

# Rules of the City of New York

## Title 67

### Chapter 6

# Public Pay Telephones

## Chapter 6

### *Public Pay Telephones*

#### **Subchapter A**

##### *General Provisions*

##### **§6-01 Definitions.**

For the purposes of this Chapter, the following terms shall have the following meanings:

**Code.** "Code" shall mean the Administrative Code of the City of New York.

**Commissioner.** "Commissioner" shall mean the Commissioner of the Department of Information Technology and Telecommunications or any successor agency.

**Department.** "Department" shall mean the Department of Information Technology and Telecommunications or any successor agency.

**Interim Eligible Public Pay Telephone.** "Interim Eligible Public Pay Telephone" shall mean a public pay telephone that: (i) was not licensed pursuant to former sections 19-131 and 19-128 of the Code; and (ii) was installed and activated prior to March 1, 1996.

**Interim Occupancy Fee.** "Interim Occupancy Fee" shall mean the annual fee of seventy-five dollars (\$75) for each interim eligible public pay telephone listed on a registry.

**Owner.** "Owner" shall mean a natural person or business entity which owns, leases, or is otherwise responsible for the installation, operation and maintenance of a public pay telephone.

**Public Nuisance.** "Public Nuisance" shall mean a public pay telephone which the Commissioner has reasonable

cause to believe is used on a regular basis in furtherance of unlawful activity.

**Public Pay Telephone.** "Public Pay 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" shall include any pedestal or telephone bank supporting one or more such telephones, associated enclosures, signage and other associated equipment.

**Public Pay Telephone Installation.** "Public Pay Telephone Installation" shall mean an installation with one or more public pay telephones on a pedestal, one or more public pay telephones in an in-line configuration, or a public pay telephone attached to another structure.

**Registry.** "Registry" shall mean a list submitted by an owner of interim eligible public pay telephones identifying each such telephone.

**Street.** "Street" shall have the meaning ascribed thereto in subdivision thirteen of section 1-112 of the Code.

**Substantial Common Ownership.** "Substantial Common Ownership" shall mean that: (i) one or more chains of business entities (a business entity shall include but not be limited to corporations, partnerships or limited liability companies) are connected through stock ownership with a common parent business entity, and the common parent business entity owns at least 50 percent (50%) of the total value of shares of all classes of stock in at least one of the other business entities, or stock possessing at least 50 percent (50%) of the combined voting power of all classes of stock in each of the business entities is owned by one or more of the other business entities; (ii) two or more business entities are owned by 5 or fewer persons who are individuals, estates or trusts, and those persons own at least 50 percent (50%) of the total value of shares of all classes of stock in all of the business entities, or stock possessing at least 50 percent (50%) of the combined voting power of all classes of stock in all of the business entities; (iii) there are three or more business entities, each of which is a member of a group of business entities described in subparagraph (i) or (ii), and one of which is a common parent business entity included in a group of business entities described in subparagraph (i) and subparagraph (ii).

## **§6-02 Penalties.**

(a) In addition to civil penalties provided in subdivisions (c) and (d) of this section, an owner who maintains or operates a public pay telephone without a permit issued pursuant to this chapter, except for an owner all of whose public pay telephones are eligible for, and are in the process of, conversion to permit status under section 6-38.1 of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than ten thousand dollars (\$10,000) and imprisonment of not more than thirty days, or both such fine and imprisonment.

(b) Notwithstanding any other provision of this section:

1. an owner who fails on two occasions within any three month period to provide phone service from a public pay telephone for any period of time exceeding twenty-four continuous hours or who fails to provide coinless twenty-four hour 911 service from such public pay telephone in compliance with the provisions of subdivision a or subdivision b of section 6-05 of this chapter, as the case may be, shall be in violation of such subdivision(s) and shall be liable for a civil penalty of not more than two thousand five hundred dollars (\$2,500) for each violation which may be recovered in a civil action or in a proceeding before the environmental control board. In the case of a violation exceeding twenty-four hours, each day's continuance shall be a separate and distinct occasion in which an offense has occurred. An owner of a public pay telephone shall not be considered to have failed to provide the service required in this subdivision where such owner has notified the Department, within twenty-four hours, of the occurrence of an event or a condition beyond his or her control, such as a power failure or an inability of the telephone company to provide access to the switched telephone network, that has rendered such telephone unable to provide such service.

- (2) an owner who fails on at least two occasions, each such occasion lasting for a duration of forty-eight

(48) hours, or on one occasion that lasts for a duration of seventy-two (72) hours to maintain a public pay telephone in compliance with the provisions of subdivision (c) of section 6-05 of this chapter shall be in violation of such subdivision and shall be liable for a civil penalty of not more than one thousand dollars (\$1,000) for each such violation.

(c) Notwithstanding any other provision of section 6-02, violation of any provision of this chapter, including failure to comply with the requirements of subchapter B of this chapter with regard to an interim eligible public pay telephone, shall be punishable by a civil penalty of not more than one thousand dollars (\$1,000) for each such violation, recoverable in a civil action or in a proceeding before the Environmental Control Board. In the case of a continuing violation, each day's continuance shall be a separate and distinct offense.

(d) An owner who is liable for a civil penalty for a violation pursuant to subdivision (c) of this section shall also be liable in the amount of the expense, if any, incurred by the city in the removal of the public pay telephone and the performance of related repair and restoration work.

### **§6-03 Liability for Violations.**

An owner of a public pay telephone shall be liable for a violation by his or her employee, agent or independent contractor of the provisions of this subchapter made in the course of performing his or her duties.

### **§6-04 Notice.**

Except where otherwise required by law, notice by the Commissioner pursuant to this chapter shall be by first class mail addressed to the address for service submitted in writing to the Department by an owner of public pay telephones or as set forth in a permit for such telephone. Where an owner has provided a facsimile number with such address or on an application for a permit, notice shall be by facsimile to such number. Notice may also be by such other electronic or non-electronic means as the Commissioner may prescribe. In the case of a public pay telephone that is not identified on a registry or does not possess a permit issued pursuant to this chapter, such notice shall be provided only where the name and address of the owner is shown on the public pay telephone or can be readily identified by the Commissioner by virtue of a trademark prominently displayed on the public pay telephone. Notice may also be served on a public pay telephone owner by personal service or in any other manner permitted under the terms of a franchise agreement entered into by such public pay telephone owner or in any other manner reasonably calculated to achieve actual notice, including but not limited to any method authorized in the Civil Practice Law and Rules.

### **§6-05 Maintenance of Public Pay Telephones.**

#### **(a) *Coinless 911 service.***

(1) A public pay telephone shall provide twenty-four hour access to 911 service without use of a coin or other payment device. For purposes of this subdivision a violation of this requirement may be found where a public pay telephone lacks a dial tone, a clear and audible transmission and reception, a keyboard and handset in working order, or any other feature necessary to access to 911 service.

#### **(b) *Telephone service.***

(1) A public pay telephone shall be in condition to accept a coin, credit card, prepaid debit card or other appropriate payment device and the telephone must enable a call to be completed when the proper payment has been made;

(2) The return mechanism of a public pay telephone shall be in working order to provide customers with return of coins when calls are not completed;

(3) A public pay telephone shall provide access to operator service without use of a coin or other payment device.

(c) ***Cleanliness.*** A public pay telephone, including the telephone, pedestal and housing of such telephone, shall be maintained in accordance with the provisions of this subdivision.

- (1) A public pay telephone shall be maintained free of offensive odors, litter or debris.
- (2) A public pay telephone shall be maintained free of stickers or graffiti.
- (3) A public pay telephone shall be maintained in a clean condition, free of grime and clean to the touch.
- (4) All lettering and signage on an installation shall be cleaned and legible at all times.

(d) ***Enforcement.***

(1) A notice of violation may be issued for a violation of a provision of subdivision (a) of this section when inspections on two occasions within a period no shorter than twenty-four hours have disclosed a violation of such provision.

(2) A notice of violation may be issued for violation of subdivision (b) of this section where inspections have disclosed that telephone service was unavailable on two occasions, each such occasion lasting for a duration of at least twenty-four (24) hours, within a period of three months. Each twenty-four hour period in which a failure to provide telephone service continues shall constitute a separate occasion on which an offense has occurred.

(3) A notice of violation for violation of a provision of subdivision (c) of this section may be issued where inspections disclose violation of such subdivisions continuing at least forty-eight (48) hours on two separate occasions within a period of three months or a violation lasting at least seventy-two (72) hours on one occasion.

(4) A violation shall be considered to have continued throughout a period specified in this subdivision when a condition set forth in subdivisions (a), (b) or (c) of this section has been identified upon at least two inspections that encompass such period within one week; provided that, demonstration by an owner that the condition underlying such violation was corrected within such period shall be a defense to an action pursuant to section 6-05.

(e) ***Damage to streets.*** An owner of a public pay telephone shall be responsible for all repairs to streets damaged due to the placement, installation or removal of a public pay telephone.

#### **§6-06 Advertisements.**

(a) A public pay telephone shall not display advertising material, unless in accordance with the provisions of a franchise. In no event shall advertising material be displayed on a newly erected public pay telephone installation until dialtone service from all public pay telephones to be installed within such installation has commenced. However, if: (1) dialtone has not been established by a provider of same within thirty (30) days after the erection of the installation and the emplacement of all public pay telephones to be installed within such installation, and the request of the Franchisee to the provider to establish such service; and (2) said franchisee has provided the Department with (i) a certified copy of a completed dialtone provider (e.g., Bell Atlantic) conduit in field form (CIF), or its equivalent, and (ii) a certified copy of an order for dialtone service; and (3) said franchisee has placed a clear, legible and visible sign, placard or other form of announcement on the enclosure explaining the cause(s) of the failure after thirty (30) days to provide dialtone on any and all pay telephone(s) without dialtone; then (4) said franchisee may display advertising at such installation unless the Department determines that the franchisee has acted in bad faith regarding establishing dialtone at the pay telephones in such installation.

(b) Except as otherwise provided in subdivision (a) of this section 6-06, in no event shall advertising material be displayed on any public pay telephone installation during any period in excess of the longer of either forty-eight (48) hours or two (2) business days, that a telephone has been removed from within such installation and not replaced by a functioning telephone, or any or all of the telephones with such installation are unable to provide dialtone, unless the franchisee has provided notice to the department with respect to the circumstances underlying the loss of dialtone such as power failure or the inability of the dialtone provider to provide access to the public switched telephone network. The Department may require advertising material to be removed from said installation if the Commissioner

determines that said franchisee could have avoided interruption of dialtone or re-established service within forty-eight (48) hours or two (2) business days.

## **Subchapter B**

### *Interim Registry*

#### **§6-21 Maintenance and operation of interim eligible public pay telephone without a permit.**

On and after March 31, 1996, no interim eligible public pay telephone may continue to be operated or maintained on, over or under any street or other inalienable property of the City unless such telephone is in compliance with the provisions of section 6-22 of this subchapter, provided that an event described in section 6-23 of this subchapter has not occurred. An owner who operates an interim eligible public pay telephone in violation of this section shall be in violation of the permit requirements of section 23-402 of the Code and shall be subject to the penalties set forth in subdivisions (a), (c) and (d) of section 6-02 of this chapter and removal of such telephone pursuant to section 6-26 of this chapter.

