

Entertainment Transportation Company (ETC) Rules

The Metropolitan Transportation Licensing Commission (MTLC) shall have the authority to promulgate, implement, and enforce additional rules and regulations pertaining to entertainment transportation vehicles (ETV), provided such rules and regulations are consistent with the provisions of chapter 6.77.420(C).

010. Certificates of Public Convenience and Necessity

- a) Each year the MTLC shall set a date to hold public hearings for the purpose of consideration of any applications to receive a certificate of public necessity and convenience to operate an Entertainment Transportation Company (ETC) or to consider requests from existing Certificate holders to increase fleet numbers. Applications along with fee payment must be made at least 45 days prior to the meeting. If a completed application (including all supporting materials and required documents) is presented after the 45-day deadline, the application will not be considered.
- b) Because the subcategory of ETV that meet the definition of Seated Sightseeing or Charter Tour vehicles as defined in section 040 (b), serve a distinct public necessity and convenience, different from that served by other ETV, the Commission shall make a separate finding of fact with regard to the existence or lack thereof of a requirement that further or additional Seated Sightseeing or Charter Tour vehicles are required to serve the public convenience and necessity; this finding will be in addition to the finding that further or additional of the types of ETV that do not meet this definition are required to serve the public convenience and necessity.
- c) In making the finding for the award of a Certificate of Public Convenience and Necessity, the MTLC shall, at a minimum, take into consideration:
 - 1) The number of ETV already in operation.
 - 2) Adequacy of existing service to meet the public need.
 - 3) The applicant's experience in the operation of an ETC and its vehicles.
 - 4) The applicant's history of violations and/or citations of alcohol laws, noise violations, HUB Nashville complaints, and other non-compliant behavior.
 - 5) The ability of the applicant to comply with the laws and regulations, including the equipment and service proposed to be furnished.
 - 6) The applicant's financial responsibility and condition.
 - 7) Safety of the public in the operational area.
 - 8) The probable effect of increased service on local traffic conditions.
 - 9) Traffic flow.
 - 10) Compliance with existing noise ordinances.

020. Fees

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| a) ETC Initial application fee | \$ 500.00 |
| b) Sightseeing Certificate of Public Convenience and Necessity fee | \$ 2,500.00 |
| c) Sightseeing Certificate of Public Convenience and Necessity annual renewal fee | \$ 2,500.00 |
| d) Sightseeing Vehicle annual fee | \$ 500.00 |
| e) Certificate of Public Convenience and Necessity fee | \$ 5,000.00 |

f) Certificate of Public Convenience and Necessity annual renewal fee	\$ 5,000.00
g) Vehicle annual fee	\$ 1,000.00
h) Driver Initial application fee includes the background check	\$ 125.00
i) Driver annual permit fee	\$ 50.00
j) Driver permit replacement fee	\$ 20.00
k) Background check fee	\$ 75.00

Note: Fees are non-refundable and are not prorated. "Sightseeing" as defined in section 040 (b).

