

ORDINANCE NUMBER O-18019 (NEW SERIES)

ADOPTED ON JAN 03 1994

AN ORDINANCE AMENDING CHAPTER V, ARTICLE 4,
OF THE SAN DIEGO MUNICIPAL CODE BY ADDING
DIVISION 5, SECTIONS 54.0501, 54.0502,
54.0503, 54.0504, 54.0505, 54.0506, AND
54.0507, ALL RELATING TO THE REGULATION OF
PUBLIC PAY TELEPHONES.

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter V, Article 4, of the San Diego Municipal Code be and the same is hereby amended by adding Division 5, Sections 54.0501, 54.0502, 54.0503, 54.0504, 54.0505, 54.0506 and 54.0507, to read as follows:

DIVISION 5

Public Pay Telephone Regulations

SEC. 54.0501 Prohibited Locations of Public Pay Telephones

(a) It is unlawful for any person to install, locate or maintain a public pay telephone on unimproved public or private property.

(b) Except as provided in Section 54.0501(c), the owner of any public pay telephone located or maintained in violation of Section 54.0501(a) shall remove that telephone within ninety (90) calendar days of February 2, 1994;

(c) The owner of any public pay telephone located or maintained in violation of Section 54.0501(a), but installed under a written contract that was executed before February

2, 1994, shall remove that public pay telephone by the latter of the following two dates: (1) the date of termination of the written contract, or (2) within ninety (90) calendar days of February 2, 1994.

(d) The owner of any public pay telephone shall give written notice to the San Diego Police Department and a City-recognized community planning group located within a "high crime area" or "redevelopment project area" when a public pay telephone is proposed for installation. The community planning group has thirty (30) days to respond to the Chief of Police. At the end of the thirty (30) days noticing period to the community planning group, the Chief of Police has an additional five (5) days to notify the telephone owner of the Police Department's determination regarding installation of the pay telephone.

If the San Diego Police Department opposes the pay telephone installation, the Chief of Police shall notify the public pay telephone owner. The Chief of Police, in cooperation with the public pay telephone owner, shall determine whether voluntary measures restricting installation as outlined in Section 54.0503(b)(1) through Section 54.0503(b)(8) are appropriate. The Chief of Police, in cooperation with public pay telephone owners, shall develop implementing guidelines for voluntary measures restricting installation.

The Chief of Police shall report annually to the Public Services and Safety Committee on the effectiveness of

monitoring the "high crime areas" and "redevelopment project areas" and recommend any needed geographic changes.

The Chief of Police shall mail to public pay telephone owners in January of each year a map of impacted areas, a copy of the Public Pay Telephone Regulations, a copy of related implementing regulations issued by the Police Department and a list of community planning groups and their addresses.

For purposes of this Section, definitions apply as follows:

"High crime area" means any area of the City of San Diego determined by the Chief of Police to have a crime rate one and one-half (1-1/2) times the City-wide average using the narcotic and prostitution arrest rate per 1,000 population. The San Diego Police Department, Crime Analysis Unit will maintain a file and make available a map reflecting the location of "high crime areas" within the meaning of this Section.

"Redevelopment Project Area" means any Redevelopment Project Area formally adopted by the City Council of San Diego pursuant to Community Redevelopment Law, California Health and Safety Code sections 33000, et seq., maps of which are on file in the Office of the City Clerk.

SEC. 54.0502 Public Pay Telephones as Public Nuisance

(a) Any public pay telephone which is installed, located, maintained, or operated in violation of Section 54.0501(a) is hereby declared to be a public nuisance.

(b) Any public pay telephone which is used as an instrumentality for, or contributes substantially by its presence to, any of the following activities is hereby declared to be a public nuisance:

(1) selling or giving away controlled substances, as defined in Division 10 of the California Health and Safety Code; or

(2) consuming alcoholic beverages on outdoor public or private property, except where outdoor consumption of alcoholic beverages is specifically authorized pursuant to a license issued by the Department of Alcoholic Beverage Control; or

(3) loitering for a criminal purpose on public or private property; or

(4) making excessive noise.

SEC. 54.0503 Abatement Generally

(a) Whenever the Chief of Police determines that any public pay telephone constitutes a public nuisance within the meaning of Section 54.0502, the Chief of Police may commence proceedings to abate the nuisance. The abatement proceedings shall be governed by the procedures set forth in Chapter I of this Code, except as specified in this Division.

