

ORDINANCE NO. 20121108-043

AN ORDINANCE AMENDING CITY CODE CHAPTER 13-5 RELATING TO PROVISION OF VALET PARKING SERVICES, AMENDING LICENSE AND PERMIT REQUIREMENTS, AND AMENDING PENALTY PROVISIONS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. City Code Section 13-5-1 (*Definitions*) is amended to read:

§ 13-5-1 DEFINITIONS.

In this chapter:

- (1) DESIGNATED AREA means the parking spaces designated along the curb_line of a business or residence within public right-of-way as indicated by appropriate signage or markings where a valet operator may receive or return vehicles under a permit issued by the department [~~from and return vehicles to the customers of the business~~].
- (2) DEPARTMENT means the department designated by the city manager.
- (3) DIRECTOR means the department director designated by the city manager.
- (4) DISTRICT SERVICE AREA means the parking spaces within the public right-of-way designated along the curb line of two or more premises located within the same block face, as indicated by appropriate signage or markings where a valet operator may receive or return vehicles under a permit filed by two or more owners or lessees of businesses or residences and issued by the department.
- ~~(5)~~[(4)] ON-STREET VALET PARKING SERVICE means a valet parking service in which the valet operator receives a vehicle from or returns a vehicle to a customer within the designated service area or designated area [~~at an area in a public street~~].
- ~~(6)~~[(5)] SERVICE LOCATION means the location of the business or residence served by the valet parking service.
- ~~(7)~~[(6)] VALET OPERATOR means a person or the person's employee, agent, contractor, or representative that provides valet parking services to a business or residence.

(8)[(7)] VALET PARKING SERVICE means the service of receiving, parking, and returning vehicles for the customers, guests or invitees of a business or residence.

PART 2. City Code Section 13-5-2 (*Restriction on On-Street Valet Parking*) is repealed and replaced as follows:

§ 13-5-2 RESTRICTION ON ON-STREET VALET PARKING.

It is unlawful for any person to provide valet parking services without a valet operating license or valet parking permit, and no person shall provide valet parking services in which a portion of the public right-of-way is used to receive, return, or store vehicles, except as allowed by this chapter.

PART 3. City Code Section 13-5-3 (*Rulemaking*) is amended to read:

§ 13-5-3 RULEMAKING.

The director shall promulgate rules and procedures to implement this chapter. The director shall file a copy of the rules and procedures with the city clerk. All persons who receive permits or licenses under this chapter are subject to the director's rules.

PART 4. City Code Chapter 13-5-4 (*Insurance*) is amended to read:

§ 13-5-4 INSURANCE.

A valet operator or a valet parking permit holder must maintain general liability insurance coverage as required by the director continuously during the term of the permit or license through insurance carriers that are authorized or eligible to do business in the state of Texas.

PART 5. City Code Chapter 13-5 (*Valet Parking Services*) is amended to add the following sections:

§ 13-5-5 NO PRIVATE RIGHTS IN STREETS.

Nothing in this chapter shall be construed to give any person, whether or not a permittee or licensee, any property right in, or to, the use of any street or public right-of-way. All permits and licenses issued and held under this chapter shall be subject to the superior right of the public to the safe and orderly movement of traffic.

§ 13-5-6 TEMPORARY SUSPENSION.

All valet operations are subject to immediate suspension when a police officer or other authorized city enforcement official determines that the continued operation of the valet service constitutes a hazard to the public health, safety or welfare, including interfering with the safe operation of the streets for pedestrians and the normal flow of traffic.

PART 6. City Code Chapter 13-5, Article 2 (*Valet Operating Permit*) is amended to read:

ARTICLE 2. VALET OPERATION LICENSE [~~PERMIT~~]

PART 7. City Code Chapter 13-5-21 (*On-Street Valet Operating Permit Required*) is renamed and amended to read:

§ 13-5-21 ON-STREET VALET OPERATING LICENSE [~~PERMIT~~] REQUIRED.

