posted on the telephone booth if applicable.
- C. Toll rate quotations must be available from the operator upon request.
- D. All public telephones shall be installed, operated and maintained in accordance with all applicable laws and regulations.

(Prior code § 109-6)

12.40.070 - Standards for installation and maintenance.

- A. Each public telephone shall have affixed to it, in a place visible to everyone using the public telephone, the name of the provider(s) of the public telephone and the telephone number to report a malfunction, secure a refund, or to provide any notice provided for in this chapter.
- B. Public telephones shall be maintained in a neat and clean condition and in good repair at all times. Without limiting the generality of the foregoing, every public telephone shall be serviced and maintained so that:
 - 1. It is reasonably free of chipped, faded, peeling and cracked paint in the visible painted areas.
 - 2. It is reasonably free of rust and corrosion in the visible unpainted metal areas.
 - 3. Any clear plastic or glass parts are unbroken and reasonably free of cracks, dents, graffiti, blemishes and discolorations; and any paper or cardboard parts or inserts are reasonably free of tears, peeling or fading.
 - 4. The structural parts thereof are not broken or unduly misshapen, the telephone receiver is attached to the telephone.

(Prior code § 109-7)

12.40.080 - Removal/relocation and renovation of permits and applications.

- A. The provider of any public telephone for which a permit has been granted under this chapter shall notify the chief license inspector in writing of any removal or location of such public telephone thirty (30) days prior to the removal or relocation of any public telephone.
- B. Upon the receipt of a written complaint by a citizen or an authorized representative of the police department that the relocation and use of a public telephone constitutes a threat to the health and welfare of the community, the chief license inspector shall conduct a hearing after providing written notice of same at least ten (10) days in advance thereof to all affected parties to ascertain whether the location and use of the public telephone constitutes a threat to the health and welfare of the community. If the chief license inspector finds by clear and convincing evidence presented that the location and use of the public telephone constitutes a threat to the health and welfare of the community, he or she shall revoke any permit issued by him or her for the use of the public telephone. He or she may also order such other relief as he or she deems fair, including requiring the public telephone to be restricted to outgoing calls only.
- C. A "threat to the health and welfare of the community" shall mean the existence of continuous criminal

activity as set forth in Section 12.40.040 above.

(Prior code § 109-8)

12.40.090 - Violations.

Installation of any public telephone without a permit in violation of this chapter shall subject the violator to a fine of not less than one hundred dollars (\$100.00) and not more than one thousand dollars (\$1,000.00) or imprisonment in the county jail for ninety (90) days or both.

- A. If any violation of this chapter is not corrected by the violator within ten (10) days of receipt of notice from the city of such violation, then the city may revoke the permit for such public telephone and require the public telephone to be immediately removed.
- B. If such public telephone is not immediately removed within ten (10) days of such written notice of revocation from the city, then such public telephone shall be locked or removed by the city at the expense of the provider and the city shall have no liability whatsoever in connection with any such removal or locking of such public telephone or any resulting loss or damage to such public telephone.
- C. Each and every day the provider fails to remove the public telephone shall be considered a separate violation of this chapter.

(Prior code § 109-9)

12.40.100 - Liability.

The provider of any public telephone located in the sidewalks or streets shall indemnify and hold the city harmless from any claims and liabilities for bodily injuries or damage to real or tangible personal property caused by any dangerous condition of the provider's public telephone or by any negligent acts or omissions of the provider in connection with the installation or maintenance of its public telephones. In addition, the provider shall maintain in effect comprehensive general liability insurance in amounts not less than one million dollars (\$1,000,000.00) with respect to such public telephones, at all times during which such public telephones are located within the sidewalks or streets of the city, or the provider shall furnish to the city satisfactory evidence that it is self-insured in accordance with applicable laws and that it has sufficient resources satisfactory to the city to support such self-insurance program.

(Prior code § 109-10)

12.40.110 - Application of chapter to existing pay telephones.

The provisions of this chapter shall apply to all existing public telephones. The provider of existing public telephones shall have ninety days (90) from the effective date of the ordinance codified in this chapter to comply with the provisions thereof.

(Prior code § 109-11)