

Order 234-12/13

Given first reading on 5/20/13

Passage: 8-0 (Councilor Anton gone) 6-3-13

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**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 28. TRAFFIC AND MOTOR VEHICLES
ARTICLE VII - VALET PARKING**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND<
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

1. *That Chapter 28, Article VII (Valet Parking) of the
Portland City Code is hereby adopted to read as follows:*

ARTICLE VII - VALET PARKING

Sec. 28-270. Purpose; permit and license required.

(a) The purpose of this article is to:

- (1) Reduce the disruption of vehicular and pedestrian
traffic that valet parking service operations may
create;
- (2) Minimize hazardous conditions that valet parking
service operations may create in order to protect
the health, safety and welfare of the public; and
- (3) Promote the safe and legal operation of valet
parking services for the use and convenience of
businesses and the general public.

(b) No person, establishment or entity shall conduct valet
parking service within the City of Portland without first
obtaining a permit from the city clerk's office and paying the
fee therefor.

(c) This article shall not apply to any hotel located
within the City of Portland.

Sec. 28-271. Definitions.

Terms used in this article shall have their common meanings except that, the definitions used in this Article or in chapters or articles related to this article shall have the following meanings:

Disqualifying criminal conviction means and includes any conviction for any criminal offense punishable by imprisonment for any period of time, whether or not the sentence was imposed or served, but shall not include any conviction which is shown to have been set aside on appeal or collaterally, for which a pardon, certificate of rehabilitation, or the equivalent under the law of the sentencing jurisdiction has been granted.

Permit means the receipt of a valet parking permit under the terms and provisions of this article.

Valet parking permit means the permit issued by the city Clerk's Office to the valet permit operator allowing it to conduct a valet parking operation in an approved valet parking zone.

Valet parking operator means a company/entity that is engaged to operate a valet parking service.

Valet parking service area means the public right-of-way to be utilized for the valet parking operation.

Valet parking zone means the portion of a roadway adjacent to a curb indicated by regulatory signs and meeting the requirements set forth in the Valet Parking Rules and Regulations and this ordinance.

Sec. 28-272. Applications.

Applications under this division except for a one-day special event permit, shall be filed thirty (30) days in advance of issuance of a permit in the clerk's office. Such application shall include the following information:

- (1) Name and address of the proposed permittee/operator. If incorporated, permittee/operator must provide copies of their articles of incorporation and bylaws.
- (2) If the permittee/operator is other than a natural person, the names of all principal officers shall accompany the application.

- (3) Copy of current liability insurance for the applicant/permittee in accordance with the provisions of Section 28-275 of this code.
- (4) A plan (at an appropriate scale), identifying the valet parking service area, the proposed location, number of parking stalls and distance to the parking spaces for the valet parking service. This plan will be reviewed and approved by the City's Transportation Systems Engineer, who has the right to designate valet parking zones based upon local conditions such as traffic congestion, the demand for valet parking zones or the overall impact of valet operations in a particular area and whose decision shall be final.
- (5) An appropriate form of statement over the signature of each person signing the application, giving all persons and governmental agencies having information relevant to the above items permission to release the same to clerk's office.
- (6) State whether any driver's license held by the applicant is presently revoked or has been revoked during the three (3) years preceding the application and the reasons for such revocation or revocations.
- (7) Any application for a license for which a criminal conviction is a disqualification under this Article shall be accompanied by a written waiver of the applicant's right to privacy or confidentiality under the state Criminal History Records Act (16 M.R.S.A. § 611, et.seq.).
- (8) Copy of valid certificate of use or agreement for use of off-street parking area that will be used for the parking of automobiles. If the agreement is terminated then the City is to be notified.
- (9) Applications shall be forwarded by the clerks Office to all city departments which may be affected by the granting of the permit, including but not limited to, public services, planning, police and parking.

Sec. 28-273. Fees; exceptions.

(a) Issuance fees. Applications for yearly valet permits shall be accompanied by an annual nonrefundable fee of two hundred and fifty dollars (\$250.00) per location. Each location shall only include two (2) parking spaces approved by the Transportation Systems Engineer, whose decision shall be final.

(b) Special event fee. Application for a special event permit shall be accompanied by a nonrefundable fee of fifty dollars (\$50.00) provided that the clerk's office has received ten (10) days' notice prior to such event.