(b) The City shall not commence any proceedings to abate a public pay telephone constituting a public nuisance unless the Chief of Police first has notified the pay phone owner and the local public pay phone trade associations,

such as the San Diego Payphone Owners Association, and has made a reasonable effort to work with the property owner upon whose property the public pay telephone is located or the public pay telephone owner, or both, to eliminate the activities constituting a public nuisance by voluntary measures, such as:

- (1) blocking incoming calls;
- (2) removing the telephone number and ringer on the phone;
- (3) shutting off the key pad after the initial number is dialed to eliminate "beeper" use;
- (4) making the telephone inoperative for designated time periods;
- (5) removing hand sets;
- (6) adding lighting;
- (7) changing the type of enclosure of the telephone; or
- (8) removing any or all of the telephones.

SEC. 54.0504 Replacement Prohibited

(a) If any public pay telephone constitutes a public nuisance because it is used for one of more of the activities set forth in Section 54.0502(b), procedures provided for administrative abatement of public nuisances in Chapter One, Article Two, Division Six, shall be followed.

(b) The abatement notice issued under Section 12.0603 shall specify that abatement will require removal of the public pay telephone, and will prohibit its replacement on

the same parcel or any contiguous parcel owned by the same property owner for a period of up to one year from the date of removal.

(c) Any decision of a hearing officer ordering abatement shall specify that it is unlawful for any public pay telephone owner to install a replacement public pay telephone on the same parcel or on any contiguous parcel owned by the same property owner for a period of up to one year from the date of removal.

SEC. 54.0505 Exemptions

(a) Public pay telephones located inside any building open to the public are exempt from the regulations of this Division.

(b) Public pay telephones installed to replace existing public pay telephones are exempt from the noticing requirements of Section 54.0501(d). They are subject to the remaining regulations of this Division.

SEC. 54.0506 List of Abated Locations

The Chief of Police shall maintain, and make available upon request, a list of locations where installation of pay telephones is prohibited.

SEC. 54.0507 Business Tax

Each public pay telephone owner doing business in the City of San Diego is required to pay a business tax and obtain a certificate of payment of the business tax pursuant to Chapter III, Article 1, Division 1, of the San Diego Municipal Code.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By Joseph M. Battaglin
Joseph M. Battaglin
Deputy City Attorney

JMB:jp:hg
07/13/93
11/04/93 REV. 1
11/08/93 COR. COPY
11/09/93 REV. 2
12/01/93 REV. 3
12/23/93 COR. COPY
01/03/94 COR. COPY
01/20/94 REV. 4
Or. Dept: PS&S
O-94-27
Form=o+t

OLD LANGUAGE - STRIKEOUT
NEW LANGUAGE - UNDERLINED

(O-94-27 REV. 4)
COR. COPY

STRIKEOUT ORDINANCE NUMBER O-_____ (NEW SERIES)

ADOPTED ON _____

AN ORDINANCE AMENDING CHAPTER V, ARTICLE 4,
OF THE SAN DIEGO MUNICIPAL CODE BY ADDING
DIVISION 5, SECTIONS 54.0501, 54.0502,
54.0503, 54.0504, 54.0505, 54.0506, AND
54.0507, ALL RELATING TO THE REGULATION OF
PUBLIC PAY TELEPHONES.

DIVISION 5

Public Pay Telephone Regulations

SEC. 54.0501 Prohibited Locations of Public Pay Telephones

(a) It is unlawful for any person to install, locate or maintain a public pay telephone on unimproved public or private property.

(b) Except as provided in Section 54.0501(c), the owner of any public pay telephone located or maintained in violation of Section 54.0501(a) shall remove that telephone within ninety (90) calendar days of February 2, 1994;

(c) The owner of any public pay telephone located or maintained in violation of Section 54.0501(a), but installed under a written contract that was executed before February 2, 1994, shall remove that public pay telephone by the latter of the following two dates: (1) the date of termination of the written contract, or (2) within ninety (90) calendar days of February 2, 1994.

(d) The owner of any public pay telephone shall give written notice to the San Diego Police Department and a City-recognized community planning group located within a "high crime area" or "redevelopment project area" when a public pay telephone is proposed for installation. The community planning group has thirty (30) days to respond to the Chief of Police. At the end of the thirty (30) days noticing period to the community planning group, the Chief of Police has an additional five (5) days to notify the telephone owner of the Police Department's determination regarding installation of the pay telephone.

