

ORDINANCE NO. 000-043

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING CHAPTER 70, "STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES", OF THE CITY'S CODE OF ORDINANCES BY ADDING A NEW ARTICLE VIII ("LICENSES FOR THE USE OF THE PUBLIC RIGHTS-OF-WAY"), DIVISION 1 RELATING TO VALET PARKING SERVICES WITHIN PUBLIC RIGHTS-OF-WAY; PROVIDING DEFINITIONS; PROVIDING FOR THE ISSUANCE OF A LICENSE FOR, AND STANDARDS IN CONNECTION WITH THE OPERATION OF, A VALET PARKING SERVICE; SETTING FEES FOR A VALET PARKING SERVICE LICENSE; PROVIDING FOR THE DENIAL, REVOCATION AND EXPIRATION OF A LICENSE; REQUIRING THE PROVISION OF INSURANCE AND INDEMNITY; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Addison, Texas ("City") has exclusive control over and under the streets of the City as set forth in Section 311.001, Tex. Transp. Code; and

WHEREAS, the City may license any lawful business or occupation that is subject to the police power of the City; and

WHEREAS, in order to protect the public health, safety and welfare of the public, the City desires to regulate and license the operation of a valet parking service which uses the public rights-of-way to conduct the valet parking service business.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

Section 1. Amendment. Chapter 70, "Streets, Sidewalks, and Other Public Places" of the Code of Ordinances of the Town of Addison, Texas (the "Town") is hereby amended in the following particulars, and all other chapters, sections, subsections, paragraphs, sentences, phrases and words of the said Code are not amended but are hereby ratified, verified, approved and affirmed:

A. A new Article VIII, "License for Use of the Public Right-of-Way", is hereby added to Chapter 70 of the Code to read as set forth on Exhibit 1 attached hereto and incorporated herein.

Section 2. Savings. This Ordinance shall be cumulative of all other ordinances of the City affecting the use of the public streets and other public rights-of-way of the City, City's boundaries and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those Ordinances are in direct conflict with the provisions of this Ordinance.

Section 3. Severability. The sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this Ordinance or application thereof to any person or circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares that it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 4. Effective Date. This Ordinance shall become effective from and after its date of passage and publication as provided by law.

14th PASSED AND APPROVED by the City Council of the Town of Addison, Texas this day of November, 2000.



R. Scott Wheeler, Mayor

ATTEST:

By:

C. MORAN
Carmen Moran, City Secretary

EXHIBIT 1

Article VIII. License for Use of Public Right-of-Way

Division 1. Valet Parking Services

Section 70-320. Definitions. In this Division:

- (a) *City* means the Town of Addison, Texas.
- (b) *Director* means the director of the department designated by the City Manager to enforce and administer this Division, or the Director's designated representative.
- (c) *Licensee* means a person licensed under this Division to operate a valet parking service. The term includes any (i) employee, agent, or independent contractor of the licensee who works in connection with a valet parking service, or (ii) any tenant or lessee of a licensee or any person retained or used by such tenant or lessee who operates a valet parking service.
- (d) *Person* means an individual, assumed name entity, partnership, joint venture, association, corporation, or other legal entity.
- (e) *Valet parking service* means a business, or any part of a business, which provides a driver to operate a person's vehicle on or across a public right-of-way and to and from a parking location so that the person and any passengers in the person's vehicle may unload and load at their immediate destination.

Section 70-321. Purpose.

This Division is intended to only apply to valet parking service provided in connection with a commercial establishment or commercial activity and does not apply to occasional valet parking service provided (a) at a private residence or (b) in connection with a social or fund-raising activity.

Section 70-322. License Required; Application; Issuance.

- (a) A person commits an offense if, without a license issued by the Director, the person operates a valet parking service within the City on or across any public right-of-way.
- (b) A licensee commits an offense if, at a time other than the hours and days of operation authorized in a license issued by the Director to the licensee, the licensee operates a valet parking service within the City on or across any public right-of-way.
- (c) A person who desires to operate a valet parking service shall apply in writing to the Director for a valet parking service license. The form of the license shall be prepared and provided by the Director and shall be consistent with the terms of this

Division. The application must be made by (and a license shall be issued only to) the fee simple owner of the real property benefiting from the proposed valet parking service and must contain the following information:

- (1) the names, addresses, and telephone numbers of:
 - (i) the applicant;
 - (ii) any tenant or lessee of the applicant that will utilize a valet parking service;
 - (iii) any person the applicant or any tenant or lessee of the applicant will use to provide valet parking service;
- (2) the proposed location(s) of the valet parking service and any valet parking service stands;
- (3) the proposed hours and days of operation of the valet parking service;
- (4) the location of off-street parking to be used in connection with the valet parking service and a signed agreement or other documentation showing that the applicant has a legal right to park vehicles at that location;
- (5) proof of insurance required by Section 70-329; and
- (6) a list of names and addresses of all property owners, or their representatives, located within 50 feet of, on the same side of the street as, and within the same block as the valet parking service location, either:
 - (i) with signatures showing consent to the operation of a valet parking service by the applicant; or
 - (ii) without signatures, in which case the Director shall notify the listed persons of the valet parking service application and obtain comments.

