

ORDINANCE NO. _____

An Ordinance amending Chapter 12.41 of the Metropolitan Code pertaining to the licensing and operation of valet services within the area of the Metropolitan Government.

BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That Chapter 12.41 of the Metropolitan Code is hereby deleted and substituted with the following new Chapter 12.41:

12.41.010 - Definitions.

As used in this chapter:

“Commission” means the metropolitan traffic and parking commission.

“Department” means the metropolitan department of public works.

“Director” means the director of the metropolitan department of public works.

“License” means the license issued by the department of public works allowing a person to engage in the business of valet parking within the area of the metropolitan government.

"Permit" or "valet parking permit" means the permit issued by the department of public works allowing a valet parking operator to conduct a valet service at a specific location or locations.

"Valet parking," "valet parking operation," "valet operation" or "valet service" means the process by which patron's vehicles are removed from designated spaces on the public street to private parking areas for storage and subsequent retrieval upon patron's demand.

"Valet parking operator," "valet operator," or "operator" means the person, business or entity engaged in valet parking.

12.41.020 License required – Issuance – Conditions.

- A. Effective from and after September 1, 2011, no person shall engage in the business of valet parking within the area of the metropolitan government without first obtaining and

keeping in force a license from the commission as a valet operator, provided that no such license shall be required for persons conducting or offering valet parking services solely on private property without involving the use of any public right-of-way.

- B. Any person desiring to engage in the business of providing valet services within the area of the metropolitan government shall make application to the department, which application shall be upon forms to be provided by the department. The completed application must contain all the information required by such form and must be verified under oath.
- C. The application form to be adopted by the commission and provided by the department shall require such information as the commission determines to be necessary and proper, including, but not limited to, the following information:
 - 1. The full name and address of the person, firm or corporation desiring to obtain a license.
 - 2. The names and addresses of at least two references as to the applicant's financial responsibility;
 - 3. That the applicant is ready, willing and able to comply with all the rules and regulations of the department, and the laws of the metropolitan government, the State of Tennessee, and the United States, including applicable workers' compensation, minimum wage, and labor laws.
 - 4. That the applicant will provide the department with the names, home addresses and ages of all employees to be used or employed by the applicant in the business of providing valet services. The applicant shall provide an update upon each renewal of his license;
 - 5. That the applicant will take out and maintain in full force and effect such policies of insurance as are herein required;
 - 6. That the applicant has a defined claims handling process in place to address citizen complaints and claims; and
 - 7. Proof of a valid business tax license issued by the Davidson County Clerk.
- D. If the commission finds upon examination that the applicant is capable, willing and qualified to provide valet services and can conform to the laws of the metropolitan government, the State of Tennessee, the United States and the rules and regulations of the commission, then the department shall grant and issue to such applicant a valet operator license; otherwise, the application shall be denied.
- E. Such license shall state the name and address of the licensee, the date of issuance, and such other information as the commission determines to be necessary and proper.
- F. A valet operator license issued by the department pursuant to this section shall be valid for a period of one year at an annual fee of one hundred dollars. Such license shall not be sold, assigned, or otherwise transferred without approval of the commission, and shall expire immediately upon the licensee terminating the valet service or upon revocation by the commission. Renewal shall be on an annual basis and shall be granted after confirmation of the extension of all applicable permit requirements established in this chapter and the payment of applicable fees.

12.41.030 – Valet location permit required.

In addition to the licensing requirements of section 12.41.020 of this chapter, the department shall issue parking permits to valet parking operators to conduct their operations on public streets as a commercial enterprise or in furtherance of a commercial enterprise. A separate permit is required for each location where valet parking services are provided. Permits will be issued only for locations where valet parking would not be detrimental to the public safety, health and welfare of the inhabitants of Nashville and Davidson County and only after approval of the commission.

12.41.040 - Conditions of valet parking permits.

