

**SUBSTITUTE ORDINANCE NO. BL2021-911**

**An Ordinance amending Chapter 2.100 of the Metropolitan Code pertaining to the composition of the Metropolitan Transportation Licensing Commission, amending Title 6 of the Metropolitan Code pertaining to the operation and regulation of Entertainment Transportation Vehicles, amending Section 9.20.020 pertaining to vehicle noise, and amending Sections 6.75.240, 7.24.040, and 12.54.210 of the Metropolitan Code pertaining to the consumption of alcoholic beverages in vehicles.**

WHEREAS, each day, businesses make decisions regarding where to operate, residents assess their neighborhood's quality of life, and visitors (business and families alike) decide which destinations are safe places to visit; and

WHEREAS, the recent proliferation of entertainment transportation vehicles in Nashville poses safety concerns for passengers in such vehicles, pedestrians, and other motorists; and

WHEREAS, residents and businesses in the downtown area have recently expressed concerns about downtown being "out of control" as a result of the party-like atmosphere, specifically as it relates to entertainment transportation vehicles where passengers are consuming alcoholic beverages or beer; and

WHEREAS, the Metropolitan Council is concerned that a continued failure to regulate entertainment transportation vehicles will permanently erode the cultural character of Nashville's neighborhoods that has made the city a vibrant and enjoyable place to live, work, and visit; and

WHEREAS, Section 2.01(22) of the Metropolitan Charter authorizes the Metropolitan Government to regulate the operation of vehicles held out to the public use for hire; and

WHEREAS, Section 2.01(40) of the Metropolitan Charter authorizes the Metropolitan Council to pass all ordinances necessary for the health, convenience, safety, and general welfare of the inhabitants, and to carry out the full ~~intend~~ intent and meaning of the Charter; and

WHEREAS, Tenn. Code Ann. § 55-10-416 authorizes local governments to prohibit open containers of alcoholic beverages and beer in a motor vehicle while it is in operation; and

WHEREAS, consuming alcohol ~~on~~ in an unenclosed vehicle in motion is inherently dangerous; and

WHEREAS, the Metropolitan Council has determined that it is necessary for the protection health, safety, and welfare to enact a comprehensive regulatory scheme for entertainment transportation vehicles, and to prohibit the consumption of alcoholic beverages and beer in motor vehicles.

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

Section 1. Section 2.100.010 of the Metropolitan Code is hereby amended by deleting the provisions of such section in their entirety and substituting with the following:

**2.100.010 Created—Membership.**

~~There is created a metropolitan transportation licensing commission. Such board shall consist of eleven members who shall serve without compensation for a term of four years or until their successors are appointed. Of the eleven members, eight members shall be appointed by the mayor and confirmed by a majority vote of the whole membership of the metropolitan council. At least one of the eight members appointed by the mayor shall be a resident within the area of the~~

~~Downtown or Gulch Central Business Improvement District. For the remaining three membership positions, one member shall be selected by the board of directors Nashville Area Chamber of Commerce, one member shall be selected by the board of directors of the Nashville Convention and Visitors Corporation, and one member shall be selected by the board of directors of the Nashville Downtown Partnership.~~

There is created a metropolitan transportation licensing commission. Such board shall consist of nine public members to be appointed by the mayor and confirmed by a majority vote of the whole membership of the metropolitan council, and who shall serve without compensation for a term of two years or until their successors are appointed. At least one member shall be a resident within the area of the Downtown or Gulch Central Business Improvement District; and one member shall be a representative of the hospitality sector, to be appointed by the mayor from a list of three persons recommended jointly by the board of directors Nashville Area Chamber of Commerce, the board of directors of the Nashville Convention and Visitors Corporation, and the board of directors of the Nashville Downtown Partnership.

Section 2. Title 6 of the Metropolitan Code is hereby amended by adding the following new Chapter 6.77 to become effective on April 1, 2022:

## Chapter 6.77 ENTERTAINMENT TRANSPORTATION

### **6.77.010 Definitions.**

For purposes of this chapter:

"Certificate" means a certificate of public convenience and necessity, a license granted, upon application and approval, by the metropolitan transportation licensing commission for the sole purpose of authorizing the certificate holder to provide entertainment transportation through an entertainment transportation vehicle.

"Certificate holder" means a person, company, corporation or association which has applied for, and been granted, a certificate of public necessity and convenience.

"Driver" means any individual who physically operates an entertainment transportation vehicle as a for-hire vehicle under this chapter. This person may share additional, company-related titles, such as owner, employee of the owner, holder or independent contractor.