(A) A person may not operate an on-street valet parking service without an on-street valet operating license [~~permit~~] issued under this chapter.

(B) A person may operate a valet parking service conducted entirely on private property without a valet operating license [~~permit~~].

PART 8. City Code Section 13-5-22 (*Application for a Valet Operating Permit*) is renamed and amended to read:

§ 13-5-22 APPLICATION FOR A VALET OPERATING LICENSE [~~PERMIT~~].

- (A) A person who desires to operate a valet parking service on public right-of-way shall apply in writing to the director for a valet operating license. To obtain or renew an on-street valet operating license [~~permit~~] a person must:
- (1) submit a completed [~~an~~] application to the director on a form prescribed by the director;
 - (2) pay the application [~~annual~~] fee prescribed by ordinance for the license [~~permit~~]; and
 - (3) pay the [~~annual~~] fee for each location at which the applicant intends to provide valet parking services.
- (B) An application for a valet operating license [~~permit~~] must include the following:
- (1) the name, mailing address, and phone number of the applicant;
 - (2) the name and location of each service location at which the applicant intends to provide on-street valet parking service;
 - (3) the hours of operation of the on-street valet parking service at each service location;
 - (4) documentation showing that the applicant has an insurance policy as required by Section 13-5-4 (*Insurance*);
 - (5) certification that each of the applicant's employees has a driver's license valid in the State of Texas, and has received a manual and

training instructing the employee in the local and state laws governing valet parking;

- (6) certification that the applicant's employees who ~~[are]~~ engage[d] in valet parking vehicles will wear retro-reflective ~~[safety vests or other retroreflective]~~ material outerwear while working during the nighttime, as approved by the director;
- (7) certification that loading or offloading of customers from vehicles will occur only in the designated area at each service location;
- (8) a telephone number to allow the department to contact the applicant or an employee 24 hours a day; ~~[and]~~
- (9) the location of any signs or attendant stands to be used by the applicant at the service location and the designated area; and [-]
- (10) the location of off-street parking to be used in connection with the valet operation and a signed agreement or other documentation that indicates the applicant has a legal right to park vehicles at that location, the number of parking spaces allowed to be used and describing other terms and conditions applicable to the use of the off-street parking location.

PART 9. City Code Section 13-5-23 (*Issuance of Valet Operating Permit*) is renamed and amended to read:

§ 13-5-23 ISSUANCE OF VALET OPERATING LICENSE [~~PERMIT~~].

- (A) Unless denial is required by Section 13-5-41 (*Issuance or Denial of Permit or License*), the ~~[The]~~ director shall issue a valet operating license ~~[permit]~~ for the service location if the applicant complies with the requirements of Section 13-5-22 (*Application for a Valet Operating License [~~Permit~~]*).
- (B) The director shall list on the valet operating license ~~[permit]~~ each service location and times of service at which the license ~~[permit]~~ holder may provide on-street valet parking services.

PART 10. City Code Sections 13-5-24 (*Duties of a Permit Holder*) and 13-5-25 (*Duties and responsibilities of Valet Operator*) are combined under Section 13-5-24 and amended to read:

§ 13-5-24 DUTIES AND RESPONSIBILITIES OF A LICENSE [~~PERMIT~~] HOLDER.

- (A) A license ~~[permit]~~ holder may not provide on-street valet parking service at a service location unless the location is approved by the department and listed on:

- (1) the license [~~permit~~]; or
 - (2) a temporary license [~~permit~~] for the service location.
- (B) A license holder shall not use public metered parking spaces other than what is stated in the license issued by the City. A license holder shall not park in spaces or on property for which it does not have an agreement or permission to park vehicles, and shall immediately cease to accept vehicles once it meets its capacity limits described in the agreement submitted as part of their application in Section 13-5-22(B)(10) (*Application for a Valet Operating License*) for use of off-street parking.
- (C) A license [~~permit~~] holder shall keep a copy of the license [~~permit~~] readily available at the service location during hours of operation, and shall produce the copy on the request of the director or a police officer.
- (D) A license [~~permit~~] holder may not allow a vehicle to remain parked in the service location, designated area or district service area for more than 45 minutes [~~use no more than one-third of the parking spaces in the designated area to park customer vehicles~~]. A vehicle may not be parked in a designated area of a service location or district service area unless traffic may move safely in the lanes adjacent to the designated area.
- (E) A license [~~permit~~] holder shall pay to the City the cost of parking meter or pay station hoods provided by the City and traffic control devices installed under Section 13-5-34 (*Indication of Designated Area or District Service Area*).

~~[§ 13-5-25 DUTIES AND RESPONSIBILITIES OF VALET OPERATOR.]~~

- (F)[(A)] A license holder [~~valet operator~~] shall provide each of the operator's employees a manual and training on local and state laws governing valet parking. Training must include review of the requirements specified in the director's rules and this ordinance.
- (G)[(B)] A license holder [~~valet operator~~] shall place the operator's booth or stand at the service location in a manner that will maintain [~~on the sidewalk~~] an unobstructed pedestrian pathway on the sidewalk that is at least six feet wide.
- (H)[(C)] A license holder [~~valet operator~~] shall provide [a] retro-reflective [~~safety vest or other retroreflective~~] material on employee's outerwear approved by the director to an employee who enters the street while on duty during nighttime hours. An employee shall be required to wear the retro-reflective outerwear [~~retroreflective vest or retroreflective material~~] while on duty.

- (I)(~~D~~) A license holder [~~valet operator~~] is responsible for the security of keys left by a customer with the operator[~~by a customer.~~], and [~~The valet operator~~] shall keep the keys in a secure place.
- (J)(~~E~~) A license holder [~~valet operator~~] shall place a valet parking tag inside each customer's vehicle that includes the following information, which must be clearly legible from the outside of the vehicle:
- (1) the name of the [~~valet operator~~] license holder; and
 - (2) a telephone number that will allow the customer to obtain information about the valet parking operation 24 hours a day.
- (K)(~~F~~) The information required by Subsection (I)(~~E~~)(2) may be provided by a recorded message that informs a customer of the time and place the customer may obtain keys left in the [~~valet operator's~~] license holder's custody, and the location of the parking facility at which the [~~valet operator~~] license holder parks vehicles for each service location.
- (L) Each of the license holder's employees shall operate vehicles in compliance with all applicable federal, state, and local laws, in a manner that assures the safety of persons and property and shall possess a valid class A, B, or C Texas driver's license.

PART 11. City Code Section 13-5-26 (*Restrictions on Handling Vehicles*) is amended to read:

§ 13-5-26 RESTRICTIONS ON HANDLING VEHICLES.

- (A) A [~~valet operator~~] license holder may not:
- (1) double park a vehicle;
 - (2) park a customer's vehicle on a public street outside of the designated area;
 - (3) leave a vehicle unattended in the street except in the designated area and for the time period limited by Section 13-5-24(C) (*Duties and Responsibilities of a License* [~~Permit~~] *Holder*);
 - (4) receive or return a customer's vehicle at a location other than the designated area for the service location;
 - (5) park a vehicle on private property unless written authorization has been obtained from the owner or lessee of the property; or
 - (6) violate a law relating to the stopping, standing, or parking of motor vehicles.

- (B) A ~~[valet operator]~~ license holder shall have custody of the keys to a vehicle while the vehicle is unattended in the designated area.
- (C) A ~~[valet operator]~~ license holder may allow attended vehicles of the operator's customers to temporarily queue in the traffic lane adjacent to the designated area if the queuing does not:
 - (1) cause traffic behind the queue to obstruct an intersection;
 - (2) block public access to a business or residence; or
 - (3) create a safety hazard.