- A. **Hold Harmless.** Each valet parking operator applying for a permit for use of public property shall execute an agreement approved by the metropolitan development of law providing for the valet operator to indemnify, hold harmless, and defend the metropolitan government, its officers, agents and employees against, and assume all liability for, any and all claims, suits, actions, damages, liabilities, expenditures, or causes of actions of any kind arising from its use of the public streets for the purposes authorized in this section and resulting or accruing from any alleged negligence, act, omission or error of the valet parking operation, its agents or employees and/or arising from the failure of the valet parking operation, its agents or employees, to comply with each and every requirement of this section or with any other ordinance of the metropolitan government applicable to the valet parking operation resulting in or relating to bodily injury, loss of life or limb or damage to property sustained by any person, firm, corporation, or other business entity. The valet parking operator shall agree to save the metropolitan government, its officers, agents and employees harmless from and against all judgments, orders, decrees, attorneys' fees, costs, expenses and liabilities incurred in and about any such claim, investigation or defense thereof, which may be entered, incurred or assessed as a result of the foregoing. The valet parking operator shall defend, at its sole cost and expense, any legal action, claim or proceeding instituted by any person against the metropolitan government, its officers, agents and employees as a result of any claim, suit or cause of action accruing from activities authorized by this chapter for injuries to body, limb or property as set forth in this subsection.
- B. **Term.** The term of each permit shall be for one year. Renewal shall be on an annual basis and shall be granted after confirmation of the extension of all applicable permit requirements established in this chapter and the payment of applicable fees.
- C. **Cancellation.** A valet parking permit may be canceled by the commission under the following circumstances:
 - 1. The commission determines that parking spaces permitted for valet parking are no longer being used for the purpose of valet parking or are otherwise abandoned. Valet parking spaces are considered abandoned if they are not utilized for valet parking for a continuous period of thirty days;
 - 2. The commission determines that the valet operation is creating a hazardous traffic condition and/or serious disruption of traffic flow or is otherwise inimical to the public health, safety and welfare;

3. Parking is no longer permitted in the area where valet service is provided;
 4. The valet parking operator four times fails to comply with the rules and regulations established by the commission and/or the provisions of this chapter or otherwise creates a situation that is inimical to the public health, safety and welfare.
- D. Cancellation pursuant to subparagraph (C)(4) of this section shall preclude the valet parking operator, a general partner, or immediate family member of the operator from being issued a valet parking permit for any location for a period of one year if the operator whose license has been canceled has any participation in the operation, management and/or maintenance of the valet parking operation(s) for which the permit application is being made.
- E. When a permit is canceled by the commission pursuant to subsection C of this section the commission shall immediately provide the permit holder written notice by certified mail of the cancellation and the reasons for the cancellation.

12.41.050 Insurance requirements.

No license to operate a valet service shall be issued, become effective or continue unless there is in full force and effect a liability insurance policy covering the valet parking operator with not less than a one million dollar single limit. Such liability insurance policy shall be with an insurance company authorized to do business in Tennessee and approved by the department of law. The liability insurance policies required in this section shall name the metropolitan government as an additional insured.

12.41.060 Hearing before suspension, revocation or probation and after refusal to renew license or permit.

- A. No action to suspend, revoke or place on probation any license or permit provided for in this chapter shall be taken by the commission until the licensee or permittee has been furnished a written statement of the charges and a notice of the time and place of the hearing to be held thereon. The furnishing of such notice and the reasons for the commission's proposed action shall be given to such licensee or permittee at least fifteen days prior to the date of the hearing. If at such hearing, the commission finds the charges against the licensee or permittee to be true, it may suspend, revoke or place on probation the license or permit previously issued by it.
- B. Upon the failure to renew any license or permit, the commission shall so notify the licensee or permittee, giving the licensee or permittee the reasons for its failure to renew the license or permit. The licensee or permittee may by a simple written request addressed to the commission, request a hearing by the commission as to the reasons for the commission's failure to renew the license or permit. The commission shall then grant the licensee or permittee a hearing and shall fix the time and place for such hearing within thirty days and shall promptly notify the licensee or permittee of the time and place. It shall be incumbent upon the commission at the hearing to substantiate the reasons for its failure to renew the license or permit.

- C. At any hearing provided for in this chapter, the licensee or permittee shall have the right to be represented by an attorney of his choice, to present evidence, and to have witnesses testify under oath on his behalf. At such hearing, the strict rules of evidence shall not apply.