#### **§6-22 Conditions for maintenance and operation of interim eligible public pay telephone: registry of interim eligible public pay telephones.**

An interim eligible public pay telephone may continue to be maintained and operated on or after March 31, 1996 only if (i) the owner has identified such telephone on a registry of public pay telephones and submitted such registry and has paid the interim occupancy fee for such telephone as required by the provisions of section 6-24 of this subchapter, and (ii) the Commissioner has not objected to the continued maintenance and operation of such telephone for a reason set forth in subdivision (a) of section 6-25 of this subchapter or, if the Commissioner has objected, such objection has been cured or has been withdrawn.

#### **§6-23 Discontinuance of interim eligible public pay telephones identified in registry.**

The continued maintenance and operation of interim eligible public pay telephones identified in a registry of public pay telephones shall no longer be authorized if and when any of the following occurs (i) the owner has declined to respond to the request for proposals or other solicitation of proposals issued by the Commissioner for the purpose of entering into franchise agreements for the installation, operation and maintenance of public pay telephones within the time period specified in such request for proposals or other solicitation of proposals and sixty days have elapsed following such failure to respond; (ii) the Commissioner has determined not to propose the award of a franchise to such owner to the Franchise and Concession Review Committee and sixty days have elapsed following notification to such owner of the Commissioner's determination; or (iii) the Franchise and Concession Review Committee has determined not to approve a proposed franchise agreement for such owner and sixty days have elapsed following notification to such owner of the Committee's determination. However, such public pay telephone may continue to be maintained and operated if within any such sixty day period the owner enters into an agreement for the sale of such public pay telephone to another person who, at the time such agreement is concluded, is either a potential franchisee or has been awarded a franchise, and ownership of such public pay telephone is transferred within ninety days after such agreement is concluded.

#### **§6-24 Interim registries.**

##### *. Deadline for submission.*

(1) An owner of an interim eligible public pay telephone shall submit a registry to the Commissioner at the office of the Department containing a list of all such interim eligible public pay telephones no later than March 15, 1996. An interim eligible public pay telephone not listed in a registry as of March 31, 1996 is in violation of the permit requirements of section 23-402 of the Code and section 6-20 of this chapter, and the owner thereof shall be subject to the penalties provided therein.

(2) An owner who has failed to submit a registry on or before March 15, 1996, or has failed to submit a complete registry on or before March 31, 1996, and who pays the civil penalties assessed for such violation

and a fee of \$75 for each telephone for the year ending March 14, 1997, may submit a registry or add to a registry between February 13, 1997 and March 14, 1997. In addition, an annual fee of \$75 for each telephone shall be paid for each succeeding year in accordance with the provisions of subdivision (d) of this section.

(3) In no case shall a public pay telephone installed and activated subsequent to March 1, 1996 be included in a registry submitted or updated pursuant to this section. A registry that does not comply with the provisions of this section shall not be accepted by the Commissioner.

(b) ***Form and contents.***

(1) A registry shall be in the form prescribed by the Commissioner in Appendix A to this subchapter.

(2) A registry shall state:

(i) the name and address of the owner:

(ii) the geographic location of each public telephone identified on the registry and the type of mounting for each such telephone: and

(iii) the date of installation and activation of each public pay telephone identified on the registry, accompanied by documentation of the activation.

(c) ***Certification.*** A registry shall be accompanied by a notarized certification that the information on the registry is accurate and that each public telephone identified thereon provides (i) continuous twenty-four hour service. (ii) continuous twenty-four hour coinless 911 access and (iii) continuous New York State Public Service Commission approved operator services. Such certification shall be in the form prescribed by the Commissioner in Appendix B to this subchapter. In addition to any penalty provided pursuant to section 6-02 of this chapter an owner who submits a certification pursuant to this subdivision knowing that such certification contains a false statement or false information shall be subject to prosecution under article one hundred seventy-five of the penal code and the telephones with respect to such certification shall be removed pursuant to section 6-26 of this chapter.

(d) Fee for interim eligible public pay telephones.

(1) The fee for each public pay telephone identified in a registry shall be seventy-five (\$75) dollars a year. Such fee may be paid in full upon submission of the registry or may be payable quarterly following the schedule set forth below. Each payment shall specify, in the form prescribed by the Commissioner, whether the amount submitted represents yearly or quarterly payments.

(2) Quarterly payments shall be submitted each year as follows:

First payment: March 15, except that the first payment in the year 1996 shall be due on March 31:

Second payment: June 15

Third payment: September 15

Fourth payment: December 15.

(3) *Partial payments shall not be accepted.* An owner of interim eligible public pay telephones shall submit yearly payment in full or quarterly payment in full for each such telephone identified on the registry by the required date.

(4) In the event that the owner of an interim eligible public pay telephone identified on a registry and otherwise in compliance with the provisions of this subchapter is awarded a franchise prior to the expiration of a period for which payment for such telephone has been received by the Department, the amount of such payment shall be prorated to the time remaining in such period, and the remainder shall be applied to the fee for a permit

pursuant to the franchise.

(5) In the event that the Commissioner determines not to recommend the award of a franchise prior to the expiration of a period for which payment for a public pay telephone has been received by the Department or in the event that the Franchise and Concession Review Committee determines not to award a franchise to such owner prior to the expiration of such period, the amount of such payment shall be prorated to the time that the Department receives certification that such telephone has been transferred or removed, and the remainder shall be reimbursed to the owner.

(6) In the event that the Commissioner objects to a public pay telephone and requires the removal of such telephone pursuant to this subchapter, the fee paid for the interim registry of such public pay telephone shall be prorated to the time such telephone was authorized to be operated and maintained and the remainder shall, upon certification by the owner that such telephone has been removed, be reimbursed to the owner.

#### **§6-25 Objection by the Commissioner.**

(a) The Commissioner may object to the continued maintenance and operation of an interim eligible public pay telephone at the time a registry is submitted or any time thereafter. The Commissioner may make such objection upon the basis that the maintenance and operation of such public pay telephone: (i) poses a danger to life or property, including but not limited to the reasons that such telephone does not meet applicable standards in the Building Code (Title 27, Chapter 1 of the Code) or such telephone does not have twenty-four hour coinless 911 access or New York State Public Service Commission approved operator service; (ii) unreasonably interferes with the use of a street by the public; (iii) unreasonably interferes with the abutting property; (iv) is a public nuisance as such term is defined in section 23-401 of the Code or 6-01 of this Chapter, when a complaint, including but not limited to a complaint by the Community Board in the Community District in which such telephone is located, that such public pay telephone constitutes a public nuisance as so defined has been verified by the police precinct in which such telephone is located; or (v) interferes with a street widening or other capital project.

(b) Where the Commissioner objects to a public pay telephone pursuant to subdivision (a) of this section, he or she shall notify the owner of such telephone in writing. Such notice shall state the basis on which the Commissioner objects to the continued maintenance and operation of such telephone and shall specify the condition or conditions underlying such objection. The Commissioner may, in his or her discretion, permit such telephone to be operated and maintained subject to such corrective conditions as the Commissioner shall prescribe.

(c) Within fifteen days of such notice of a Commissioner's objection, the owner may respond to the Commissioner in writing, and may (i) set forth any reason the owner believes the Commissioner's objection should be withdrawn or (ii) certify to the Commissioner, in a form prescribed by the Commissioner, that the condition underlying such objection has been corrected.

(d) The Commissioner shall review such response and may determine whether or not to withdraw the objection. Where the Commissioner determines not to withdraw an objection to a public pay telephone, he or she shall notify the owner of such determination and the reasons therefor and shall require that such telephone be removed immediately or, if appropriate, afford such owner an opportunity to cure the condition underlying the objection, as appropriate. Such notice shall specify the time by which certification must be received that such condition has been corrected.

#### **§6-26 Removal.**

(a) ***Failure to Submit Registry.*** An owner who fails to submit a registry pursuant to the provisions of this subchapter shall immediately remove all interim eligible public pay telephones.

(b) ***Additional Grounds for Removal.*** In addition, an owner of an interim eligible public pay telephone shall immediately remove such telephone:

(i) if such telephone has not been identified in the registry submitted pursuant to the provisions set forth in section 6-22 of this subchapter;

(ii) upon the occurrence of an event described in section 6-23 of this subchapter:

(iii) upon an objection by the Commissioner to such telephone pursuant to section 6-24 of this subchapter, unless the condition underlying such objection could be cured without removing such telephone and such objection has been cured by the time required by the Commissioner or the Commissioner has withdrawn the objection;

(iv) if the fees for such telephone have not been paid by the required date;

(v) if the certification required pursuant to section 6-24 of this subchapter has been determined to be false.

(c) **Removal by Department.** Upon failure of an owner to remove a public pay telephone as required by the provisions of this section, such telephone shall be subject to removal by the Department pursuant to paragraph (aa) of subdivision i of section 23-408 of the Code. The Commissioner shall notify the owner that such telephone has been removed by the Department. Such notice shall inform the owner of the requirements for reclaiming such telephone. Where removal of a public pay telephone has been ordered by the Commissioner pursuant to the provisions of subdivision (b) of section 23-404 of the Code due to a street widening or other capital project, or other improvement, and the owner of such public pay telephone does not choose to install such telephone at a different location, the fee for such telephone shall be prorated to the time such telephone was authorized to be operated and maintained and the remainder thereof refunded to the owner.

(d) **Failure by Owner to Remove.** Failure to remove a public pay telephone as required by the provisions of this section shall constitute a violation of this subchapter and shall subject the owner of such telephone to the penalties provided therefor in section 6-02 of this chapter.

#### **§6-27 Requirement of registry as precondition for permit.**

An owner of an interim eligible public pay telephone who has been awarded a public pay telephone franchise shall be eligible to receive a permit pursuant to this chapter only if (i) the owner has identified such telephone on a registry of public pay telephones and submitted such registry and all interim occupancy fees for such telephone as required by the provisions of this subchapter, and (ii) the Commissioner has not objected to such telephone, or such objection has been withdrawn or the condition underlying such objection has been cured to the satisfaction of the Commissioner.

## **Appendix A**

### ***Public Pay Telephone Interim Registry Submission***

The following is instructional information on the process of submitting a Public Pay Telephone Interim Registry to the Department of Information Technology and Telecommunications. The Interim Registry information submission is done in 2 parts. The first part is a *single line* providing information about the company. There should only be one single line entry with information about the company.

The second part is made up of *multiple single line entries*, one line providing information on each of the individual Public Pay Telephones being submitted as part of the company's registry. Each Public Pay Telephone (PPT) being submitted as part of the Interim Registry must have a line in part 2. Samples of each acceptable submission entry type are included. You must fill out all fields. Interim Registry submissions should be sent to:

**The Department of Information Technology  
and Telecommunications  
11 MetroTech Center, Third Floor  
11201**

**Att: PPT-IR Submission**

*Computer Compatible Format*

*ASCII Text-File Format*

It is preferred that this information be supplied in computer compatible format, preferably in an ASCII text-file format submitted on a 3.5" diskette(s). Most spreadsheets, databases and word processor applications (for example LOTUS 1-2-3, DBASE, WORDPERFECT) provide for the conversion of their respective native files into an ASCII text-file format that allow for the transfer of data between applications.