If the San Diego Police Department opposes the pay telephone installation, the Chief of Police shall notify the public pay telephone owner. The Chief of Police, in cooperation with the public pay telephone owner, shall determine whether voluntary measures restricting installation as outlined in Section 54.0503(b)(1) through Section 54.0503(b)(8) are appropriate. The Chief of Police, in cooperation with public pay telephone owners, shall develop implementing guidelines for voluntary measures restricting installation.

The Chief of Police shall report annually to the Public Services and Safety Committee on the effectiveness of monitoring the "high crime areas" and "redevelopment project areas" and recommend any needed geographic changes.

The Chief of Police shall mail to public pay telephone owners in January of each year a map of impacted areas, a

copy of the Public Pay Telephone Regulations, a copy of related implementing regulations issued by the Police Department and a list of community planning groups and their addresses.

For purposes of this Section, definitions apply as follows:

"High crime area" means any area of the City of San Diego determined by the Chief of Police to have a crime rate one and one-half (1-1/2) times the City-wide average using the narcotic and prostitution arrest rate per 1,000 population. The San Diego Police Department, Crime Analysis Unit will maintain a file and make available a map reflecting the location of "high crime areas" within the meaning of this Section.

"Redevelopment Project Area" means any Redevelopment Project Area formally adopted by the City Council of San Diego pursuant to Community Redevelopment Law, California Health and Safety Code sections 33000, et seq., maps of which are on file in the Office of the City Clerk.

SEC. 54.0502 Public Pay Telephones as Public Nuisance

(a) Any public pay telephone which is installed, located, maintained, or operated in violation of Section 54.0501(a) is hereby declared to be a public nuisance.

(b) Any public pay telephone which is used as an instrumentality for, or contributes substantially by its presence to, any of the following activities is hereby declared to be a public nuisance:

(1) selling or giving away controlled substances, as defined in Division 10 of the California Health and Safety Code; or

(2) consuming alcoholic beverages on outdoor public or private property, except where outdoor consumption of alcoholic beverages is specifically authorized pursuant to a license issued by the Department of Alcoholic Beverage Control; or

(3) loitering for a criminal purpose on public or private property; or

(4) making excessive noise.

SEC. 54.0503 Abatement Generally

(a) Whenever the Chief of Police determines that any public pay telephone constitutes a public nuisance within the meaning of Section 54.0502, the Chief of Police may commence proceedings to abate the nuisance. The abatement proceedings shall be governed by the procedures set forth in Chapter I of this Code, except as specified in this Division.

(b) The City shall not commence any proceedings to abate a public pay telephone constituting a public nuisance unless the Chief of Police first has notified the pay phone owner and the local public pay phone trade associations, such as the San Diego Payphone Owners Association, and has made a reasonable effort to work with the property owner upon whose property the public pay telephone is located or the public pay telephone owner, or both, to eliminate the

activities constituting a public nuisance by voluntary measures, such as:

- (1) blocking incoming calls;
- (2) removing the telephone number and ringer on the phone;
- (3) shutting off the key pad after the initial number is dialed to eliminate "beeper" use;
- (4) making the telephone inoperative for designated time periods;
- (5) removing hand sets;
- (6) adding lighting;
- (7) changing the type of enclosure of the telephone; or
- (8) removing any or all of the telephones.

SEC. 54.0504 Replacement Prohibited

(a) If any public pay telephone constitutes a public nuisance because it is used for one of more of the activities set forth in Section 54.0502(b), procedures provided for administrative abatement of public nuisances in Chapter One, Article Two, Division Six, shall be followed.

(b) The abatement notice issued under Section 12.0603 shall specify that abatement will require removal of the public pay telephone, and will prohibit its replacement on the same parcel or any contiguous parcel owned by the same property owner for a period of up to one year from the date of removal.

(c) Any decision of a hearing officer ordering abatement shall specify that it is unlawful for any public pay telephone owner to install a replacement public pay telephone on the same parcel or on any contiguous parcel owned by the same property owner for a period of up to one year from the date of removal.

SEC. 54.0505 Exemptions

(a) Public pay telephones located inside any building open to the public are exempt from the regulations of this Division.