"Driver permit" means a permit issued by the MTLC to drive and operate an entertainment transportation vehicle.

"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 raised while the vehicle is in operation and any passenger is in possession of an open container. 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.

"Entertainment transportation vehicle" means any motor vehicle that is designed or constructed to accommodate and transport more than one ~~passengers~~ passenger for hire, the principal operation of which is confined to the area within the Metropolitan area, whether it is operated on a fixed route or schedule, and where the passengers hire the motor vehicle not only as a means of transportation but also for some entertainment or social purpose. "Entertainment transportation" includes, but is not limited to, trucks, buses, and wagons/trailers pulled by a motor vehicle. "Entertainment transportation" does not include a limousine, sedan, shuttle, taxicab, or electric-assist pedal carriage.

"Entertainment transportation vehicle permit" means a permit issued by the MTLC for an entertainment transportation vehicle to carry passengers.

"Entertainment transportation vehicle driver's permit" means a permit issued by the MTLC for a person to operate an entertainment transportation vehicle to carry passengers.

"For hire" means a transaction whereby any money, thing of value, charge tickets, surcharge, payment, pecuniary consideration or compensation, reward, donation, tip, or any other remuneration or profit is paid to, accepted by, or received by a driver, employee, agent, owner, or any other representative of an entertainment transportation vehicle in exchange for the temporary use by or for the transportation of a passenger, whether such is paid voluntarily or upon solicitation, demand, request, contract, agreement, or as a surcharge; or otherwise in conjunction with the purchase of any other services wherein the entertainment transportation is part of the services provided.

"Holder" means a person to whom a certificate of public convenience and necessity has been issued by the commission.

"Inspector(s)" means the inspector(s) for the commission.

"Metro" means the Metropolitan Government of Nashville and Davidson County.

"Metropolitan area" means the area that comprises Nashville and Davidson County.

"Metropolitan transportation licensing commission", also referred to as "MTLC" or "the commission", means the metropolitan transportation licensing commission as established by the Metropolitan Code.

"MTLC director" means the director/executive secretary of the MTLC, as employed by the ~~metropolitan department of public works~~ Nashville Department of Transportation and Multi-modal Infrastructure on behalf of the MTLC.

"Owner" means the person who holds the legal title of the entertainment transportation vehicle.

"Passenger" means any person on an entertainment transportation vehicle other than the driver.

"Person" means any individual, partnership, corporation, association or public or private organization of any character.

"Permittee" means a holder of any permit issued under this chapter.

"Solicit" means the distribution of flyers or other material, or an appeal by bell, horn, whistle, words, or gestures by a driver or his or her agent directed at individuals or groups for the purpose of attracting passengers for immediate hire.

"Taxicab" means a motor vehicle regularly engaged in the business of carrying passengers for hire, donation, gratuity or any other form of remuneration, having a seating capacity of less than nine persons and not operated on a fixed route.

"Traffic and parking commission" means the Metropolitan Traffic and Parking Commission as established by the Metropolitan Charter and Code of Laws.

## **Article I. Certificate of Public Convenience and Necessity**

### **6.77.020 Required and term.**

- A. No entertainment transportation vehicle shall be used or operated on a for hire basis by any person in the territorial jurisdiction of the metropolitan government without an owner or operator having first obtained a certificate of public convenience and necessity. Each certificate shall be valid for one year and shall be subject to renewal pursuant to the provisions set forth in this article. Applications will be reviewed and considered at an annual meeting on a date set by the MTLC.
- B. It shall be unlawful for any person to transport or offer to transport passengers in any entertainment transportation vehicle which does not have affixed to the entertainment transportation vehicle a valid permit issued through the MTLC.
- C. Certificates shall not be transferred, sold or given from one owner to another including the sale of one entertainment transportation vehicle company in its entirety to another without approval of the MTLC upon the filing of an application for such transfer.
- D. The MTLC shall track all certificates, and after the renewal period, if the certificate has not been renewed it shall be determined to be void.

### **6.77.030 Findings—Issuance of certificate or additional permits.**

- A. If the MTLC finds that further or additional entertainment transportation vehicle service in the metropolitan government area is required by the public convenience and necessity and that the applicant is fit, willing, and able to provide such service and to conform to the provisions of this chapter and the rules promulgated by the MTLC, the MTLC may issue a certificate of public convenience and necessity, stating the name and address of the applicant, the number of vehicles authorized upon such certificate and the date of issuance.
- B. In making the above findings, the MTLC shall, at a minimum, take into consideration the number of entertainment transportation vehicles already in operation, whether existing service is adequate to meet the public need; the character, experience, financial condition and responsibility of the applicant, and such criteria as may be adopted by the MTLC in its rules.