If you cannot provide a converted ASCII text-file format from your computer's application please submit it in its native format following the same order of columns or fields as requested. *See Spreadsheet, Database and Word processor Submissions.*

The ASCII Text-File information being requested is column dependent. That is, the number of characters in a column is preset and must not be altered. If that data requested does not fill up an entire designated column then the rest of the field should be filled with spaces until the total amount of characters for the designated columns is entered. For example, if your company name (columns 1-50) fills columns 1 through 35, then columns 36 through 50 should be filled with space characters. We have attempted to allow for a wide variety of entries. If the data requested does not fit in the column then use standard abbreviations. This should be followed for all columns. A breakout of the required fields and their respective column positions is described in Table I.

*Spreadsheet, Database and Word processor Submissions*

If you are submitting a spreadsheet, database or word processor file then the respective columns or fields must follow the specified order and breakdown as those stated in the ASCII text-file format. The amount of information taken from any one column or field will be the same as that reflected in the ASCII text-file format. The company information columns/fields and the PPT information columns/fields should be the same width, conforming to whichever column/field is larger.

*Handwritten/Typed Submissions*

Handwritten or typed submissions must follow the same format as the computer compatible entered. They should either be typed or *clearly* printed. A blank form is appended that may be copied should more pages be required.

*Interim Registry Payments*

All payments must be made by check or money order payable to: The NYC Department of Finance.

Sample 1

ASCII Text-File Format

First Part - Company Information

Blue Rock Communications, Inc. 1500 Bluebird St. Binghamton NY 113590110 9145648700 Jackie Q. Smith President 9145648720

Rules of the City of New York

1-----50 51-----100 101-----125 126-127 128--136 137-----146 147-----196 197----221 222-----231

Second Part - PPT Information

212553210 MN 123-45 Queens Blvd\* SE Broadway 44 St\* 42 St 8 Ave 7 Ave E\* Pedestal Small N 06/14/93 07/02/93 OSP PROS, INC.

1-----10 11-12 14--23 24-----43 44-45 46---65 66--85 86-105 106-125 126-145 146 147--156 157-166 167 168--175 176--183 184-----233

\*Use only one method of providing PPT location per unit. Unused methods should contain all spaces.

**Sample 2**

Spreadsheet, Database and Word processor Submissions

Blue Rock Communications, Inc.	1500 Bluebird St.	Binghamton	NY	113590110
212553210	MN	123-45	Queens Blvd.	SE

Spreadsheet, Database and Word processor Submissions (continued)

9145648700	Jackie Q. Smith	President	9145648720		
Broadway	44 St*	42 St	8 Ave	7 Ave	E*

Spreadsheet, Database and Word processor Submissions (continued)

Pedestal	Small	N	06/14/93	07/02/93	OSP PROS INC.

\*Use only one method of providing PPT location per unit. Unused methods should contain all spaces.

**Sample 3**

Manual Entry Sheet for Public Pay Telephone Interim Registry Submission

First Part — Company Information

Company Name	Company Street Address	City	State	Zip Code +4
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Blue Rock Communications, Inc.	1500 Bluebird St.	Binghamton	NY	113590110
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## Manual Entry Sheet (continued)

Company Telephone Number	Contact	Contact Title	Fax Number
9145648700	Jackie Q. Smith	President	9145648720

See guidelines in Table I Part 1.

## Second Part — PPT Information

Telephone Number	BORO	PPT Location 1. *	
2125553210	MN	123-45	Queens Blvd.*

## Second Part — PPT Information (continued)

PPT Location 2. *	PPT Location 3. *
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SE	Broadway	44 St*	42 St	8 Ave	7 Ave	E*
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Mounting Type	Housing Type	Curbside Information	Installation Date	Activation Date	Operator Service Provider
Pedestal	Small	N	06/14/93	07/02/93	OSP PROS INC.

\*Use only one method of providing PPT location per unit.

See guidelines in Table I Part 2.

**Table 1**

**Part 1** — Company Information. One line for entire file, followed by Part 2.

Item Number	Columns	Description
1	1-50	Company Name Insert the name of the company as it would appear in any legally binding document, e.g. Blue Rock Communications, Inc.
2	51-100	Company Street Address, e.g. 1500 Bluebird St.
3	101-125	City e.g. Binghamton
4	126-127	State Note: 2 characters maximum, no periods. e.g. NY
5	128-136	Zip Code + 4 Standard Zip Code plus 4 digit extension, if available, without dashes or blanks e.g. 113590110
6	137-146	Company Telephone Number Area Code and 7 digit number, without dashes or blanks e.g. 9145648700
7	147-196	Contact Place name of company contact person in First Name, Middle Initial, Last Name order. Do not include the commas e.g. Jackie O. Smith
8	197-221	Contact Title e.g. President
9	222-231	Fax Number Area Code and 7 digit number, without dashes and blanks. e.g. 9145648720

Table 1

Part 2 — PPT Information. One line for each PPT entry.

Item Number	Columns	Description
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1	1-10	<p>Telephone Number</p> <p>Area Code and 7 digit number, without dashes or blanks</p> <p>e.g. 2125553210</p>
2	11-12	<p>Borough</p> <p>e.g., Manhattan=MN, Bronx=BX, Brooklyn=BK, Staten Island=SI, Queens=QN</p>
3a	<p>14-23</p> <p>24-43</p>	<p>PPT Location 1. *</p> <p>Street address-This is the first, and most preferable, of three available methods to provide the physical location of a PPT. It is done in 2 sections. The first section (columns 14-23) should provide the street number, e.g. 123-45, the second section (columns 24-43) should provide the street name, e.g. Queens Blvd.</p>
3b	<p>44-45</p> <p>46-65</p> <p>66-85</p>	<p>PPT Location 2. *</p> <p>Corner installations-This method describes corner installations that are not tied to a street address. It is done in 3 sections.</p> <p>The first section (columns 44-45) should provide the compass direction of the PPT location at the intersection, i.e. Northwest=NW, Northeast=NE, Southwest=SW, Southeast=SE.</p> <p>This second section (columns 46-65) should provide the primary interacting street, e.g. Broadway.</p> <p>The third section (columns 66-85) should provide the secondary intersecting street, e.g. 44 St.</p>

3c	86-105 106-125 126-145 146	<p>PPT Location 3. *</p> <p>Midblock installations-This method describes midblock installations that are not tied to a street address. It is done in 4 sections.</p> <p>The first section (columns 86-105) should provide the street the PPT is located on. e.g. 42 St.</p> <p>This second section (columns 106-125) should provide the first bordering street, e.g. 8 Ave.</p> <p>The third section (columns 126-145) should provide the second bordering street, e.g. 7 Ave.</p> <p>The fourth section (column 146) should provide the compass direction of the side of the street the PPT is located on, i.e. North=N, South=S, East=E, West=W.</p>
4	147-156	<p>Mounting Type</p> <p>Describe the type of mounting supporting the PPT, e.g. Pedestal, Wall or if it is another type, describe.</p>
5	157-166	<p>Housing Type</p> <p>Describe the housing around the PPT, i.e. None, Small (i.e. Sardine Can), ¾ Booth or if it is another type, describe.</p>
6	167	<p>Curbside installation</p> <p>If PPT is installed at the curbside indicate by typing Y, if not type in N</p>
7	168-175	<p>Installation Date</p> <p>Note the date or original installation of the PPT.</p> <p>Format is MM/DD/YR, e.g. 06/14/93</p>
8	176-183	<p>Activation Date</p> <p>Note the date or original activation of the PPT.</p> <p>Format is MM/DD/YR, e.g. 07/02/93</p>
9	184-233	<p>Operator Service Provider</p> <p>Note the name of the Operator Service Provider for the PPT, e.g. OSP PROS INC.</p>

\*Use only one method of providing PPT location per unit. Unused methods should contain all spaces.

Interim Registry Submission

Please type or print clearly

First Part — Company Information

Company Name	Company Street Address	City	State	Zip Code + 4

Company Telephone Number	Contact	Contact Title	Fax Number

See guidelines in Table I Part 1. This entry should be submitted only once.

Second Part — PPT Information

Telephone Number	BORO	PPT Location 1. *
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PPT Location 2. *	PPT Location 3. *
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Mounting Type	Housing Type	Curbside Information	Installation Date	Activation Date	Operator Service Provider

Rules of the City of New York

See guidelines in Table I Part 1. \*Use only one method of providing PPT location per unit.

Second Part — PPT Information

Telephone Number	BORO	PPT Location 1. *
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PPT Location 2. *	PPT Location 3. *
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Mounting Type	Housing Type	Curbside Information	Installation Date	Activation Date	Operator Service Provider

Second Part — PPT Information

Telephone Number	BORO	PPT Location 1. *
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PPT Location 2. *	PPT Location 3. *
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Mounting Type	Housing Type	Curbside Information	Installation Date	Activation Date	Operator Service Provider

Second Part — PPT Information

Telephone Number	BORO	PPT Location 1. *
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PPT Location 2. *	PPT Location 3. *
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Mounting Type	Housing Type	Curbside Information	Installation Date	Activation Date	Operator Service Provider

Second Part — PPT Information

Telephone Number	BORO	PPT Location 1. *
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PPT Location 2. *	PPT Location 3. *
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Mounting Type	Housing Type	Curbside Information	Installation Date	Activation Date	Operator Service Provider

**Second Part — PPT Information**

Telephone Number	BORO	PPT Location 1. *
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PPT Location 2. *	PPT Location 3. *
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Mounting Type	Housing Type	Curbside Information	Installation Date	Activation Date	Operator Service Provider

**Second Part — PPT Information**

Telephone Number	BORO	PPT Location 1. *
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PPT Location 2. *	PPT Location 3. *
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Mounting Type	Housing Type	Curbside Information	Installation Date	Activation Date	Operator Service Provider

## Appendix B

## Certification

### CERTIFICATION

This certification must be completed before a notary public by the owner or authorized representative of the owner of the public pay telephones identified on the registry submitted herewith.

A MATERIAL FALSE STATEMENT OR OMISSION MADE IN THE INFORMATION SUBMITTED ON A DOCUMENT SUBMITTED IN CONNECTION WITH ANY PUBLIC PAY TELEPHONE IDENTIFIED ON THE REGISTRY OF PUBLIC PAY TELEPHONES AFFIXED HERETO IS SUFFICIENT CAUSE FOR REMOVAL OF SUCH TELEPHONE FROM THE REGISTRY, THEREBY REQUIRING THE REMOVAL OF SUCH TELEPHONE FROM ITS LOCATION AND PRECLUDING THE OWNER FROM OBTAINING A PERMIT FOR SUCH TELEPHONE PURSUANT TO LOCAL LAW 68 FOR THE YEAR 1996. IN ADDITION, SUCH FALSE SUBMISSION MAY SUBJECT THE OWNER AND/OR ENTITY MAKING THE FALSE STATEMENT TO CRIMINAL CHARGES.

I, (full name), being the owner [or an authorized representative of the owner] of the public pay telephones identified on the registry submitted herewith, (name of owner), and being duly sworn, do hereby certify that, to the best of my knowledge, the information presented in this and any accompanying document as noted below, including any form of computer diskette, is, to the best of my knowledge, truthful, accurate and complete.

I certify further that each public pay telephone identified on the registry submitted herewith provides twenty-four hour coinless 911 service and operator service in compliance with the requirements of the New York State Public Service Commission and is in compliance with the safety requirements contained in the Building Code (Administrative Code of the City of New York, Title 27, Chapter 1).

Accompanying documents (include any submission, such as computer diskette):

\_\_\_\_\_ ; \_\_\_\_\_ ;

\_\_\_\_\_ ; \_\_\_\_\_ ;

\_\_\_\_\_ ; \_\_\_\_\_ ;

Company:

Title:

Print Name:

Signature:

Sworn to me

this day of , 199\_.