PART 12. City Code Section 13-5-31 (*Valet Parking Permit Required*) is amended to read:

§ 13-5-31 VALET PARKING PERMIT REQUIRED.

- (A) A person operating a business establishment or residential property may not provide on-street valet parking service to customers, guests or other invitees unless the person has a valet parking permit issued under this chapter.
- (B) A person operating a business establishment or at a residence may provide valet parking service to customers, guests or other invitees without a valet parking permit if the service is operated entirely on private property.
- (C) A permit may be issued for a district service area, provided that all business establishments or residences along the block face submit a joint application and each comply with the requirements of this ordinance.
- (D) Public metered parking spaces may not be used for valet parking services other than as stated on the permit issued by the City. Parking shall not be permitted in spaces or on property for which the permit holder does not have an agreement or permission to park vehicles, and the permit holder or its contractor shall immediately cease to accept vehicles once it meets its capacity limits described in the agreement submitted as part of their application in Section 13-5-32(C)(5) (*Application for Valet Parking Permit*) for use of off-street parking.

PART 13. City Code Section 13-5-32 (*Application for Valet Parking Permit*) is amended to read:

§ 13-5-32 APPLICATION FOR VALET PARKING PERMIT.

- (A) A person who provides on-street valet parking services to customers, guests, or other invitees on public right-of-way shall apply in writing to the director for a valet parking permit. The application must be made by the owner or lessee of the premises benefiting from the proposed valet parking service, and to [Tø] obtain an initial valet parking permit a person must:

- (1) submit an application to the director on a form prescribed by the director;
 - (2) pay the application fee prescribed by ordinance for the permit; and
 - (3) pay the annual fee prescribed by ordinance for parking spaces in the designated area.
- (B) To obtain a renewal of a valet parking permit a person must:
- (1) submit a complete ~~[an]~~ application; ~~[and]~~
 - (2) pay the ~~[annual]~~ fee established by separate ordinance; and
 - (3) for each new renewal after the effective date of this ordinance maintain a record of the number of vehicles parked at each service location and provide a valet service data report prior to issuance of any subsequent renewal.
- (C) An application for a valet parking permit must include:
- (1) the name, address, and phone number of the applicant;
 - (2) the name and location of the business to be served by a valet operator;
 - (3) a copy of the on-street valet operating permit held by the person who will provide valet parking service for the applicant;
 - (4) documentation showing that the applicant is covered by a policy of insurance as required by Section 13-5-4 (*Insurance*); and
 - (5) if vehicles will be parked at a location other than the applicant's premises, a written agreement or statement from the owner or lessee of the property indicating that the property owner or lessee agrees to accept vehicles from the applicant's valet parking service, the number of parking spaces allowed to be used and describing other terms and conditions applicable to the use of the off-street parking location.

PART 14. City Code Section 13-5-34 (*Indication of Designated Area*) is amended to read:

§ 13-5-34 INDICATION OF DESIGNATED AREA OR DISTRICT SERVICE AREA.

The department shall, at the license holder's cost:

- (1) provide to the valet license ~~[permit]~~ holder parking meter or pay station hoods that will indicate that the parking meter spaces in the designated area or district service area are reserved for valet parking only and that vehicles parked in the spaces for purposes other than valet parking may be towed;

- (2) install traffic control devices at the designated area or district service area indicating the location and extent of the designated area, and the hours the designated area or district service area is reserved for valet parking; ~~and~~
- (3) install traffic control devices on the pavement of the traffic lane immediately adjacent to the designated area or district service area to indicate the traffic lane is a restricted lane; and[-]
- (4) require additional traffic control devices or measures that heighten public awareness of the valet service area, as required by the director.

PART 15. City Code Section 13-5-36 (*Temporary Permit*) is amended to read:

§ 13-5-36 TEMPORARY PERMIT.