### **6.77.040 Application—Information and fees required.**

- A. An application for a certificate of public convenience and necessity shall be filed with the MTLC for each classification of service to be provided. Forms will be provided by the MTLC and payment of a nonrefundable fee will be charged. The amount of the application fee shall be established by the MTLC based upon the cost of processing the application.
- B. The application shall require the following information:
  - 1. Name and address of applicant;
    - a. Sole-proprietor—Name and address of the owner.

- b. Partnership-Names and addresses of all partners.
  - c. Corporation or association—Names and addresses of all the officers, directors, and members.
2. Business name (d/b/a), business address and telephone number if different from above;
  3. A background check of each person;
  4. Proof of U.S. citizenship or legal residency ~~for each person~~;
  5. Names and addresses of two references as to the applicant's financial responsibility;
  6. Prior experience of applicant in transport of passengers;
  7. Number of vehicle permits requested, and copy of proof of ownership or other evidence of lawful control for each vehicle to be operated under the certificate;
  9. Procedures for training drivers;
  10. Rules and regulations governing driver appearance and conduct;
  11. Disclosure of prior state law or Metropolitan Code violations pertaining to noise from motor vehicles, lewd conduct as part of a commercial business, or alcoholic beverage open container laws;
4412. Any additional information the applicant desires to include to aid in the determination of whether the requested certificate should be issued; and
4213. Such further information as the MTLC may require.
- C. An applicant will be ineligible for consideration if:
1. Any of the owners, partners, officers, directors, or members are under twenty-one years of age and/or entertainment transportation vehicle business has no separate legal existence beyond a shareholder, owner, or partner who is under the age of ~~eighteen~~21 years of age;
  2. Any of the owners, partners, officers, directors, or members has been convicted of, forfeited bond, pleaded guilty or nolo contendere to, or been released from incarceration for a felony ~~or any crime involving a controlled substance~~, prostitution, assignation, obscenity, or any crime of a sexual nature in any jurisdiction within ten years immediately preceding the date of application; or has been convicted of, forfeited bond, or pleaded guilty or nolo contendere to multiple felonies.
  3. Any of the owners, partners, officers, directors, or members has violated any portion of this chapter ~~or of Chapter 6.72~~ of the Metropolitan Code within five years immediately preceding the date of application.
  4. Any portion of the application is incomplete or contains incorrect or untruthful information.
- D. An applicant will be ineligible for consideration for a one year period if any owner, partner, officer, director, or member has been found guilty by a court of competent jurisdiction of violating state law or Metropolitan Code provisions three or more times within the past 365 days pertaining to noise from motor vehicles, lewd conduct as part of a commercial business, and/or alcoholic beverage open containers.

#### **6.77.050 Issuance and denial—Fees.**

- A. If the MTLC or the MTLC director determines that further entertainment transportation vehicle services are required and the applicant is qualified, the MTLC or MTLC director may issue a certificate.
- B. The MTLC shall adopt the criteria for determining the necessity for additional entertainment transportation vehicle certificates.
- C. Any person whose application for a certificate is denied by the MTLC director may file a written appeal with the MTLC within thirty days of denial and request an appearance before the MTLC and appear in-person for consideration of the certificate application.
- D. The certificate shall state the name, business address and telephone number of the applicant and the date of expiration.
- E. The MTLC will set a fee to be charged for the issuance of each approved entertainment transportation vehicle permit associated with the certificate.

#### **6.77.060 Annual renewal.**

- A. All certificates issued under the provisions of this chapter shall expire on April 30 of the year following the date on which the certificate was issued. All certificates may be renewed by the MTLC director for each successive year between April 1 and 30 of each year. A renewal fee for each approved certificate and other licensing fees shall be charged at the annual renewal of the certificate.
- B. All applicants for renewal must be current with all assessments and taxes due to the metropolitan government.
- C. If a licensed entertainment transportation vehicle company or individual fails to renew prior to the end of the renewal period, the renewal applicant shall be treated as a new applicant.