030. Insurance requirement

- a) Certificate holders must comply with, but not limited to, the liability insurance requirements contained in Tennessee Code Annotated title 65, chapter 15.
- b) Holders of certificates of public convenience and necessity shall maintain commercial general (public) liability insurance, inclusive of contractual liability, in an amount of not less than one million dollars written on an occurrence basis. Insurance shall be issued by an insurance company qualified to do business in the state and naming the metropolitan government as an additional insured.
- c) Such holders shall also maintain commercial automobile liability insurance that shall afford protection to any third-party sustaining injury or damage as a result of the negligent operation of any ETV, with the minimum amount of insurance being as follows for the following types of vehicles:
 - 1) Three million dollars per incident, known as combined single limit insurance coverage for medium and large buses with 16-person or more passenger capacity.
 - 2) Two million dollars per incident, known as combined single limit insurance coverage, for small buses, modified trucks or automobiles with fewer than 16-passenger capacity.
 - 3) All ETV, regardless of size/category shall have uninsured/underinsured motorist insurance coverage in an amount not less than one million dollars (bodily injury per person)/one million (per accident)/one million (for property damage). All of the above-referenced policies shall be issued by an insurance company qualified to do business in the state and naming the metropolitan government as an additional insured.
- d) Such holders operating tractors or trucks pulling trailers/wagons shall also maintain commercial automobile liability insurance that shall afford protection to any third party sustaining injury or damage as a result of the negligent operation of any ETV, with the minimum amount of insurance coverage being two million dollars per incident, known as combined single limit insurance coverage, and uninsured/underinsured motorist insurance coverage in an amount not less than one million dollars (bodily injury per person)/one million dollars (per accident)/one million dollars (for property damage). These policies shall be issued by an insurance company qualified to do business in the state and naming the metropolitan government as an additional insured.
- e) With regard to any holder of a certificate of convenience and necessity who serves or dispenses alcoholic beverages to customers, whether or not the certificate holder also supplies the alcoholic beverages served to the customers, adequate insurance coverage shall also mean a policy of liquor liability insurance, with the minimum amount of liquor liability insurance to be one million dollars, issued by an insurance company qualified to do business in the state and naming the metropolitan government as an additional insured and complying in all other respects with the terms of this section.

- f) Any insurance policy issued in compliance with this article shall remain in place at least through the length of the licensing, and for any ETV insured thereunder such policies shall expressly provide that they may not be canceled, except after thirty days written notice to the MTLC.
- g) ETV will not operate unless in compliance with insurance requirements mandated by this rule section.

040. Enclosed/Unenclosed Vehicles

- a) "Enclosed vehicle" means any motor vehicle that is fully enclosed by metal, plexiglass or glass on all sides and on the top/roof. Any vehicle not meeting this definition would constitute an "unenclosed vehicle." A vehicle is unenclosed if any portion of it lacks solid sides and a roof, including all appurtenances attached thereto, including, but not limited to, a pickup truck or a wagon or trailer pulled by a tractor, within which passengers are capable of standing and circulating while the vehicle is in motion. For purposes of this section, a vehicle "side" must be a full side enclosure of the vehicle and cannot consist of solely a guard rail or railing. It may contain windows capable of being opened, but all windows shall be fully closed while the vehicle is in operation. Enclosed vehicles shall maintain any required emergency access or exits but the emergency access or exits may not be used to avoid the safety goals intended by the enclosure.
- b) Where the vehicle consistently operates on one or more fixed routes, where all passengers are required to remain seated at all times while the vehicle is in operation, and where alcohol is never permitted or served on the vehicle, the vehicle may be classified as a Seated Sightseeing or Charter Tour vehicle.
- c) ETV are required to be fully enclosed, with the exception of those meeting the definition for the subcategory "Seated Sightseeing or Charter Tour vehicle." Seated Sightseeing or Charter Tour vehicles are exempt from the requirement applicable to other types of ETV that the vehicle be required to be enclosed.

050. Safety

- a) Certificate holders must comply with, but not limited to, the safety rules and regulations contained in T.C.A. title 65, chapter 15.
- b) Entrances and exits of all vehicles must be clearly marked and securely closed when the vehicle is in operation. These areas must also have barriers capable of stopping a person from falling through the opening.
- c) The certificate holder's staff shall ensure that passengers understand that they may not and do not open the primary door or any emergency doors at any time during the chartered transportation period.
- d) Vehicles must have additional devices to protect public safety as well as prevent violations of the noise ordinance.
- e) Rails must be used on all retrofitted ETV and must measure a minimum of 40 inches in height from the floorboard. Rails must be constructed of metal or wood. Balusters (short columns or pillars made of metal, hard plastic or wood) may be present for safety purposes. The top rail must not be large enough to serve as a food or drink resting area.