12.41.070 Employees – Background checks.

- A. The valet parking operator shall require all employees who operate motor vehicles to have in their possession at the time of such operation a valid Tennessee drivers license.
- B. For purposes of this ordinance, all persons performing valet parking services for the valet parking operator shall be considered employees, and not independent contractors of the valet parking operator.
- C. At the time an application for a license is made, the department shall conduct a background check on the valet parking operator and on all employees of the valet parking operator using all appropriate local, state, and federal databases and/or sources of information. A report of such investigation and a copy of the traffic and police record of the operator and/or employee(s), if any, shall be attached to the application and forwarded for the consideration of the commission. No person shall be eligible to serve as a valet parking operator or an employee of an operator if he/she has been:
 - 1. Convicted, pled guilty, placed on diversion, probation or parole, or pleaded nolo contendere within the past five years for violation of any of the following criminal offenses under the laws of Tennessee, any other state or of the United States: homicide, rape, aggravated assault or battery, kidnapping, robbery, burglary, child molestation, any sex-related offense, leaving the scene of an accident, criminal solicitation, or criminal attempt to commit any of the above, perjury or false swearing in making any statement under oath in connection with the application for a driver's permit, or the felony possession, sale or distribution of narcotic drugs or controlled substances; or
 - 2. Convicted of two or more felony offenses within the past ten years.

12.41.080 Valet parking operations and fees.

- A. The commission shall allow valet parking operators to utilize designated on-street parking spaces for customers dropping off or retrieving a vehicle from valet employees. Valet parking operations are permitted between eleven a.m. and two p.m. and between six p.m. and six a.m. only; provided however, hotels shall be permitted twenty-four-hour valet parking. Valet parking may be allowed for additional hours upon a showing that additional hours would not impede the flow of traffic or otherwise be detrimental to the public health, safety and welfare, subject to rules and regulations as adopted by the commission, which rules and regulations shall provide for special occasion or special event valet parking.
- B. The commission shall provide to the valet operator two parking spaces for a valet operation. The spaces shall be located in front of the establishment being serviced. Additional spaces may be provided at the discretion of the traffic and parking commission. Valet parking operators may

be required to share parking spaces provided the commission determines that such an arrangement is necessary for the public health, safety and welfare.

C. The fee for a valet parking permit shall be fifty dollars, plus revenue lost annually for each required metered space as measured by the hourly rate for each metered space. All fees are payable in advance.

D. All permit fees will be deposited into the general fund of the metropolitan government.

E. The granting of a valet parking permit in no way provides a vested right or property interest in any parking space, and valet parking spaces may be removed at any time and/or valet parking privileges revoked in the interest of the public health, welfare and safety. Valet parking permits and privileges may not be transferred.

F. The permit holders are responsible for reimbursing the metropolitan government for the cost of installing any signs, notices or warnings deemed necessary for the establishment of valet parking operations. Permit holders will be billed for any required installation by the department

12.41.090 Designation of space for service.

A. Valet spaces shall be designated by the commission. The designation shall be by clearly marked signs indicating the time of valet parking and marked as a "Tow-Away zone."

B. Valet service shall be operated entirely within the confines of the spaces provided for valet use. There shall be no storage of vehicles in the area used for ingress and egress of passengers in the valet area. A vehicle will be considered stored if it remains in the valet area for more than ten minutes whether occupied or not. Valet service on public property shall not be provided in any location other than in the area designated.

12.41.100 Enforcement.

A. Violators shall be fined fifty dollars for failure to comply with the provisions of this chapter or a failure to operate a valet service in the manner prescribed by this chapter. Further, each day the violation continues shall constitute a separate offense. All fines paid pursuant to this section will be deposited into the general fund of the metropolitan government.

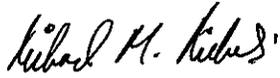
B. Valet parking operators shall pay all fines and fees, including towing charges, arising in connection with a patron's vehicle which is in the possession of the valet parking operator at the time such fine, fee or charge is incurred. This does not preclude the valet parking operator from also being cited for violations of this chapter which resulted in the imposition of the fines and fees.

12.41.110 Rules and regulations.

The commission shall have the authority to adopt and implement rules and regulations, not inconsistent with the chapter, which will effectuate the purposes of this chapter and secure compliance with its provisions to protect the health and safety of the inhabitants within the area of the metropolitan government.

Section 2. This Ordinance shall take effect from and after its passage, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

APPROVED AS TO
AVAILABILITY OF FUNDS:



Rich Riebeling
Director of Finance

INTRODUCED BY:



Ronnie Steine
Member of Council