(Notary Public)

## Subchapter C

### *Permits for Public Pay Telephones*

#### **§6-30 Permit Required.**

(a) Except as provided in subchapter B of this chapter in regard to interim eligible public pay telephones and subdivision (a) of section 5 of Local Law Number 68 for the Year 1995 in regard to telephones licensed pursuant to former sections 19-131 or 19-128 of the Code, no public pay telephone shall be installed, operated or maintained on, over or under any street or other inalienable property of the City, or installed such that a user of such public pay telephone can use such telephone while standing, in whole or in part, on the inalienable property of the City, unless the owner of such telephone has received a permit for such telephone from the Commissioner pursuant to the provisions of this subchapter. Pursuant to section 7 of Local Law No. 68 for the Year 1995, the period of three years following the effective date of Local Law No. 68 for the Year 1995, provided for in subdivision (a) of section 5 of such local law regarding the continuation in effect of the licenses previously issued to the telephone company, and the period of three years provided for in subdivision (c) of such section regarding the obligation of the telephone company to pay commissions, are extended until September 4, 1999, or until ninety days following such date as the telephone company may be granted a franchise to install, operate and maintain public pay telephones, whichever is earlier.

(b) A permit shall include such terms and conditions for the operation of a public pay telephone as the Commissioner deems necessary to protect the public safety and to safeguard the interest of the City, including but not limited to the requirements that such telephone be in compliance with the requirements set forth in subchapter D of this chapter.

(c) A permit issued pursuant to this subchapter is valid only for the public pay telephone for which such permit was issued and may not be transferred to a person other than the owner to whom such permit was issued without the written approval of the Commissioner.

(d) Notwithstanding any other provision of this chapter, a permit for a public pay telephone shall not be issued, unless the owner of such telephone demonstrates that he or she has obtained all permissions required by applicable provisions of Federal, State, and local law, as well as rules and regulations promulgated and agreements entered into pursuant thereto.

#### **§6-31 Issuance and Transfer of Permits.**

(a) The Commissioner may issue permits based upon a determination, at his or her discretion, that issuance of a permit would be in the best interests of the City.

b. A permit shall not be issued:

(i) unless the applicant possesses a franchise to install, maintain and operate public pay telephones on, over and under the streets and other inalienable property of the City;

(ii) unless the applicant has, where required, obtained the consent of the owner or commercial lessee of a building as provided in section 6-34 of this chapter;

(iii) where a public pay telephone will unreasonably interfere with the use of a street by the public or where it will unreasonably interfere with the use of the abutting property.

(c) The Commissioner may determine not to issue a permit to an owner of public pay telephones listed in the interim registry submitted pursuant to subchapter B of this chapter where such owner has persistently failed to maintain such telephones free of graffiti or has otherwise failed to repair such telephones or maintain such telephones in a safe and clean condition. The Commissioner may determine that such persistent failure has occurred where an owner has, in excess of two times, failed to remove graffiti or correct any other condition related to the proper maintenance of a public pay telephone identified in a notification to such owner by the Department. The Commissioner shall not consider the prior issuance of a permit as relevant to any determination whether there has been a persistent failure to maintain public pay telephones as required by this subsection.

(d) A permit issued pursuant to this chapter may be transferred to an owner other than the owner to whom the permit was issued, provided that such transfer has the written approval of the Commissioner and provided further that the transferee is the holder a public pay telephone franchise granted by the City.

### **§6-32 Application and Fee for Permit.**

An application for a permit to install, operate and maintain a public pay telephone shall be in a form prescribed by the Commissioner and shall be accompanied by the permit fee of \$59, subject to any applicable reduction pursuant to paragraph (d)(4) of section 6-24 of this chapter. Applications for a permit pending as of March 15, 2000 shall be denied unless the fee required pursuant to this section 6-32 was received by the Department on or before April 30, 2000. Applications received after March 15, 2000 shall be denied if such fee is not included with the application.

### **§6-33 Term of Permit: Termination of Permit**

(a) *Term of Permit.* A permit for a public pay telephone shall continue in effect, unless earlier revoked or suspended by the Commissioner pursuant to section 6-37 of this subchapter, for the term of the franchise held by the owner of such telephone except: (i) as provided in subdivision (a) of section 6-38 of this chapter in regard to newly permitted telephones owned by the telephone company; (ii) as provided in subdivision (b) of this section; or, (iii) as provided in subdivision (b) of section 6-38 of this chapter in regard to a public pay telephone the owner of which has not been awarded a franchise; (iv) as provided in section 6-46 of this chapter; (v) as provided in subdivision (c) of section 6-31 of this chapter in regard to an owner of public pay telephones that has persistently failed to maintain such telephones free of graffiti or has otherwise failed to repair such telephones or maintain such telephones in a safe and clean condition; or (vi) if the Commissioner determines after grant of the permit that the permitted public pay telephone was located or installed in violation of any applicable provision of subchapter D of this chapter.

(b) *Termination of Permit.*

(1) The Commissioner may terminate a permit and require the removal of a public pay phone upon a determination that (i) as a result of changed conditions, the public pay telephone unreasonably interferes or will unreasonably interfere with the use of a street by the public or constitutes a public nuisance; or (ii) that removal of the public pay telephone is required in connection with a street widening or other capital project.

(2) The Commissioner shall notify the permittee of his or her intention to terminate the permit and the reason for such proposed action. No later than five business days following such notification, the permittee may submit a letter to the Commissioner setting forth any reasons why such permit should not be terminated and such telephone removed. The Commissioner shall review the reasons set forth in such letter and shall determine whether to terminate

the permit and require the removal of the telephone. The Commissioner shall notify the permittee of his or her final determination and the reasons therefor and shall, where applicable, specify in such notice the date by which the telephone shall be removed. In the event that the permittee fails to remove the public pay telephone by the date specified by the Commissioner, the Commissioner may remove or cause the removal of the public pay telephones and have repair and restoration work performed at the expense of the permittee, who shall be liable in a civil action for the amount expended by the City.

(3) In the event that a public pay telephone is removed in connection with a street widening or capital project as provided in subdivision (b)(1)(ii), the permittee may apply to the Commissioner for permission to reinstall the public pay telephone at another location or, following the completion of such street widening or capital project, at or near its original location. Where such permission is granted, the permittee shall not be required to obtain a new permit for the public pay telephone and the permit previously issued for such public pay telephone shall continue in effect. In the event that the permittee elects not to install such public pay telephone at another location, the fee for such a permit shall be kept in reserve and may be applied to the next permit requested by the permittee. If such public pay telephone is reinstalled at another location the permittee may apply to the Commissioner for a new permit to install another public pay telephone following the completion of such street widening or capital improvement at or near the original location of the public pay telephone previously removed in connection therewith, provided that the permittee has paid the required fee for such permit or has applied a reserved fee to such permit.

### **§6-34 Consent of Building Owner/Commercial Lease Required.**

(a) ***Opening, drilling or other physical alteration.*** No permit for a public pay telephone shall be issued or renewed pursuant to this subchapter without the written consent of the owner of an affected building or other private property where the installation of such public pay telephone requires the opening, drilling or other physical alteration of a building facade or other private property or the affixing of such telephone to a building facade or other private property. Such consent shall be provided to DoITT in either of the following two forms:

(1) a photocopy of an effective and binding written agreement signed by the building owner which grants the owner of the applicable public pay telephone such rights to open, drill or otherwise physically alter (including, without limitation, affixing the telephone to) the building facade or private property as are necessary to install and operate such public pay telephone, which photocopy shall be accompanied by a sworn and notarized written certification from the public pay telephone owner certifying, under penalty of perjury, that the attached photocopy is a true and complete copy of a document signed by the building owner, or

(2) an alternative consent form to be prescribed by the Commissioner.

### **(b) *Access through conduit.***

(1) Where the installation of a public pay telephone, if accomplished in a manner other than described in subdivision a of this section, requires access through an existing conduit or other opening on a building facade or other private property, or such installation is to be made within six feet of a building line, no permit shall be issued or renewed without the written consent of either the building owner or the commercial lessee.

(i) If the consent is from the building owner, the form of such consent shall be provided to DoITT in either of the following two forms:

(A) a photocopy of an effective and binding written agreement signed by the building owner which grants the owner of the applicable public pay telephone any and all rights of access necessary to install and operate such public pay telephone (or, if no such access is required but the applicable installation is to be within six feet of the building line, granting the building owner's consent to such location) which photocopy shall be accompanied by a sworn and notarized written certification from the public pay telephone owner certifying, under penalty of perjury, that the attached photocopy is a true copy of a document signed by the building owner; or

(B) an alternative consent form to be prescribed by the Commissioner.

(ii) If the consent is from the commercial lessee, the requirements for the form of such consent shall be the same as that for consent from the building owner as set forth in the preceding subparagraph (i), except that references to "building owner" in subparagraph (A) of said subparagraph (i) above shall be deemed to refer to "commercial lessee" and except that in addition to the consent required under subdivision (i) above, there shall also be required a certification by the commercial lessee certifying that the building owner has authorized the commercial lessee to grant such consent and the commercial lessee has provided the building owner (or its authorized agent) with written notification (by certified mail) of such granting of consent (such written notification to include the name and address of the owner of the public pay telephone and the location of the public pay telephone in relation to the building). Such certification by the commercial lessee must be accompanied by proof of mailing of the notification to the building owner referred to in such certification.

(2) Within thirty (30) days of receipt by a building owner of a commercial lessee's consent pursuant to subdivision (1) of this subdivision (b), a building owner or an authorized agent of an owner may object to the installation of a public pay telephone by notifying the applicant for a permit or the permittee, with a copy to the Commissioner, by certified mail. Within ten days of receipt of a notice in compliance with the provisions of this paragraph, such applicant or permittee shall (if the public pay telephone objected to in such notice has been installed) remove such public pay telephone unless he or she responds to the Commissioner, with a copy of such response to the owner, stating why the applicant or permittee believes that the owner lacks authority to object to the installation.

(3) The provisions of paragraph (1) of this subdivision (b) shall not apply in regard to a public pay telephone installed and activated on or before August 1, 1994 that has been in continuous use since such activation date and for which application for a permit has been made within thirty days of the award of a franchise to the owner of such telephone.

#### **§6-35 Notification by Department to Agencies and Review of Application for Permits.**

(a) **Notification.** The Department shall notify the Department of Transportation, and the Landmarks Preservation Commission, or any successor of such agencies, on a periodic basis of the location of public pay telephones for which permits are being sought, except for the telephones identified in the application described in subdivision (a) of section 6-38.1 of this subchapter. Such agencies may review such locations and, within thirty (30) business days of such notification, submit comments to the Commissioner in regard to any such telephone or telephones. The Department shall also, on a periodic basis, notify the pertinent borough presidents, council members and community boards of the opportunity to review permit applications that have been received from franchisees for public pay telephones. A borough president, council member, or community board may review any such application and, within thirty business days of such notification, submit comments in writing to the Commissioner in regard to such application.

(b) **Review of Comments and Application.**

(1) Review and conditions.

(i) The Commissioner shall review the application for permits and any comments received from such agencies prior to making a determination regarding such permits. The Commissioner shall notify the owner of any requirement that shall be a condition of the issuance of a permit. The owner may, within five (5) business days of such notice from the Commissioner, object in writing to the Commissioner to any such condition. The Commissioner shall review such objection and notify the owner of his or her determination and the reasons therefor.