- f) To enhance safety and encourage traffic flow, vehicles must travel in a manner consistent with the flow of traffic and may not operate during the rush hour period between 4-6 p.m., Monday through Friday.
- g) Vehicles must undergo a full mechanical inspection annually. Additional mechanical inspections may be required if determined to be necessary by MTLC staff or the Metropolitan Police Department.
- h) Prior to the use and operation of any vehicle under the provisions of chapter 6.77, the vehicle shall be thoroughly examined and inspected by the certificate holder or a third party in accordance with rules and regulations prescribed by the MTLC. These rules and regulations shall be promulgated to provide safe transportation and specify such safety equipment and regulatory devices as the MTLC shall deem necessary. When a certificate holder finds that a vehicle has met all the terms established by the MTLC, the holder shall certify this under oath to the MTLC director, who shall authorize a permit to be issued.
- i) Any ETV in which open containers of alcoholic beverages are present, with up to 25 passengers onboard, shall have one staff member, in addition to the driver, assigned to ride with the passengers to ensure that behavior is compliant with the rules and not unsafe. If an ETV has 26 or more passengers onboard and open containers of alcoholic beverages are present, it shall have 2 staff members, in addition to the driver, dedicated to this purpose.

060. Compliance Required

- a) Certificate holders are responsible for knowing and complying with all local, state and federal safety laws, ordinances and regulations whether or not they are mentioned in MTLC rules.
- b) Compliance with all local, state, and federal regulations and rules is required, which includes (but is not limited to) providing evidence of a Davidson County Business License, appropriate Metropolitan Beer Board permits, appropriate Metropolitan Public Health permits as well as other necessary documents.

070. Vehicle Operations

- a) No ETV may conduct normal operations within a one city block boundary of a school, daycare center, healthcare facility, or place of worship. Operations will be silent, and passengers cautioned on behavior when routes to/from loading zones require passage inside the boundary of a school, daycare center, healthcare facility, or place of worship.
- b) ETV may only operate in the zones established by the MTLC or its staff. These rules may be amended in future to refer to specific zones.
- c) Certificate holders must not permit a passenger to ride on any part of an ETV other than the designated seating area while the ETV is in motion. All ETV in which passengers may at any time be standing while the vehicle is in operation, shall be equipped safety devices, such as hand straps, grab bars, and padded hard surfaces, that meet with the approval of the MTLC Director.
- d) ETV may only load and unload in locations in the public right of way approved by the Metropolitan Government or on private property with the owner's approval.
- e) Alcohol and controlled substances tests will be conducted after a crash involving an ETV driver which results in: (1) a fatality; (2) bodily injury which requires immediate medical treatment away from the scene of the crash, or (3) where one or more vehicles incur disabling damage requiring the vehicle to

be towed away from the scene or resulting in private property damage and/or the ETV driver receives a citation under state or local law for a violation arising from the crash.

Tests should be completed as soon as practical after the crash. Alcohol tests must be administered within two hours following the crash. Controlled substance tests should be administered within 24 hours following the crash. If the ETV driver fails to have the test administered within these time limits, the ETC shall cease attempts to secure the administration of the tests and shall prepare and maintain a record stating the reasons the test was not promptly administered. A copy of this record shall be sent to the MTLC staff as soon as practical.

Recognizing the limitations inherent in the preceding paragraph, an ETV driver who is subject to post-crash testing shall remain readily available for such testing or may be deemed by the MTLC to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following a crash, or to prohibit a driver from leaving the scene of a crash for the period necessary to obtain emergency assistance.

Each ETC must create and adopt a written policy for conducting employee drug screens, while remaining compliant with standards and regulations of the MTLC. Drug testing companies including but not limited to Concentra, Workforce Essentials, ReliaLab, may be contracted to manage this policy. The ETC must choose how the program/process will be managed. This includes a means for on-site collections including responding to emergency rooms, crash location, employer's place of business, etc., which includes performing after-hour collections. The adopted program must be submitted to the MTLC for approval.