- (A) The department may issue a temporary valet parking permit to a person to operate a valet parking service for no more than four consecutive days ~~[for a special event]~~.
- (B) To obtain a temporary valet parking permit a person must:
 - (1) submit an application to the department on a form prescribed by the director no later than three business days before the commencement of provision of valet services; and
 - (2) pay the fee prescribed by ordinance for a temporary valet parking service permit[-]; and
 - (3) obtain written approval from the businesses or residences directly adjacent to the public right-of-way proposed for valet service use.
- (C) A temporary permit issued under this section is valid for the period indicated on the permit, and shall not exceed four calendar days.
- (D) The holder of a temporary permit may use three parking spaces as a designated area. The director may allow the permit holder to use additional spaces for the designated area if:
 - (1) the director determines that the use of the additional spaces will not create a safety hazard; and
 - (2) the permit holder pays the fee prescribed by ordinance for each additional space.

PART 16. City Code Chapter 13-5 (*Valet Parking Services*) is renamed to read:

ARTICLE 4. DENIAL OR REVOCATION OF PERMIT OR LICENSE.

PART 17. City Code Section 13-5-41 (*Issuance or Denial of Permit*) is renamed and amended to read:

§ 13-5-41 ISSUANCE OR DENIAL OF PERMIT OR LICENSE.

- (A) The director shall grant or deny an application for a permit or license under this chapter not later than the 10th day after the day the application is received by the department.
- (B) The director shall deny an application for a permit or license under this chapter if the applicant:
 - (1) makes a false statement on the application; or
 - (2) fails to meet the application requirements of this chapter.
- (C) In addition to the requirements of Subsection (B), the director shall deny an application for a valet parking permit or license if the director [~~department~~] determines that the proposed valet parking service at the location may:
 - (1) unreasonably interfere with normal traffic flow on a public street, alley, or other public property; or
 - (2) create a hazard to public safety.
- (D) If the director denies an application for a permit or license under this chapter, the department shall send notice of the denial to the applicant by certified mail, return receipt requested, to the applicant's mailing address listed on the application. A notice mailed under this subsection is considered received on the 10th day after mailing, unless an earlier date is indicated on the return receipt.

PART 18. City Code Section 13-5-42 (*Temporary Suspension or Modification of Permit*) is renamed and amended to read:

§ 13-5-42 TEMPORARY SUSPENSION OR MODIFICATION OF PERMIT OR LICENSE.

- (A) The director may temporarily suspend or modify a permit or license issued under this chapter if:
 - (1) a temporary street closure includes the designated area or district service area; [~~or~~]
 - (2) the director determines that an emergency requires the suspension or modification; or[-]
 - (3) if requested in writing by the permittee or licensee; however, an increase in the designated area or district service area shall require a new application and payment of required fees.

- (B) If the director suspends or modifies a permit or a license, the director may allow the permit or license holder to temporarily conduct valet parking operations at an alternate location.

PART 19. City Code Section 13-5-43 (*Duration and Renewal of Permits*) is amended to read:

§ 13-5-43 DURATION AND RENEWAL OF PERMIT[S] OR LICENSE.

- (A) A permit or license issued under this chapter is valid for a period of one year from its date of issuance, unless the permit or license is:
- (1) a temporary permit issued under Section 13-5-36 (*Temporary Permit*);
or
 - (2) revoked or suspended.
- (B) A permit or license issued under this chapter may be renewed by filing an application pursuant to Section 13-5-22 (*Application for Valet Operating License*) or 13-5-32 (*Application for Valet Parking Permit*) at least 30 days prior to expiration of the permit or license. To obtain renewal of a permit or license, a person must meet the application requirements in this chapter, and the application shall be reviewed and approved as if it is a new application.

PART 20. City Code Section 13-5-44 (*Revocation or Modification of Permit*) is renamed and amended to read:

§ 13-5-44 REVOCATION OR MODIFICATION OF PERMIT OR LICENSE.