(ii) Applications are not transferable by the owner who submits such applications. Upon approval of an application, a permit shall be granted only to the entity that submitted the application. If the entity that submitted the application is not eligible to receive a permit, the application will be denied.

(2) Pending applications for permits. If two or more applications for permits received by DoITT prior to November 23, 1998 constitute a pair or group of applications only one of which can be granted consistent with subdivisions (f) and (j) of section 6-41 of this chapter, then of such pair or group the qualifying application (as defined in paragraph

(b)(4) of this section 6-35), if any, which was received first by DoITT shall be granted and the other applications in such pair or group shall be denied. All applications for permits received by DoITT prior to November 23, 1998 will be approved or denied within twelve months of the effective date of this paragraph (b)(2), provided that such twelve month date shall be subject to extension by order of the Commissioner.

(3) New applications for permits.

(i) Applications (other than applications pursuant to paragraph (b)(2) of this section 6-35 or to section 6-38.1 of this chapter) for permits by franchisees will be accepted for review by the Department:

- . with respect to proposed locations in the boroughs of Queens, the Bronx, Brooklyn and Staten Island and in Manhattan north of 96<sup>th</sup> Street ("Area A Locations"), commencing sixty days after the effective date of this paragraph (b)(3); and
- B. with respect to locations in Manhattan along or south of 96<sup>th</sup> Street ("Area B Locations") upon completion of the Department's review and subsequent to the processing and issuance of all applications described in section 6-38-1 of this chapter and paragraph (b)(2) of this section 6-35.

(ii) During a period commencing on the 60<sup>th</sup> day after the effective date of this paragraph and ending on the 150<sup>th</sup> day after the effective date of this paragraph, public pay telephone franchisees may submit applications for permits for Area A Locations. The Department shall review such applications in a first period of permit application review ("the First Review Period"). During the First Review Period, the maximum number of applications submitted by any franchisee may not exceed either the sum of fifty (50) applications plus five per cent (5%) of the franchisee's total number of licensed, permitted and registered public pay telephones as of December 31, 1999, or three hundred (300) applications, whichever is less. Franchisees that share substantial common ownership (as defined in Section 6-01 of Subchapter A) shall be treated as a single franchisee for purposes of section 6-35(b)(3).

(iii) Each franchisee shall assign a priority number (the "Priority Number" or "Priority") to each application submitted during the First Review Period. The Department will conduct a lottery among all franchisees submitting one or more applications during the First Review Period to assign randomly the order in which each franchisee's applications will be reviewed (the "Order of Review Number" or "Order of Review"). The Department will first review (and determine whether to grant or deny) the highest Priority Number "Qualifying" application (as defined in paragraph (b)(4) of this section 6-35) of the franchisee that received Order of Review Number 1. After determination of that application, the Department will review and determine the highest Priority Qualifying application of the franchisee with Order of Review Number 2. The Department will continue to review the highest Priority Qualifying applications submitted by each franchisee, according to the franchisees' Order of Review numbers, until all of the highest priority Qualifying applications have been reviewed and determined. Thereafter, the Department will review the application designated with the second highest Qualifying Priority Number, but beginning with the franchisee having the last Order of Review Number assigned in the lottery. Upon completion of all of the second highest Priority Qualifying applications, the Department will begin reviewing all third highest Priority Qualifying applications (and all subsequent odd-numbered Priority Qualifying applications) again beginning the review with the franchisee having Order of Review Number 1. Fourth highest Priority Qualifying applications (and all subsequent even-numbered Priority Qualifying applications) will be reviewed beginning with the franchisee having the last Order of Review Number, until all

applications received in the First Review Period have been determined.

(iv) After completion of the review of all First Review Period applications, the Department will notify all franchisees when a new application period will commence, with submissions and review to be conducted in similar manner. A new application review period shall be opened within a reasonable period after completion of review of all applications for each previous period. All application review periods prior to the date that applications for Area B Locations may be submitted (as set forth in subparagraph (i) of this paragraph (b)(3)) will be limited to applications for Area A Locations. All application periods opened after such date shall include both Area A Locations and Area B Locations. During all application periods after the First Review period, the maximum number of applications that may be submitted by any franchisee (or group of franchisees sharing substantial common ownership) shall be 50. No application (other than applications pursuant to paragraph (b)(2) of this section 6-35 or to section 6-38.1 of this chapter) shall be reviewed except pursuant to the commencement of another application period review process.

(v) An application for permit under this paragraph (b)(3) will not be granted during the pendency of any application for permit under paragraph (b)(2) of this section 6-35 that would if granted permit the placement of a public pay telephone in a location that would render the location requested in the application under this paragraph (b)(3) inconsistent with section 6-41 of this chapter. If such application under paragraph (b)(2) is approved and a permit granted, then such application under this paragraph (b)(3) will be denied.

(4) A "qualifying" application for a permit is defined as an application that would be granted under the provisions of this chapter if there were no competing application for permit.

#### **§6-36 Revocation of Permits, Removing and Rendering Public Pay Telephones Inoperable.**

(a) ***Grounds for action by the Commissioner.*** The Commissioner may take such action pursuant to this section that he or she deems necessary and appropriate where:

- (1) there is reasonable cause to believe that an owner, or any employee, agent or independent contractor of such owner has violated the provisions of chapter 4 of title 23 of the Code or any provision of this chapter, or any of the terms or conditions contained in the permit for a public pay telephone issued pursuant to the provisions of subchapter C;
- (2) a public pay telephone unreasonably interferes with the use of a street by the public or the use of abutting private property or constitutes a danger to life or property or a public nuisance;
- (3) a knowing material omission or false statement has been made in relation to any application or certification made pursuant to this chapter; or
- (4) an owner of a public pay telephone has failed to pay any fines or penalties imposed in relation to such telephone.

(b) ***Actions by the Commissioner.*** In addition to any civil or criminal penalties provided by law, the Commissioner may take one or more of the following actions upon the occurrence of an event described in subdivision (a) of this section.

(1) ***Revocation of permit and removal of telephone.*** The Commissioner may revoke a permit, and upon such revocation, may further order the removal of the public pay telephone for which such permit has been issued. In the event the permittee fails to remove the public pay telephone and to perform related repair and restoration work within the time period specified by such order, the Commissioner may remove or cause the removal of the public pay telephone and have repair and restoration work performed at the expense of the permittee, who shall be liable for the amount expended by the City.

(2) *Rendering a telephone inoperable.* The Commissioner may render a public pay telephone inoperable except for the purpose of emergency telephone service through the 911 system or an operator. Such action may continue until the permittee has corrected the condition to the satisfaction of the Commissioner and payment has been made of all civil penalties imposed for the violation and any fees for any administrative expense or expense of additional inspections incurred by the City as a result of such condition. The Commissioner shall affix to any public pay telephone rendered inoperable pursuant to this paragraph a notice advising the public that the phone may be used only for emergency telephone service through the 911 system or an operator and setting forth the provisions of §23-408(i)(1)(cc) of the Code. Any device utilized by the Commissioner for the purpose of rendering a public pay telephone inoperable shall be designed so as to permit the unimpaired use of the public pay telephone upon the removal of the device.

(3) *Suspension of review of applications.* The Commissioner may suspend review of all applications for the issuance or renewal of permits filed by such owner pursuant to this chapter. Such suspension may continue until the condition has been corrected to the satisfaction of the Commissioner and payment has been made of all fines or civil penalties imposed for the violation, any costs incurred by the City for removal and related repair or restoration work, and any fees for any administrative expense or expense of additional inspections incurred by the City as a result of such condition.

(4) *City Authority to Operate.* The Commissioner may invoke the Department's authority pursuant to section 6-47 of this chapter.

(c) *Notification to permittee and opportunity to contest Commissioner's action.* Except as provided in subdivision (e) of this section, before taking an action pursuant to this section, the Commissioner shall notify the owner of a public telephone with regard to which the action is proposed of the reason for such proposed action. Such notice shall specify the action, if any, that may be taken by the permittee to correct the condition and the manner and time period in which such condition must be corrected or in which, if the condition is not one that is capable of correction, the time by which the telephone shall be removed. Except as provided in subdivision (d) of this section the owner shall respond no later than five business days following such notice. Such response shall either: (i) certify to the Commissioner that such condition has been corrected in accordance with the manner specified by the Commissioner in such notice; or (ii) set forth the reasons why the Commissioner should not take the proposed action. Failure of an owner to timely respond to such notice by the Commissioner shall constitute default, and shall subject the owner to revocation of the permit and removal of the telephone pursuant to the provisions of subdivision (a) of this section. The Commissioner shall review the response of the permittee and notify the permittee of the final determination and the reasons therefor.

(d) *Expedited removal of public nuisance.* Notwithstanding any other provision of this section the Commissioner may, upon determination that a public pay telephone constitutes a public nuisance, notify the permittee of such determination and order that such telephone be removed within five (5) business days. A permittee may respond in writing to the Commissioner no later than five (5) business days following receipt of such notice setting forth any reasons why such telephone does not constitute a public nuisance. If, following review of such reasons, the Commissioner makes a final determination that such telephone constitutes a public nuisance, the Commissioner shall notify the permittee that such telephone must be removed forthwith. Failure to remove such telephone forthwith will subject the telephone to removal by the Department and repair and restoration work shall be performed at the expense of the permittee, who shall be liable in a civil action for the amount expended by the City.

(e) *Emergency removal of telephone by Department.*

(1) Notwithstanding any other provision of this section, if the Commissioner determines that an imminent threat to life or property exists, the Commissioner may remove or cause the removal of a public pay telephone and have repair and restoration work performed at the expense of the owner, without affording the owner an opportunity to be heard prior to such removal. The Commissioner may, if he or she determines that such telephone can be safely reinstalled and maintained, permit the owner to reinstall such telephone.

(2) No more than five (5) business days following the removal of a public pay telephone pursuant to paragraph (1) of this subdivision, an owner of such telephone who is a permittee shall be provided notice of such removal and the reasons therefore and may respond to the Commissioner in writing setting forth the reasons why such telephone should not have been removed. The Commissioner shall review such response and notify such owner within ten days of receipt of such response of his or her final determination and the reasons therefor.

### **§6-37 Determination of Public Nuisance.**

For the purposes of this subchapter, "public nuisance" shall have the meaning set forth in section 23-101 of the Code and section 6-01 of subchapter A of this chapter. The Commissioner may determine that a public pay telephone constitutes a public nuisance when a written complaint is made, including but not limited to a complaint by the Community Board in the Community District in which such telephone is located, stating that such public pay telephone constitutes a public nuisance as so defined. The complaint must also be verified by the police precinct in which such telephone is located.

### **§6-38 Interim Issuance of Permits.**

(a) ***New telephones owned by the telephone company.*** Notwithstanding the provisions of section 6-31 of this subchapter which limit the issuance of permits to persons who possess a franchise to install, maintain or operate public pay telephones on, over or under any street or other inalienable property of the City, the telephone company may, if it is in compliance with the provisions of this chapter with respect to its public pay telephones installed and activated prior to March 1, 1996 and not licensed pursuant to former sections 19-131 or 19-128 of the Code, apply to the Commissioner on or after March 1, 1996 for the issuance of permits for the installation, operation and maintenance of new public pay telephones. A permit issued pursuant to this paragraph shall remain in effect until March 1, 1999 unless the telephone company is awarded a franchise, in which case such permit shall expire upon the expiration of such franchise.