If the crash results in an MNPD investigation and the investigation results in substance abuse testing of any type, the MTLC will defer to the investigation findings.

- f) ETV may begin operations after 9 a.m. and must cease operations from the public roadway at 11 p.m. Any deviations from this schedule must be requested in writing to the MTLC Director 10 days in advance of the requested deviation. Where merited, the MTLC Director may grant this request.
- g) In the event of inclement weather, ETV may not operate. Inclement weather exists when the National Weather Service issues any of the following or if ETC operators are notified by NDOT:
 - 1) Severe Thunderstorm Warning
 - 2) Tornado Warning
 - 3) Flood Warning
 - 4) If either snow or ice is present on the roadway surface, operations should be halted until the notice is given by NDOT to allow operations to resume.

080. Vehicles

- a) Vehicles operated under MCL 6.77 shall be divided in categories as follows:
 - 1) Buses
 - i. Small Bus with up to 15 passenger capacity
 - ii. Medium Bus with 16-to-30-passenger capacity
 - iii. Large Bus with 31-or-more-passenger capacity

- 2) Modified Trucks
- 3) Modified Automobiles
- 4) Tractors
- 5) Trailer/Wagons

- b) Each vehicle while in operation must remain in compliance with all federal, state, and local regulations as well as all rules established by the MTLC. Each vehicle will be inspected in the manner specified by the MTLC staff.
- c) Certificate holders must attest under oath that the vehicle has met all regulations and rules established in Chapter 6.77 of the Metropolitan Code of Law as well as the MTLC or its staff.
- d) The vehicle must be equipped with a fire extinguisher marked with the vehicle number and the location of such equipment shall be marked and clearly visible.
- e) The vehicle must be equipped with road hazard electronic flares and/or cones/markers for safety in the event of a roadside breakdown.
- f) The vehicle must be properly marked with the company's name displayed in letters not less than 6" on both sides of vehicle. Lettering must be painted or otherwise permanently attached (no magnetic signs).
- g) The assigned number must be displayed in letters/numbers not less than 4", located on the rear quarter panel behind tires on both sides of vehicle.
- h) The vehicle must be marked with a QR Code not less than 6" on both sides of the vehicle that links to HUB Nashville.
- i) The exterior of the vehicle may not be equipped with strobe lights, flashing lights, neon lights, laser lights, or spotlights.
- j) Certificate holders must have each vehicle inspected and approved for operations by an authorized third-party vendor.
- k) The list of approved vehicle inspection vendors includes:
 - 1) West Power Services, 117 Tredco Drive, Nashville, TN 37210
 - 2) At the discretion of MTLC staff, additional inspection vendors may be added.
- l) Vehicles may not operate until approved inspection documents are filed with MTLC staff.

090. Sound

- a) Compliance with the noise ordinance in Title 9, chapter 20 of the Metropolitan Code of Laws is required.
- b) ETV must have installed devices which are able to monitor and govern all sound amplification, so as to be consistent with 9.20.020(B) of the Metropolitan Code of Laws.
- c) No amplification devices including speakers may be aimed outside of the vehicle's interior.
- d) No airhorns, sirens, whistles, or after-market noise-making devices allowed other than the vehicle's factory-installed horn.

100. Alcohol

- a) Certificate holders may not allow service or consumption of alcoholic beverages unless the certificate holder has been issued a permit from the Metropolitan Beer Board.

- b) The certificate holder shall be responsible for verifying that all passengers are 21 years of age or older via a personal identification application or scanning device.
- c) Passengers under the age of 21 shall not be permitted to ride an ETV where alcohol is present.