(b) Public pay telephones installed to replace existing public pay telephones are exempt from the noticing requirements of Section 54.0501(d). They are subject to the remaining regulations of this Division.

SEC. 54.0506 List of Abated Locations

The Chief of Police shall maintain, and make available upon request, a list of locations where installation of pay telephones is prohibited.

SEC. 54.0507 Business Tax

Each public pay telephone owner doing business in the City of San Diego is required to pay a business tax and obtain a certificate of payment of the business tax pursuant to Chapter III, Article 1, Division 1, of the San Diego Municipal Code.

CITY ATTORNEY DIGEST

ORDINANCE NUMBER O-_____ (NEW SERIES)

ADOPTED ON _____

EFFECTIVE DATE _____

AN ORDINANCE AMENDING CHAPTER V, ARTICLE 4,
OF THE SAN DIEGO MUNICIPAL CODE BY ADDING
DIVISION 5, SECTIONS 54.0501, 54.0502,
54.0503, 54.0504, 54.0505, 54.0506 AND
54.0507, ALL RELATING TO THE REGULATION OF
PUBLIC PAY TELEPHONES.

This ordinance amends Chapter V, Article 4, of the San Diego
Municipal Code by adding Division 5, Sections 54.0501, 54.0502,
54.0503, 54.0504, 54.0505, 54.0506 and 54.0507, relating to the
regulation of public pay phones.

JMB:jp:hg
09/01/93
11/04/93 REV. 1
11/08/93 COR.COPY
11/09/93 REV. 2
12/01/93 REV. 3
12/23/93 COR.COPY
01/03/94 COR.COPY
01/20/94 REV. 4
Or.Dept:PS&S
O-94-27
Form=o+t

Passed and adopted by the Council of The City of San Diego on **JAN 03 1994**
 by the following vote:

| Council Members | Yeas | Nays | Not Present | Ineligible |
|---------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| Harry Mathis | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Ron Roberts | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Christine Kehoe | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| George Stevens | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Barbara Warden | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Valerie Stallings | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Judy McCarty | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Juan Vargas | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mayor Susan Golding | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

AUTHENTICATED BY:

(Seal)

SUSAN GOLDING
 Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR
 City Clerk of The City of San Diego, California.

By *Blenda B. Barnes*, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on **NOV 29 1993**, and on **JAN 03 1994**.

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

(Seal)

CHARLES G. ABDELNOUR
 City Clerk of The City of San Diego, California.

By *Blenda B. Barnes*, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number **0-18019** Adopted **JAN 03 1994**

CERTIFICATE OF PUBLICATION

RECEIVED
CITY CLERK
94 JAN 19 AM 9:57
SAN DIEGO, CALIF.

P

OFFICE OF THE CITY CLERK
CITY ADMIN. BLDG.
202 C STREET
2ND FLOOR
SAN DIEGO, CA 92101

IN THE MATTER OF

NO.

ORDINANCE NUMBER O-18019 (NEW SERIES)

I, Corey Donahue, am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

ORDINANCE NUMBER O-18019 (NEW SERIES)

AN ORDINANCE AMENDING CHAPTER V, ARTICLE 4, OF THE SAN DIEGO MUNICIPAL CODE BY ADDING DIVISION 5, SECTIONS 54.0501, 54.0502, 54.0503, 54.0504, 54.0505, 54.0506, AND 54.0507, RELATING TO THE REGULATION OF PUBLIC PAY PHONES.

This ordinance amends Chapter V, Article 4, of the San Diego Municipal Code by adding Division 5, Sections 54.0501, 54.0502, 54.0503, 54.0504, 54.0505, 54.0506 and 54.0507, relating to the regulation of public pay phones.

A complete copy of the Ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 2nd Floor, City Administration Building, 202 C Street, CA 92101.

INTRODUCED ON NOVEMBER 29, 1993. Passed and Adopted by the Council of The City of San Diego on JANUARY 3, 1994

AUTHENTICATED BY:
SUSAN GOLDING

Mayor of The City of San Diego, CA
CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, CA

(SEAL)

By MAYDELL L. PONTECORVO, Deputy,

Pub. Jan. 18

288905

ORDINANCE NUMBER O-18019 (NEW SERIES)

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

JAN. 18

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 18th day of JAN., 19 94.

Corey Donahue

(Signature)

2 1/4" x 2 = \$ 61.44