(b) ***Other telephones.*** Notwithstanding the provisions of section 6-31 of this subchapter which limit issuance of permits to persons who possess a franchise to install, operate or maintain public pay telephones on, over or under any street or other inalienable property of the City, an owner of public pay telephones other than the telephone company may apply to the Commissioner for the issuance of permits for the installation, operation or maintenance of new public pay telephones provided that:

(1) all public pay telephones of such owner installed and activated prior to March 1, 1996 are identified on a registry submitted to the Department by such owner and the owner has paid the occupancy fee for such telephones as provided in subchapter A of this chapter; and

(2) none of the following has occurred: (i) the owner has declined to respond to the request for proposals or other solicitation of proposals issued by the Department for the purpose of entering into franchise agreements for the installation, operation and maintenance of public pay telephones within the time period specified in such request for proposals or other solicitation of proposals; (ii) the Commissioner has determined not to propose the award of a franchise to such owner to the Franchise and Concession Review Committee or (iii) the Franchise and Concession Review Committee has determined not to approve the proposed franchise agreement for such owner. Permits issued pursuant to this subdivision shall expire upon the occurrence of any of the foregoing. In the event that the owner is granted a franchise to install, operate, and maintain public pay telephones, such permits shall continue in effect for the term of the franchise.

### **§6-38.1 Conversion of Licensed and Interim Registry Public Pay Telephones to Permit Status Following Franchise Award.**

(a) ***Previously licensed telephones owned by the telephone company.***

(1) In the event that the telephone company is awarded a franchise for the installation; operations and maintenance of

public pay telephones, the telephone company may request the issuance of permits for any or all existing telephones owned by such company for which a license previously was issued pursuant to former sections 19-131 or 19-128 of the code. Such application shall consist of a letter identifying the precise location and license number of each existing public pay telephone for which the telephone company seeks a permit. Notwithstanding any other provision of this subchapter, no fee shall be charged for a permit pursuant to this subdivision. Any existing public pay telephone for which the telephone company does not seek a permit shall be removed by the telephone company no later than sixty days following the award of such franchise and, if not so removed, shall be subject to removal pursuant to section 23-408 of the Code. Failure to remove shall also be deemed a violation for purposes of subdivisions (a) and (c) of such section.

(2) The Commissioner shall issue permits requested pursuant to this subdivision no later than ninety days following the award of the franchise unless: (i) within sixty days following the award of the franchise, the Commissioner has objected to the continued maintenance and operation of an existing public pay telephone upon the basis that such continued maintenance and operation would be inconsistent with the provisions of Local Law Number 68 for the Year 1995, or would not be in compliance with the provisions of this chapter or of any Federal or State regulatory authority having jurisdiction over the provision of public pay telephone service, and (ii) such conditions has not been cured within the time specified by the Commissioner. The telephone company shall remove all existing public pay telephones for which a permit has not been granted pursuant to this paragraph on or before the one hundred twentieth (120) day following the date the franchise is granted and, if not so removed, such telephones shall be subject to removal pursuant to section 23-408 of the Code and shall be deemed a violation for purposes of subdivisions (a) and (c) of such section.

**(b) *Telephones owned by companies other than the telephone company.***

(1) No later than thirty (30) days following the award of a franchise to an owner other than the telephone company, such owner may apply for the issuance of permits for those public pay telephones identified in a registry submitted pursuant to subchapter B of this chapter (i) for which the Commissioner made no objection or an objection was cured within the time required by the Commissioner, and (ii) which were not otherwise in violation of any provision of section 6-41 of this chapter which is applicable to such public pay telephones under section 6-40 of this chapter or of the wiring rules under section 6-43 of this chapter; provided all the annual interim occupancy fees have been paid for the public pay telephones in such registry. Any such public pay telephone for which such owner does not apply for a permit shall be removed by the owner within sixty days following the award of the franchise, and if not so removed, shall be subject to removal pursuant to section 23-408 of the Code and shall be deemed a violation for purposes of subdivisions (a) and (c) of such section.

(2) An owner who has submitted an application pursuant to paragraph (1) of this subdivision (b) shall not be required to remove the public pay telephone to which such application relates unless and until the earlier of the following has occurred; (i) the owner fails to timely cure a condition specified in a notification provided by the Commissioner or (ii) the application for a permit for such telephone is denied. Any such public pay telephone shall be removed within thirty days of an occurrence described in this paragraph and, if not so removed, shall be subject to removal pursuant to section 23-408 of the Code and shall also be deemed a violation for purposes of subdivisions (a) and (c) of such sections.

**§6-38.2 Moves to the Curb.**

(a) *Request for Move to Curb.* A holder of a public pay telephone permit which was granted pursuant to section 6-38.1 of this chapter (or the owner of a public pay telephone registered pursuant to subchapter B of this chapter, if such owner holds a public pay telephone franchise from the City and a permit application pursuant to subdivision (b) of section 6-38.1 of this chapter for such payphone has been submitted to DoITT and is pending, excluding such public pay telephones registered pursuant to paragraph (a)(2) of section 6-24) may change the location of such public pay telephone, without applying for a new permit, provided that:

(1) the permittee submits a "Request for Move to Curb," in a form to be specified by the Commissioner, accompanied

by a fee of \$59;

(2) the proposed new location will be along a straight line running from and perpendicular to the street nearest the existing location of such public pay telephone and ending at the existing location of such public pay telephone (the "Move to Curb Path");

(3) notice of such "Request for Move to Curb" is provided to the Department of Transportation, the Landmarks Preservation Commission and the applicable Community Board, in the same manner as notice of an application for a new permit is to be provided under this chapter;

(4) after the proposed change the applicable public pay telephone will be in compliance with all of the provisions of subchapter D of this chapter, including without limitation those provisions (such as, for example, subdivisions (f) and (j) of section 6-41) as would not be applicable to such public pay telephone if it were to remain at its original location or, if such proposed new location would not be in compliance with the provisions of subchapter D of this chapter, the proposed new location could be brought into compliance with Subchapter D of this chapter by a six (6) inch lateral alteration of the proposed new curb side location along an axis perpendicular to the "Move to Curb Path" along which the public pay telephone installation is proposed to be moved; and

(5) the Commissioner, after reviewing any comments received from the entities described in the preceding paragraph (3), determines, in his or her discretion, that such change would be in the best interest of the City and confirms such determination by the issuance of a written approval of the Request for Move to Curb.

(b) **Consolidation Option.** If a Request for Move to Curb would be subject to denial by reason of a noncompliance with subdivision (j) of section 6-41 of this chapter, then the owner of the telephone or telephones with respect to which a Request for Move to Curb is being submitted shall, in lieu of utilizing the location required under paragraph (a)(2) of this section 6-38.2, have the option of:

(1) entering into an agreement with an owner (the "curb line owner"), of an existing curb line public pay telephone installation located on the same block as the applying owner, which installation contains less than the maximum number of public pay telephones permitted under this chapter. Pursuant to such an agreement, the applying owner and curb line owner would operate public pay telephones in a joint installation at the existing curb location (provided that the result of such consolidation would be compliance with subdivision (j) of section 6-41 of this chapter, and that such joint installation would comply with all other conditions to, and requirements for, approval of a Request for Move to Curb (including, without limitation, submission of the appropriate form and fee and approval by the Commissioner)); or

(2) entering into an agreement with another owner who also seeks to move a public pay telephone on the same block to the curb line, pursuant to which agreement the two owners would operate public pay telephones in a joint installation in which each public pay telephone (and the overall installation) would be authorized under paragraph (a)(2) of section 6-38.2 of this chapter (provided that the result of such consolidation would be compliance with subdivision (j) of section 6-41 of this chapter, and that such joint installation would comply with all other conditions to, and requirements for, approval of a Request for Move to Curb (including, without limitation, submission of the appropriate form and fee and approval by the Commissioner)).

(3) submitting to the Department Requests for Move to Curb for two or more of the applying company's public pay telephone installations located on the same block, pursuant to which the owner would operate such public pay telephones in a joint installation in which each public pay telephone (and the overall installation) would be authorized under paragraph (a)(2) of section 6-38.2 of this chapter (provided that the result of such consolidation would be compliance with subdivision (j) of section 6-41 of this chapter, and that such joint installation would comply with all other conditions to, and requirements for, approval of a Request for Move to Curb (including, without limitation, submission of the appropriate form and fee and approval by the Commissioner)).

(c) *Timetable.*

(1) The Commissioner shall issue a form of "Request for Move to Curb" within ten (10) business days of the effective date of this section 6-38.2, which form the Commissioner may amend from time to time.

(2) All Requests for Move to Curb properly and fully filled out and submitted within ninety days of the effective date of this section 6-38.2 ("Initial Requests") will be reviewed by the Department, and will be approved or denied within twelve months of the effective date of this section 6-38.2, provided that such twelve month date shall be subject to extension by order of the Commissioner.

(3) The order in which the Department reviews Initial Requests will not be related to the order of submission of such Initial Requests. All Requests for Move to Curb which do not qualify as Initial Requests under the preceding paragraph (2) shall be reviewed by DoITT after all Initial Requests have been reviewed.

### **§6-39 Removal of Telephones by the Department and Disposition of Removed Telephones.**

(a) Any public pay telephones not removed by a permittee in compliance with an order of the Commissioner pursuant to this chapter shall be subject to removal pursuant to section 23-408 of the Code, and failure to so remove shall also be deemed a violation of subdivisions (b) and (c) of such section.

(b) Any telephone removed pursuant to this chapter which is not claimed by this owner within thirty (30) days of removal shall be deemed abandoned. All abandoned public pay telephones may be sold at public auction after having been advertised in the City Record and the proceeds paid into the general fund or such abandoned telephones may be used or converted for use by the Department or by another City agency. A public pay telephone shall be released to the owner upon payment of the costs of removal, repair and restoration work, and of storage, any fees for any administrative expense or expense of additional inspections incurred by the Department as a result of the violation, or, if any action or proceeding for the violation is pending in a court or before the Environmental Control Board, upon the posting of a bond at other form of security acceptable to the Commissioner in an amount which will secure the payment of such costs and any fines or civil penalties which may be imposed for the violation.

## **Appendix A**

### ***Application to Install and Maintain a Public Pay Telephone (PPT)***

The City of New York

APPLICATION TO INSTALL Department of Information Technology Application # \_\_\_\_\_

AND MAINTAIN A PUBLIC and Telecommunications

PAY TELEPHONE (PPT) 11 MetroTech Center, Third Floor Date \_\_\_\_\_

Brooklyn, N.Y. 11201

The applicant agrees that any permit issued hereunder is subject to all laws and regulations of the City of New York that may apply. This permit shall be subject to revocation as provided in the Rule of the Commissioner of The Department of Information Technology and Telecommunications as set forth in Chapter 6 of Title 67 of the Rules of The City of New York.

hereby requests a permit to install  
and maintain

\_\_\_\_\_ a Public Pay Telephone and related equipment (enter full name and address, including zip code, of Company) on the sidewalk at:

\_\_\_\_\_  
Company Telephone Number

Place PPT address information here:

Provide a street address that can be related to the location of the proposed installation, e.g. 123-45 Queens Blvd., Queens. Include the borough. You must use this method of providing PPT location information regardless of where the PPT is to be installed. A Page 1 of 3 and a Page 2 of 3 is required for every PPT proposed. If a cluster is proposed a Page 1 of 3 and a Page 2 of 3 must be submitted for EVERY proposed PPT. A single Page 3 of 3 can be submitted for a single installation or cluster.