(b) Application fees. Except as expressly provided, all applications for original permits, shall be accompanied by an issuance fee and an administrative fee of thirty-five dollars (\$35.00) to defray the cost of processing the application. All applications for renewal of licenses shall be accompanied by the fees for issuance and an administration fee of twenty-five dollars (\$25.00). The latter fee shall be refundable if the application is denied.

(c) Late fees. An additional fee of ten dollars (\$10.00) shall be charged for issuance of any permit after expiration of the prior permit.

Sec. 28-274. Severability.

The provisions of section 1-14 of this Code shall apply to this article.

Sec. 28-275. Required.

(a) Driver's license. No person shall valet park a vehicle within the City unless such valet driver is currently licensed to operate a vehicle.

(b) Permits non-transferable. Permits issued hereunder are not transferable.

(c) Insurance. The applicant must file with the clerk's office a copy of the applicant's insurance certificate evidencing public liability insurance coverage and automobile insurance coverage in amounts not less than Four Hundred Thousand Dollars (\$400,000) combined single limit, or the amount stated in the Maine Tort Claims Act as the same may be amended

from time to time, covering claims for bodily injury, death and property damage, and naming the City as an additional insured, and also provide worker's compensation insurance coverage as required by law.

Sec. 28-276. Standards and criteria for application review.

The standards and criteria used in reviewing the application required in section 28-273 shall be in accordance with the Valet Parking Rules and Regulations on file with the clerk's office.

Sec. 28-277. Form and conditions of permit.

- (1) Each permit shall be effective for one (1) calendar year, subject to annual renewal. Any renewal of a permit shall require payment of all applicable fees and compliance with all requirements for permits in the same manner as an original application.
- (2) The permit issued shall be personal to the permittee only and shall not be transferable.
- (3) The transportation systems engineer may require the temporary removal or relocation of valet parking service when street, sidewalk, or utility repairs necessitate such action.
- (4) The fire department or police department may immediately remove or relocate all or parts of the valet parking service in emergency situations. Officers of the police department, or such special officers as are assigned by the chief of police or fire chief are hereby authorized to direct traffic, including drop-off and pick-up vehicles, as conditions may require, notwithstanding the provisions of this chapter or other applicable traffic ordinances.
- (5) Under no circumstances shall the city, its officers or employees, be deemed responsible or liable in any way for any damage or loss resulting from the removal of the permittee/operator equipment and other objects necessary for the operation of the valet parking service during emergencies. Furthermore, the permittee/operator agrees and acknowledges by

accepting a permit issued pursuant to this article that the City, its officers or employees are to be held harmless in connection with its actions.

- (6) The permit shall be specifically limited to the area shown on the approved plan attached to and made part of the permit. If the permit holder is found to be outside of the designated area, permit holder shall be subject to their permit being revoked or suspended.
- (7) The permittee/operator shall use positive action to assure that its use of the sidewalk in no way interferes with sidewalk users or limits their free unobstructed passage by leaving a clear space of four (4) feet.
- (8) Mobile stands, tables, chairs, umbrellas, key boxes and any other objects necessary for the operation of the valet parking service shall be maintained with a clean and attractive appearance and shall be in good repair at all times and removed at the close of business each day.
- (9) The sidewalk area covered by the permit shall be maintained in a neat and orderly appearance at all times and the area shall be cleared of all debris on a periodic basis during the day, and again at the close of each business day.

Sec. 28-278. Valet permittee/operators code of conduct; required customer protection regulations.

Permittees/operators shall require their employees and independent contractors to meet the following requirements:

- (1) All employees who operate motor vehicles shall have in their possession a valid driver's license in good standing.
- (2) All employees shall wear a name tag identifying the employee's name and the name of the valet operator/company.

- (3) All employees must comply with the requirements of this article and all applicable laws, statutes, ordinances, rules and regulations relating to traffic safety.
- (4) The claim ticket shall identify the valet operator's company name, correspondence address, phone number and e-mail address for questions/complaints. All of the foregoing print shall be of equal size.
- (5) Pricing for services shall be identified on any "signage" used by the valet operator.
- (6) The permittee/operator shall have available on-site for display upon request a valid valet parking permit issued pursuant to this article.

Sec. 28-279. Operational regulations and restrictions for valet parking service.

(1) The public on-street/curbside parking spaces, metered or non-metered, shall only be used for allowing the customer to enter or exit a vehicle and to turn it over to or retrieve it from a valet parking operator employee. There shall be no storage of vehicles in the valet parking service area. A vehicle will be considered stored if it remains in the valet parking service area for more than ten (10) minutes.