(d) For each tract of land, only one license may be issued to the fee simple owner of such tract (for purposes of this subsection (d) of Section 70-322, "owner"). If the fee simple title to two or more contiguous tracts of land are owned by the same owner, or are owned by an owner and an affiliate or affiliates of the owner, no more than one license shall be issued to the owner for all of such tracts of land. For purposes hereof, "affiliate" means (i) all persons, if any, controlled by the owner, (ii) all persons, if any, which control the owner ("parent"), and (iii) all persons controlled by a parent. As used in this definition of affiliate, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through ownership of voting securities or partnership interests, by contract, or otherwise.

(e) The Director shall forward a copy of any completed application to any person listed in the application as described in Subsection (c)(6) of this Section and to the City's department of public works and any other department that might be affected by the

proposed operation of a valet parking service. Each office or department, and any other notified persons, shall review the application and return it, with any comments, to the Director within 10 days of receipt.

(f) After reviewing the application and comments of the departments and of any person notified in accordance with Subsection (c)(6) of this Section, and upon receiving payment of all fees required by this Division, the Director may issue a valet parking service license unless denial is required by Section 70-324.

(g) A licensee desiring to change the location or hours of operation of a valet parking service must submit a new application to the Director in accordance with this section.

Section 70-323. Fees.

(a) A nonrefundable application fee of \$25 must accompany each application for a valet parking service license.

(b) The annual fee for a valet parking service license is \$350. The fee shall be paid by the licensee at the time the license is approved.

Section 70-324. Denial or Revocation of License; Temporary Suspension.

(a) The Director shall deny a valet parking service license if:

- (1) the applicant fails to comply with the requirements of this Division or other applicable law;
- (2) the applicant makes a false statement of material fact on an application for a valet parking service license; or
- (3) the Director determines that the operation of the valet parking service would:
 - (i) endanger the safety of persons or property or otherwise not be in the public interest;
 - (ii) unreasonably interfere with pedestrian or vehicular traffic;
 - (iii) unreasonably interfere with the use of a pole, traffic sign, traffic signal, hydrant, mailbox, or other object permitted at or near the proposed location of the valet parking service; or
 - (iv) unreasonably interfere with an existing use permitted at or near the proposed location of the valet parking service.

(b) The Director shall revoke a valet parking service license if:

- (1) the licensee fails to comply with the requirements of the valet parking service license, this Division, or other applicable law;

- (2) the licensee made a false statement of material fact on an application for a valet parking service license; or
- (3) the Director determines that the operation of the valet parking service:
 - (i) endangers the safety of persons or property or is otherwise not in the public interest;
 - (ii) unreasonably interferes with pedestrian or vehicular traffic;
 - (iii) unreasonably interferes with the use of a pole, traffic sign, traffic signal, hydrant, mailbox, or other object permitted at or near the location of the valet parking service; or
 - (iv) unreasonably interferes with an existing use permitted at or near the location of the valet parking service.

(c) The City Council may, at any time, unconditionally revoke a valet parking service license issued pursuant to this Division.

(d) The Director may temporarily suspend the operations of a valet parking service if the public right-of-way used by the valet parking service is needed for an emergency or temporary use, including, but not limited to, the construction, maintenance, or repair of a street or utility. The Director may refund a part of the annual license fee, prorated according to the duration of the suspension, unless the conditions necessitating the suspension were caused by the valet parking service.

Section 70-325. Expiration of License.

A valet parking service license expires one year from the date of issuance, unless sooner terminated by the Director or by the City Council. A valet parking service license may be renewed by making application in accordance with Section 70-322 of this Division at least 30 days before expiration of the license.

Section 70-326. Standards for Operation of a Valet Parking Service.

- (a) A licensee shall:
 - (1) allow only individuals who hold a valid Texas driver's license, and who are covered by the insurance required by Section 70-329 of this Division, to operate any vehicle in connection with the valet parking service (and such individuals engaged in the parking of vehicles for a valet parking service shall wear reflective clothing as set forth in Section 78-180(b) of this Code);
 - (2) operate the valet parking service in a manner that does not:
 - (i) use or occupy more of the public right-of-way than is allowed by the valet parking service license;

- (ii) obstruct a pedestrian's use of a sidewalk;
 - (iii) obstruct a vehicle operator's ability to see any part of an intersecting road;
 - (iv) injure, damage, or create a hazard to persons or property;
 - (v) attempt to regulate motor vehicle traffic on any public right-of-way; or
 - (vi) violate any law or ordinance regulating the operation or use of a motor vehicle.
- (3) place no more than one valet parking service stand on or in a public right-of-way except as may be approved by the Director;
 - (4) not park or allow the parking of a vehicle in a valet parking service space, but shall only use the space for loading and unloading passengers; in no event shall a vehicle be allowed to remain in a valet parking service space for more than five minutes;
 - (6) provide valet parking service only during the hours of operation authorized in the license;
 - (7) only use an off-street parking location to park a vehicle accepted for valet parking service and shall not park the vehicle on public right-of-way; and
 - (8) notify the Director within 10 days of a change in the location of off-street parking and provide the Director with a signed agreement or other documentation showing that the licensee has a legal right to park vehicles at the new location.