\_\_\_\_\_  
Public Pay TelephoneNumber\*

This information must be provided to DoITT upon completion of the PPT activation or prior if available.

\_\_\_\_\_  
Mounting Type, e.g., pedestal, wall, if other, describe.

\_\_\_\_\_  
Housing Type, e.g., none, small, 3/4 Booth. If other, describe.

\_\_\_\_\_  
Curbside Installation.

Enter 'Yes' or 'No'

\_\_\_\_\_  
Installation Date\*

The date the PPT is physically installed must be provided to DoITT upon completion of the installation.

\_\_\_\_\_  
Activation Date\*

The date the PPT is activated, i.e., is able to provide phone service to the public switch network, must be provided upon its availability.

\_\_\_\_\_  
Operator Service Provider

Name of OSP for this PPT  
\_\_\_\_\_

Franchise Number. If Franchise has not yet been granted, leave section blank.

\_\_\_\_\_  
\*\* Name of proper recipient to receive service of process.

\_\_\_\_\_  
Title

\_\_\_\_\_  
Address

\*\* A proper person to receive service of process means a person legally sufficient to receive service of process for the PPT owner pursuant to Article III of New York's Civil Practice Law and Rules or Article III or New York's Business Corporation Law.

Applicants are advised that a Public Pay Telephone shall be installed, operated and maintained in compliance with all provisions of Federal, State, and local law, rules and regulations.

Applicant must complete the locational diagram on page 3 (of 3) of this form indicating the proposed PPT installation area using the icons provided in the legend, all other PPT installations on the block and the length of the block.

The applicant shall maintain all required clearance of street furniture and all other location requirements as set forth in Subchapter 4 of Chapter 6 of the Rules of the Commissioner of the Department of Information Technology and Telecommunications and clearance of water mains and the appurtenances required by the Bureau of Water Supply Standards, and shall comply with all applicable law, rules and regulations. The applicant also agrees to assume cost for removal of all facilities which would interfere with the repair, maintenance and/or replacement of underground facilities.

\* This information may not be available at the time of application submission.

### Page 1 of 3

Is the PPT located in a Historic District or on a sidewalk adjacent to a Landmark?

Yes \_\_\_ No \_\_\_

If the PPT is in a Historic District, please attach written permission from the Landmarks Preservation Commission.

Is the PPT site located in a Business Improvement District (BID) or a Special Assessment District (SAD) with Public Pay Telephone user rights?

Yes \_\_\_ No \_\_\_

If Yes, please attach written authority from the BID/SAD.

**Attention: A Street Opening Permit may be required from the City of New York,**

### Department of Transportation

Applicant must complete the diagram on Page 3 indicating the proposed PPT installation area using the icons provided in the legend below. Applicant must indicate distances within 50 feet of all street furniture on the building line on the curblines to the proposed Public Pay Telephones including distance from curb for curblines installations. In addition to the location and address of all PPT installations on the block, applicant must include the length of the block as measured from corner to corner and the name and type of the commercial establishment (if any) opposite the PPT on the block. Where the proposed PPT installation is within fifty (50) feet of a corner boundary at an intersection, the applicant must indicate the location of all PPTs within fifty (50) feet of any corner boundary at such intersection. "Corner boundary" means the extension of the building line to the curb.

Applicants for permits for PPTs that are listed on the interim registry pursuant to Chapter 6 of Title 67 of the rules of The City of New York must complete this application using only those street furniture icons double asterisked (\*\*) below. All other applicants must be completed using all relevant street furniture icons. If the PPT installation is proposed to be located on the curblines, indicate the street address that is immediately across the sidewalk of the proposed PPT location.

<INSERT LEGEND>

---

Applicant Authorized Personnel  
Name and Title Printed

---

Applicant Authorized Personnel  
Signature

<INSERT "DIAGRAM OF  
PUBLIC PAY TELEPHONE  
LOCATION">

## Appendix B

### *Consent Form and Certification*

#### **CONSENT FORM AND CERTIFICATION**

I, am a commercial lessee of the building (other property) located at (address) and do hereby consent to permit (name and address of company) to gain access via conduit or other opening (specify) at the position described below on the property identified herein and to enter onto such property for such purpose and for such inspection and maintenance of said telephone as shall thereafter be necessary, provided that: (list any conditions, such as time period, etc.) I hereby certify that I am authorized by the owner or agent of such building or other property to grant permission for access via a conduit or other opening described herein. I further certify that on (date), I notified said owner (name of owner) or notified the agent of said owner (name of agent) at (address of owner or agent) of said consent via certified mail (receipt attached).

Describe each position on the building facade or other property of the conduit or other access for which access is granted.

Position on Property

- 1.
- 2.
- 3.
- 4.
- 5.

Signature

Address:

Sworn before me this day of , 19

Notary

## **Subchapter D**

### *Requirements for Public Pay Telephones*

#### **§6-40 Applicability**

#### **§6-41 Siting and Clearance Requirements**

#### **§6-42 Sign Required**

#### **§6-43 Installation and Maintenance**

#### **§6-44 Compliance with Americans with Disabilities Act**

#### **§6-45 Compliance with other Authority**

#### **§6-46 Timing of Installation**

## §6-47 City Authority to Operate

## §6-48 Fee Nonrefundable

**§6-40 Applicability.** (a) A public pay telephone for which a permit has been issued pursuant to subchapter C of this chapter shall comply with the requirements set forth in this subchapter provided, however, that the provisions of subdivision (d), subparagraphs (i), (ii), (vii), (viii) and (x) through (xxiv) of paragraph (e)(2), and subdivisions (f) through (n) of section 6-41 of subchapter D shall not apply to the following:

(1) a public pay telephone permitted pursuant to this chapter that was previously licensed pursuant to former sections 19-131 or 19-128 of the Code; or

(2) a public pay telephone permitted pursuant to this chapter installed prior to March 1, 1996 that was listed on an interim registry pursuant to the provisions of subchapter B of this chapter and that has not been objected to by the Commissioner pursuant to section 6-24 of this chapter.

(b) A public pay telephone for which an interim permit has been issued pursuant to subchapter C of this chapter shall comply with the requirements set forth in this subchapter provided, however, that the provisions of paragraph (j)(2) of section 6-41 shall not apply to public pay telephones issued interim permits prior to June 26, 1998.

(c) A public pay telephone that is not in compliance with the provisions of this subchapter shall be in violation thereof and the owner of such telephone shall be subject to the penalties set forth in section 6-02 of this chapter (and the grant by the Commissioner of a permit for a public pay telephone, whether under section 6-38, section 6-38.1, section 6-31 or otherwise, shall not be deemed to be a waiver of such required compliance or to immunize an owner from such penalties).

**§6-41 Siting and Clearance Requirements.** (a) *Pedestrian passage.* Sidewalk clearance must be maintained so as to ensure a free unobstructed pedestrian passage of eight feet or one-half the width of the sidewalk, whichever is greater. For building line public pay telephones, sidewalk clearance shall be measured perpendicularly from the curb line to a point on the public pay telephone installation in closest proximity to the curb line. For curb line public pay telephones, sidewalk clearance shall be measured perpendicularly from the building line to a point on the public pay telephone installation in closest proximity to the building line.

(b) *Crosswalks and sight lines.* Pay telephone installations shall not obstruct or interfere in any manner with curb cuts or crosswalks and shall not interfere with free, unobstructed passage and unobstructed lines of sight for vehicular traffic.

(c) *Fire escapes and building access.* (1) A public pay telephone may not be located where it will interfere with the normal operations of a fire escape or where it will obstruct or impede the free use of any means of egress required by the Building Code.

(2) A public pay telephone shall not be located in a manner that prevents a cellar door from opening to its fullest extent.

(3) A public pay telephone installed subsequent to March 1, 1996 shall not be placed at the curb directly opposite a building entrance or cellar door.

(4) A public pay telephone installed subsequent to March 1, 1996 at the building line, shall not be installed within three feet of a building entrance or cellar door if such installation would result in users of such public pay telephone blocking such building entrance or standing on such cellar door.

(d) *Underground vaults and sewers.* A public pay telephone shall not be installed in such a manner so as to affect the structural integrity of an underground vault or sewer.

(e) *Distances required.* (1) (i) A public pay telephone shall not be installed on or over the sidewalk or other inalienable property of the City parallel to a landmark site, as such term is defined in section 25-302 of the

Code.

(ii) No permit under this chapter shall be granted for any site within an "Historic District", as that term is defined in Section 25-302 of the Code, until written documentation showing either express approval of the proposed installation by the Landmarks Preservation Commission or compliance with any applicable rules that may be issued by the Landmarks Preservation Commission that allow such installation without such express approval has been received, and no application for permit for any such site submitted after the effective date of this subparagraph (ii) shall be approved unless such landmarks documentation is included with the application.

(2) Unless otherwise authorized by the Commissioner in writing, public pay telephones shall not be installed within:

(i) 3 feet of a traffic sign;

(ii) 4 feet of a traffic light;

(iii) 5 feet of the end of a ramp of an entrance to or an exit from a wheelchair lift;

(iv) 15 feet of the entrance way of an outdoor or elevated subway entrance, except where the public pay telephone is attached to, or is immediately adjacent to, the building and clear pedestrian passage is maintained;

(v) 5 feet from an interior subway entrance;

(vi) 15 foot radius of a fire hydrant and, unless otherwise authorized by the Commissioner in writing, within 5 feet of a standpipe and/or sprinkler, siamese connection or wall hydrant;

(vii) 3 feet from a subway grate or manhole on the curblines;

(viii) 15 feet of a sidewalk cafe;

(ix) 15 feet of a bus stop zone unless the public pay telephone is attached to a bus stop shelter within the zone or is installed at the building line and does not obstruct pedestrians passage on the sidewalk;

(x) 15 feet of a newsstand unless the public pay telephone is attached to such newsstand or is installed at the building line and does not obstruct pedestrian passage of the sidewalk;

(xi) 15 feet of a public pay toilet unless the public pay telephone is attached to such public pay toilet or is installed at the building line and does not obstruct pedestrian passage on the sidewalk;

(xii) 5 feet of a bench located at the curblines;

(xiii) 10 feet of a driveway unless the public pay telephone is attached to or immediately adjacent to a building immediately adjacent to such driveway;

(xiv) 5 feet of a canopy as defined in section 19-124 of the Code;

(xv) 4 feet of a mailbox located at the curblines;

(xvi) 4 feet of a street light;

(xvii) 4 feet of a parking meter;

(xviii) 3 feet of a fire box unless otherwise approved in writing by the Commissioner;

(xix) 3 feet of a news rack located at the curblines unless the public pay telephone is attached to the newsrack;

(xx) 3 feet of a newsbox located at the curblines;

(xxi) 5 feet of a tree (without a tree pit);

(xxii) 3 feet of a grating if the public pay telephone is installed at the building line and does not cover the grating or in any way impede the opening of the grating;

(xxiii) 3 feet of a signpole;

(xxiv) 3 feet of the edge of a tree pit or planter located at the curb line.