- (A) The director may revoke or modify a permit or license under this section based on the following reasons:
- (1) if the [~~permit~~] holder fails to comply or violates this chapter at a service location on more than six separate days within a 12-month period;[~~;~~]
 - (2) [~~(B)~~] [~~The director may revoke a permit~~] if the director determines that the applicant made a false statement on the permit application; or[~~;~~]
 - (3) the permit or license was issued through error; or
 - (4) if the holder fails to comply or violates the rules adopted by the director; or
 - (5) there is an immediate threat to public health and safety.
- (B)[~~(C)~~] If the director revokes or modifies a permit or license under this section, the director shall send notice of the revocation or modification to the permit or license holder by certified mail, return receipt requested, to the [~~permit~~]

holder's mailing address listed on the application, unless the revocation is due to an immediate threat to public health and safety and the permit or license shall be considered revoked immediately without prior notice to the permittee or licensee. A notice mailed under this subsection is considered received on the 10th day after mailing, unless an earlier date is indicated on the return receipt.

PART 21. City Code Section 13-5-45 (*Appeal*) is amended to read:

§ 13-5-45 APPEAL.

- (A) An applicant or a permit holder may appeal the denial of an application under Section 13-5-41 (*Issuance or Denial of Permit or License*) or the revocation or modification of a permit under Section 13-5-44 (*Revocation or Modification of Permit or License*) to the director.
- (B) The appeal must be submitted to the director in writing not later than the 10th day after receipt of notice of the adverse action.
- (C) The director shall hold an informal hearing on the appeal not later than the 10th day after the appeal is received. At the hearing the formal rules of evidence do not apply. The director shall decide the appeal on the basis of the preponderance of the evidence presented.
- (D) The director shall make a determination on the appeal not later than the 10th day after the hearing. The director may affirm, reverse, or modify the director's previous determination.
- (E) The decision of the director on appeal may be appealed to the city manager, under the same procedure described above. The decision of the city manager is final.

PART 22. City Code Section 13-5-51 (*Fees*) is amended to read:

§ 13-5-51 FEES.

Fees shall be established by separate ordinance for:

- (1) a valet parking permit application;
- (2) a valet operating license application [~~permit~~];
- (3) a temporary permit application; [~~and~~]
- (4) parking spaces usage within the [~~included in a~~] designated area or district service area.

PART 23. City Code Section 13-5-53 (*Offenses and Penalty*) is amended to read:

§ 13-5-53 PENALTY.

- (A) The city council has determined that this chapter is necessary to protect health, life, and property and to preserve good government, order, and security of the city and its inhabitants. [A person commits an offense if the person performs an act prohibited by this chapter or fails to perform an act required by this chapter.]
- (B) An owner, operator, or employee commits an offense if the person violates this chapter or fails to comply with a requirement of this chapter. [An offense under this section is a Class C misdemeanor, punishable by a fine not to exceed \$500.]
- (C) An offense under this chapter is a Class C misdemeanor, punishable in accordance with Section 1-1-99 (Offenses; General Penalty). [Each instance of a violation of this chapter is a separate offense.]
- (D) Proof of a culpable mental state is not required for a conviction of an offense under this chapter.
- (E) The provisions of this chapter are cumulative of other remedies.
- (F) Each day or portion of a day during which a violation occurs or continues constitutes a separate offense.
- (G) The City may seek to enjoin violations of this chapter, and may file suit for the recovery of all expenses incurred, including without limitation, administrative and legal expenses, attorneys' fees, and costs, and for civil penalties as provided by law.

PART 24. This ordinance takes effect on November 19, 2012.

PASSED AND APPROVED

_____, November 8, 2012

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§ Lee Leffingwell
Lee Leffingwell
Mayor

APPROVED: Karen M. Kennard
Karen M. Kennard
City Attorney

ATTEST: Shirley A. Gentry for
Shirley A. Gentry
City Clerk