Section 70-327. Valet Parking Stands.

(a) A licensee may place a valet parking service stand on the public right-of-way at a location or locations approved by the Director. The valet parking service stand must be necessary to the general conduct of the valet parking service and shall be used for such purposes, including, but not limited to, the dispatch of valets and the storage of keys, umbrellas, and other items used in connection with the valet parking service.

- (b) A valet parking service stand shall:
- (1) not occupy an area of the public right-of-way exceeding four feet in width and four feet in depth;
 - (2) not be affixed to the public right-of-way in any manner;
 - (3) be easily moveable by one person; and

- (4) be removed from the public right-of-way when the valet parking service is not being operated.

(c) A name and logo may be placed on a valet parking service stand for the sole purpose of identifying the valet parking service, and shall not be used to identify any business for which the valet parking service is being provided. The identification of the valet parking service shall not:

- (1) have dimensions greater than four feet high and four feet wide; or
- (2) be placed on more than two sides of the valet parking service stand.
- (d) For each valet parking service stand, a licensee may erect not more than two temporary and removable signs providing direction to the location of the valet parking service stand. Such signs shall be erected only during the hours of operation of the valet parking service and in the locations approved by the Director. The size and content of such signs shall be approved by the Director.

Section 70-328. Location of a Valet Parking Service.

(a) Spaces and stands for a valet parking service shall be located as set forth in the license (as determined by the Director) and may not:

- (1) be located within
 - (i) 10 feet of a crosswalk;
 - (ii) 10 feet of a fire hydrant, fire call box, police or other emergency facility; or
 - (iii) five feet of a driveway;
- (2) reduce the unobstructed sidewalk widths for the passage of pedestrians to less than four feet.

(b) The Director may require greater or shorter distances than those prescribed in Subsection (a) of this Section when warranted by special vehicular or pedestrian traffic conditions.

(c) Only one (1) valet parking service stand may be placed in any single location.

Section 70-329. Insurance.

(a) A licensee shall procure, or cause to be procured, and keep in full force and effect and on file with the Director the following insurance requirements throughout the duration of a license:

- (1) Statutory limits of workers' compensation; and
 - (2) Garage Liability for premises and operations and for any auto (Symbol 1) or all owned autos (Symbol 22), and non-owned autos (Symbol 29), and all autos left with licensee for service (Symbol 30) at limits of \$1,000,000 for bodily injury and property damage per-occurrence or accident. The Garage Liability shall include coverage for contractual liability (including liability assumed under the indemnity protection provisions as set forth in this Division), and the coverage should extend to products/completed operations (the coverage provisions must insure the public from loss or damage that may arise to any person or property by reason of the operation of the Valet Parking Service).
 - (3) The Garage Liability policy must be endorsed to include coverage for Garagekeepers Legal Liability at minimum limits of \$75,000 per vehicle/\$250,000 any one occurrence with respect to comprehensive and collision perils. Customary deductible of up to \$1,000.00 may be maintained for the Garagekeepers Legal Liability.
 - (4) As an alternative to subsection (a)(2) above of this Section, the required Garage Liability, including Garagekeepers Legal Liability, may be maintained in any combination of Commercial Automobile Liability, Commercial General Liability, and Garagekeepers Legal Liability.
- (b) The above policies shall be endorsed to provide the following, as applicable:
- (1) In all liability policies, name as additional insureds the City, its officers, agents, and employees;
 - (2) In all liability policies, provide that such policies are primary insurance to any other insurance available to the additional insureds, with respect to any claims arising out of activities conducted under the permit, and that insurance applies separately to each insured against whom claim is made or suit is brought; and
 - (3) Waiver of subrogation in favor of the Town of Addison must be included in all liability and Workers Compensation policies.
- (c) All policies shall be issued by an insurance company authorized to do business in this state and in the standard form approved by the board of insurance commissioners of the state, and shall be endorsed to provide for at least 30 days' advance written notice to the City of a material change in or cancellation of a policy. Certificates of insurance, satisfactory to the City, evidencing all coverage above shall be furnished to the City prior to the issuance of a license, with complete copies of policies furnished to the City upon request.

Section 70-330. Indemnification.

Prior to the issuance of a license, a licensee, and any independent contractor used by the licensee, must execute a written agreement provided by the City to indemnify the City and its officers and employees against all claims of injury or damage to persons or property arising out of the operation of the valet parking service by the licensee.

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