110. Miscellaneous

- a) Driver must be in uniforms as described by the company in its application.
- b) All ETV must be equipped with GPS devices and the data from these devices must be stored in such a way as to allow the MTLC and/or designated third party to be able to capture data related to operations for a period of 30 days.
- c) All ETV must be equipped with cameras which record activities outside the vehicle in the front and the back. These video and/or photographic records must be maintained for a period of 30 days and be available to MTLC staff or the Metropolitan Police upon request.
- d) All vehicles are subject to inspection at any time by MTLC staff, NDOT, MNPd, and other governmental departments.
- e) Vehicles may not dispose of trash accumulated throughout the course of an ETV excursion in Metro owned trash receptacles. Trash must be properly disposed on private property with written permission from the property owner and on file with MTLC staff. Recycling is encouraged. Any litter resulting from an ETV excursion would be considered a violation of this rule.

120. Violations

All provisions of chapter 6.77 shall be governed by the enforcement provisions of Section 6.77.390 thereof, which provides:

The inspectors of the metropolitan government are authorized and are instructed to observe the conduct of holders of certificates and permits operating under this chapter. Upon discovering a violation of the provisions of this chapter, the inspector may either report the violation to the licensing MTLC, which will order or take appropriate action, or issue a citation as authorized under Section 6.77.420.

Section 6.77.420 in turn provides in pertinent part:

6.77.420 Violations-Penalties-Additional regulations.

- a) All provisions of this chapter shall be governed by the penalties and procedures for general ordinance violations set forth in Section 1.01.030.
- b) Notwithstanding any provision contained herein, the MTLC shall have the authority to enforce the provisions of this chapter.

In the case of enforcement pursuant to Section 6.77.390, where the violation is reported to the licensing MTLC, if the MTLC determines after a properly noticed hearing (at which the alleged violator may appear, present evidence and be represented) that a violation occurred, the MTLC may suspend, revoke or place on probation the certificate holder's certificate or the driver's permit, as appropriate. In the case of enforcement via a citation as authorized under Section

6.77.420 and Section 1.01.030, the citation shall be tried by the Metropolitan Environmental Court in accordance with its procedures, and as set forth in Metro Code Section 1.24.030, and upon a finding by the court that a violation occurred, the court may order civil penalties (fines) of \$50 per violation per day and/or injunctive relief. Likewise, the citation process described above may also be pursued against any unlicensed, unpermitted party who operates an ETV within Davidson County.

The following constitute violations:

a) Certificate Holders

- 1) Allowing unpermitted ETV to operate within the Metropolitan government area.
- 2) Allowing unpermitted person to operate an ETV within the Metropolitan government area.
- 3) Allowing unpermitted ETV to operate without required liability insurance.
- 4) Allowing ETV to operate in an unsafe manner.
- 5) Failure to report any changes in insurance to the MTLC immediately.
- 6) Failure to comply with a correction order issued to MTLC staff or the Metropolitan Police Department within the time specified in the order.
- 7) Failure to comply with the requirements established in Chapter 6.77 of the Metropolitan Code of Law or rules promulgated by the MTLC, or any other applicable federal, state or local law, ordinance or regulation.
- 8) Breaching the terms of the certificate.
- 9) Failure to pay required taxing and fees to the Metropolitan government, state of Tennessee or the federal government.
- 10) Failure to adequately train their company employees to comply with all provisions of Chapter 6.77 of the Metro Code and these regulations.

b) Driver Permitting

- 1) Operating an ETV while under the influence of intoxicating beverages or drugs.
- 2) Operating an ETV while possessing a lighted cigarette, cigar, e-cigarette, smokeless tobacco or pipe at any time.
- 3) Operating an ETV without an ETV driver's permit.
- 4) Allowing more passengers to be carried in an ETV than for which there is proper seating, and at no time shall the driver allow any passenger to ride in any area of the ETV not specifically designed or designated as a seat.
- 5) Allowing a passenger under the age of twenty-one to ride in an ETV where alcohol is present.
- 6) Failure to observe and obey all state and local noise, environmental, and traffic laws and regulations.
- 7) Failure to comply with all metropolitan government, state, and federal laws, ordinances and regulations.