(f) *Required distance from other public pay telephone.* A pedestal or other structure that holds a public pay telephone shall be located at least fifty (50) feet from any other such pedestal or structure on any one block and adjacent corner quadrant (see diagram in Appendix A for this Subchapter C). Nothing in this section shall be construed to prohibit the placement of a public pay telephone at the building line of such corner quadrant, provided however that the placement of such public pay telephone on such building line leaves an adequate unobstructed passage for pedestrians. For purposes of this subdivision, "block" shall mean that portion of the sidewalk on one side of a street which is between the lot line and the curb and which is between two points, each of which is ten (10) feet from the corner of said street and its intersecting street, in conformity with the definition of corner quadrant found in Executive Order No. 22 of 1995. (This area shall include the blockfront as defined in Authorizing Resolution 439-A.)

(g) *Distance from corner and curb.* A public pay telephone installed after April 13, 1995 at the curblines shall not be located within 10 feet of the extended building line at the corner of the intersecting streets and the edge of such installation closest to the curb shall be at least 18 inches, but no more than 24 inches, from the curb.

(h) *Location of public pay telephones in relation to other street furniture or street conditions.* No public pay telephone or public pay telephone pedestal shall be installed in a location: (1) where the City of New York or any agency thereof has issued a permit for a location-specific street vending installation; (2) for which a revocable consent has previously been issued that would be inconsistent with installation of a public pay telephone or public pay telephone pedestal; or (3) where other street furniture that has been previously authorized is to be located, except that permitted public pay telephones may be affixed or attached to such authorized street furniture pursuant to an agreement between the public pay telephone service provider and the Department, any other City agency with jurisdiction over such street furniture, and the owner of such street furniture.

(i) *Measurements from enclosures.* If a public pay telephone is mounted in an enclosure, the distances set forth in subdivision (e) of this section shall be measured from the side of the enclosure nearest the object in question.

(j) *Number of public pay telephones at any location.* (1) There shall be no more than three (3) public pay telephones installed on a single pedestal or in an in-line configuration on a sidewalk between two street corners in the City. There shall be no more than one wall-mounted public pay telephone in any one location. There shall be a distance of fifty (50) feet between any two installations of public pay telephones. An in-line configuration shall not exceed a footprint of 35" x 120".

(2) There shall be no more than the following number of public pay telephones on any sidewalk between two street corners in the City;

(i) on any such sidewalk that is one hundred (100) feet or less, a maximum of one public pay telephone installation that includes no more than one public pay telephone;

(ii) on any such sidewalk that is more than one hundred (100) feet and less than three hundred (300) feet, a maximum of two public pay telephone installations that contain in the aggregate no more than four public pay telephones;

(iii) on any such sidewalk that is at least three hundred (300) feet but less than six hundred (600) feet, a maximum of two public pay telephone installations that contain in the aggregate no more than six public pay telephones;

(iv) on any such sidewalk that is six hundred (600) feet or more, a maximum of three public pay telephone installations that contain in the aggregate no more than nine public pay telephones.

(3) There shall be no more than one public pay telephone installation within fifty (50) feet of the corner boundary of any street corner at an intersection. "Corner" shall mean the area created by extending the building lines to the curb. "Corner boundary" shall mean the extension of the building line to the curb. Notwithstanding any other provision of this paragraph, in no event shall a public pay telephone be installed where such installation would result in more than four public pay telephones installations within fifty feet of the corner boundaries of any combination of street corners at any intersection. This paragraph shall not apply to public pay telephones installed or issued a notice to proceed by the Department prior to June 26, 1998.

(4) Nothing in this subdivision shall be construed to: (i) require the removal of a public pay telephone that has been registered with the Department pursuant to section 6-21 of this chapter or has been issued a permit by the Department prior to the effective date of these Rules or was operational pursuant to a license issued pursuant to the provisions of former §19-128 or §19-131 of the Administrative Code of the City of New York; or

(ii) prohibit the installation of a public pay telephone where a notice to proceed has been issued by the Department prior to June 26, 1998.

(5) No permit or request for relocation is to be granted under this chapter if a permit or Request for Move to Curb, notice to proceed or conditional permit has previously been granted which would result in the installation of a public pay telephone that would render the installation sought impermissible under this subdivision (j) of subdivision (f) of this section 6-41, unless a waiver is granted by the Commissioner under subdivision (n) of this section 6-41 or unless such previously granted permit or Request for Move to Curb, notice to proceed or conditional permit has been terminated or revoked.

(k) *Dimensions of telephones with enclosures.* (1) If mounted in an enclosure, such enclosure should, in the case of a telephone installed and activated prior to March 1, 1996, be no greater than 35" x 44", and for a public pay telephone installed and activated after March 1, 1996, such enclosure shall be no greater than 35" x 44" for one (1) telephone, no greater than 35" x 88" for an in-line installation of two (2) telephones, and no greater than 35" x 120" for an in-line installation of three (3) telephones.

(2) Except as otherwise waived in writing by the Commissioner, such enclosures shall not exceed 90" in height excluding a mast which shall not exceed 90" in height. (Unless waived in writing by the Commissioner, the total height of the combined public pay telephone and service shall not exceed 18"). At no time shall the overhead communications service wiring with a drip loop be less than ten (10) feet above the ground.

(l) *Sidewalks of a distinctive design.* A public pay telephone shall not be installed on, or result in the destruction, damage or removal of any part of, a sidewalk of a distinctive design. For purposes of this subdivision, "sidewalk of a distinctive design" shall include a pavement of granite, slate, bluestone or brick and shall include a sidewalk constructed and approved pursuant to section 2-02(f) of Title 34 of the Rules of the City of New York.

(m) A public pay telephone must be installed upon a paved surface unless such telephone is attached to the facade of building or other structure.

(n) *Waiver by Commissioner.* If the Commissioner determines that a public pay telephone is necessary in a location in order to provide for public health and safety, and one or more provisions set forth in section 6-41 cannot be satisfied, he or she may waive such provisions of this section as may be necessary to permit the installation of a public pay telephone. In no case, however, shall a public pay telephone be placed within eighteen (18) inches of a curb or within ten (10) feet from a corner or constitute an impediment to pedestrian traffic or interfere with the function of fire escapes or the unimpeded passage of building inhabitants.

**§6-42 Sign Required.** Each public pay telephone location, single or multiple, shall have a sign in a form prescribed by the Commissioner and consistent with the Rules and Regulations promulgated by the New York State Public Service Commission, installed so that it is visible within the enclosures for such telephone. Such sign shall: (i) be of dimensions no less than 2" by 5" nor more than 3" by 6"; (ii) be of white lettering and symbols on a dark blue background; (iii) include ADA symbols indicating that the telephone is equipped to assist hearing impaired persons;

(iv) be in compliance with requirements of the Americans with Disabilities Act; (v) clearly and legibly identify the owner and the New York State Public Service Commission certified Operator Service Provider of such telephone; and (vi) contain the following statement: "This telephone is franchised by the City of New York. Complaints regarding this telephone may be directed to 718-243-2500."

**§6-43 Installation and Maintenance.** (a) *Workmanship.* (1) Materials workmanship and wiring shall comply with all applicable provisions of Title 27 of the Administrative Code and the National Electrical Safety Code.

(2) Where the nature of any work to be done in connection with the installation, construction, operation, maintenance, repair, upgrade, removal or deactivation requires that such work be done by an electrician, only a licensed electrician shall perform such work.

(b) *Materials.* Materials shall be of good and durable quality, in accord with all applicable codes, and all work shall be performed without unreasonable disruption of public streets.

(c) *[Reserved]*

(d) *[Reserved]*

(e) *[Reserved]*

(f) *Wiring.* (1) Overhead communications wiring between the building line and the curb is prohibited.

(2) Overhead communications wiring that crosses the street is prohibited except where such wire is part of a common or existing wire path with other non-public pay telephone communication wire or other telephone communication wire.

(3) Overhead communications wiring of any kind is prohibited in the Borough of Manhattan. In all other Boroughs, except as otherwise waived in writing by the Commissioner, wiring for PPTs shall be installed in a manner consistent with existing telephone wiring in the location in which the PPT is to be installed. Where existing telephone lines or facilities are underground at a particular location (other than private property), all wires must be underground. Existing telephone poles, ducts, conduits, or other underground or above ground facilities such as above ground terminal boxes on the sidewalk served by underground facilities, or public utility poles or other facilities subject to any and all reciprocal agreements between the dial tone provider and another party shall be utilized. No property belonging to a party other than the dial tone provider may be used without the express written consent of such party and the Department.

(4) All aerial communication wiring must be at least 10 feet off the ground at all times.

(5) All overhead public pay telephone communication wires following an existing or common communication wire path will be transferred by the dial tone provider to an alternate means of connection when such existing communication wire path is discontinued or removed.

(6) New overhead public pay telephone communication wires between a public pay telephone and a pole with existing facilities will be permitted if the distance between such telephone and pole is thirty-five (35) feet or less in a straight line, and telephone service in that location is provided via aerial means.

(7) Where the distance between a public pay telephone and a pole with existing facilities is greater than thirty-five (35) feet, the dial tone connection may be underground to the pole.

(8) All underground communication wiring shall be installed through conduits except where underground ducts are used.

(9) All above ground communication wiring from a pedestal or wall mount to a source of dial tone located on private property shall be installed through weather resistant conduits using appropriate sealant.

**§6-44 Compliance with Americans with Disabilities Act.** A franchisee shall comply with the provisions of the

Americans with Disabilities Act and the regulations promulgated thereunder, contained in Appendix A to 28 CFR Parts 35 and 36, and any additional applicable federal, state and local laws relating to accessibility for persons with disabilities and any rules or regulations promulgated thereunder, as such laws, rules or regulations may from time to time be amended.

**§6-45 Compliance with Other Authority.** (a) As provided in subdivision (d) of section 6-30 of this subchapter, notwithstanding any other provision of this chapter, a permit shall not be issued for a public pay telephone pursuant to this chapter unless the owner of such telephone demonstrates that he or she has obtained all permissions required by applicable provisions of federal, state and local law, as well as rules and regulations promulgated and agreements entered into pursuant thereto.

(b) A public pay telephone shall be sited, installed, operated and maintained in compliance with all applicable provisions of federal, state and local law, as well as rules and regulations promulgated and agreements entered into pursuant thereto.

**§6-46 Timing of Installation.** A permit granted under this chapter shall be considered automatically revoked if a public pay telephone is not installed and activated within 90 days of the date such permit is granted, subject to extension of such date by the Commissioner, acting in his or her discretion, upon a showing by the permittee that despite good faith efforts to complete installation within such 90 day period circumstances beyond the control of the permittee (not including the financial capacity of the permittee) are preventing completion of such installation.

**§ 6-47 City Authority to Operate.** If pursuant to any provision of this chapter, a public pay telephone, or group of public pay telephones, becomes subject to removal by the Department, and if the location of such payphone or group of payphones is consistent with the requirements of subchapter D of this chapter, then the Department shall have the authority to, in lieu of removal of such payphone or payphones, operate (directly or through a designee) such payphone or payphones for the account of the City and/or make such payphone or payphones available for purchase or lease from the City by holders of public pay telephone franchises granted by the City. The Department, or its designee, purchaser or lessee, shall be authorized to make any necessary or convenient modifications to such payphone or payphones to secure the service provided from such payphone or payphones and the revenues generated from such payphone or payphones.

**§ 6-48 Fee Nonrefundable.** The \$59 fee required to accompany any permit application or Request for Move to Curb under this chapter shall be nonrefundable