(2) The permittee/operator shall possess a valid driver's license and permit to operate the valet parking service within the City.

(3) The permittee/operator shall maintain key control and a 24 hour phone number for after-hours vehicle pick up information.

(4) The permittee/operator shall not load or unload passengers within traffic lanes that are open to through traffic.

(5) The valet parking service area shall not interfere with the regular flow of vehicular or pedestrian traffic. No double parking shall be allowed.

(6) All unclaimed vehicles shall be reported to the police department after forty-eight (48) hours.

(7) If the operation of the valet parking service requires the use of metered parking spaces, timed zones, or commercial vehicle loading zones, the permittee/operator shall only be entitled to use such spaces between the hours of 6:00 p.m. - 2:00 a.m.

(8) Vehicles that are parked shall be transported to and parked at a designated off-street parking facility and shall not be parked in the valet parking zone or in any other on-street parking spaces.

(9) No signs shall be permitted on the sidewalk or in the public right-of-way without a permit from the Building Authority pursuant to Sec. 25-27 of the Portland City Code. Each sign must be in accordance with the valet parking rules and regulations and only city installed and regulated signs are allowed on city sign posts.

(10) No mobile stands, tables, chairs, umbrellas, key boxes nor any other objects necessary for the operation of the valet parking service shall be attached, chained, or in any manner affixed to any tree, post, sign or other fixtures, curb or sidewalk within or near the permitted area.

(11) No signs or cones shall be allowed in the travel lane.

Sec. 28-280. Denial, revocation, or suspension of permit; removal of equipment or personal property of the permittee/operator and storage fees.

(a) The Clerk's Office may deny, revoke, or suspend a permit for any valet parking service authorized in the City if it is found that:

(1) The permittee/operator has not maintained required insurance;

(2) The permittee/operator has failed to show proof of a valid driver's license;

- (3) The traffic systems engineer determines that the operation of a valet parking service causes congestion; interferes with pedestrian or vehicular traffic; interferes with the use of any pole, sign, fire hydrant, traffic signal or other object already permitted at or near the valet parking service area; or otherwise is not in the public interest; or
- (4) The permittee/operator has failed to correct violations of this article or conditions of the permit within (3) three days of notice of the violations;
- (5) If permittee/operator is found in violation of the same offense two (2) times within a permit period; and
- (6) The permittee/operator made any false statements or omission of material fact on the application, site plan or elsewhere in connection with securing a permit.

(b) Stands, tables, chairs, umbrellas, key boxes and other objects necessary for the operation of the valet parking service may be removed by the City, and a reasonable fee charged for labor, transportation, and storage, should the permittee/operator fail to remove said items at the close of business on a daily basis.

Sec. 28-281. Appeals of permit denial or revocation.

(a) Procedure. An appeal to the City Manager may be taken by any person aggrieved by the denial, suspension or revocation of a license by the clerk's office by filing a notice of appeal within thirty (30) days of the decision appealed from, and not thereafter. Every appeal should be in writing and shall state the basis for the appeal. The City Manager or his or her designee shall hear the appeal and may affirm, reverse or modify the decision appealed from.

(b) Appeal to the Superior Court. Any person aggrieved by a decision of the City Manager or his or her designee may appeal therefrom to the Superior Court in accordance with the provisions of Maine Rule of Civil Procedure 80B.

Sec. 28-282. Enforcement; fine schedule and penalty provisions.

(a) Enforcement. The City's Parking Division office and/or Police Department may enforce the provisions of this article. This, however, shall not preclude other law enforcement agencies or regulatory bodies from any action necessary to ensure compliance with this article and all other applicable laws.

(b) Penalties. The following civil penalties may be imposed for each violation: One Hundred Dollars (\$100.00) for the first violation; one hundred and fifty dollars for the second violation (\$150.00) and two hundred and fifty dollars (\$250.00) for the third violation.

Sec. 28-283 Special Events.

Valet services operating for a special event may apply for a permit at the clerk's office as long as it does not reduce the number of parking spaces needed to serve the general public in the area of the request.

Special events shall be restricted to any event occurring no more than twice per year. The hours for parking of vehicles shall be approved by the City. A special event application shall be filed with the Clerk's Office at least ten (10) days prior to the scheduled event.