#### **6.77.070 Insurance required.**

- A. Before any certificate shall be issued by the commission director, or before the renewal of such certificate shall be granted, the applicant or association shall be required to file an insurance policy and/or certificate of insurance with the MTLC director evidencing insurance coverage as required in this section.
- B. Insurance coverage as provided in subsection (A) of this section means a policy of public liability insurance issued by an insurance company qualified to do business in the state and naming the metropolitan government as an additional insured. Any policy of public liability insurance issued in compliance with this article shall be for a term of not less than one year, and for any entertainment transportation vehicle insured ~~there under~~ thereunder shall afford protection to any third party sustaining injury or damage as a result of the negligent operation of any entertainment transportation vehicle, with the minimum amount of insurance to be one million dollars, known as combined single limit insurance coverage. Such policy shall expressly provide that it may not be canceled, except after thirty days written notice to the commission director.
- C. Such certificate will certify that the policy provides for a minimum of ~~one~~ five million dollars per entertainment transportation vehicle for liability imposed by law for damages on account of bodily injuries, death or personal damages, other than injuries, death or property damages of the company or driver, in any one accident resulting from the ownership, maintenance or

use of such entertainment transportation vehicle. The certificate of insurance shall also list the serial number or identification number of each entertainment transportation vehicle that is insured.

- D. The operation of any entertainment transportation vehicle within the metropolitan area without having in force the public liability insurance policy as outlined in this section is hereby declared to be a violation of this article, subjecting the owner and/or certificate holder to all applicable penalties provided in this article and this chapter.
- E. Any changes in insurance must be reported to the commission immediately.

#### **6.77.080 Request for additional vehicle permits.**

An application for additional entertainment transportation vehicle permits under the certificate issued pursuant to this Article must be filed with the ~~MTLC~~ or the MTLC director. If approved, the established permit fee will be applied.

#### **6.77.090 Suspension and revocation.**

- A. A certificate issued under the provisions of this chapter may be revoked, suspended, placed on probation, otherwise restricted, or not renewed by the MTLC if the holder thereof has:
  - 1. Violated any of the provisions of this chapter or failed to comply with any rule or regulation established by the MTLC;
  - 2. Violated any provision of this code or other ordinances of the metropolitan government or laws of the United States or the State of Tennessee, the violation of which reflects unfavorably on the fitness of the holder to offer transportation services, including but not limited to, violations for excessive noise or alcoholic beverage open containers;
  - 3. Failed to pay assessments or taxes due to the metropolitan government; or
  - 4. Made a misrepresentation or false statement when obtaining a certificate or additional permits, or transferring a certificate.
- B. Prior to any action to revoke, suspend, place on probation, otherwise restrict, or not renew a certificate, the holder shall be given notice to the address listed on their certificate of the proposed action to be taken and shall have an opportunity to be heard by the MTLC.
- C. If the holder commits an act in violation of the criminal laws of the United States of America or state of Tennessee Code and the MTLC director determines that holder poses a threat to the public safety, the MTLC director may enact an emergency suspension of the holder's certificate to remain in effect until the holder has the opportunity to be heard by the MTLC at the next available meeting, but in no circumstance later than 60 days from the date of the emergency suspension.

#### **6.77.100 Reserved. ~~Enforcement by police officers.~~**

~~Officers of the Metropolitan Nashville Police Department shall have the authority to enforce this chapter. A police officer, upon observing a violation of this chapter, of any regulation or rule established by the MTLC or the MTLC director pursuant to this chapter, shall take necessary enforcement action to insure effective regulation of entertainment transportation vehicles.~~

### **Article II. Vehicle and Driver Permits**

**6.77.110 Permit required—Violations and term.**

- A. No person shall drive or otherwise operate an entertainment transportation vehicle engaged in the transportation of passengers unless he or she has a driver's permit and a currently effective Tennessee commercial driver's license. To qualify for a permit, an applicant must comply with all of the requirements and stipulations of this chapter and any rules and regulations adopted by the MTLC.
- B. A person commits an offense if he or she operates an entertainment transportation vehicle in the Metro area without a driver's permit issued by the MTLC.
- C. A business commits an offense if it employs or otherwise allows a person to operate an entertainment transportation vehicle owned, controlled, or operated by the permittee unless the person has a driver's permit issued by the MTLC.
- D. Each permit shall be valid for one year and shall be subject to renewal pursuant to the provisions set forth in this article.

**6.77.120 Application—Information and fees required.**

- A. An application for an entertainment transportation vehicle driver's permit shall be filed with the MTLC on forms provided by the MTLC.
- B. Such application shall be certified under oath and shall at a minimum contain the following information:
  - 1. The name, residential address, telephone number and date of birth of the applicant. No applicant under eighteen years of age will be accepted.
  - 2. The type(s) of vehicle(s) which the applicant will drive under the certificate.
  - 3. The years of experience of the applicant in the transportation industry.
  - 4. The educational background of the applicant.
  - 5. A concise history of the applicant's employment.
- C. The applicant shall provide copies of the following documents in order to submit his application:
  - 1. A valid driver's license issued by one of the 50 states within the United States of America for the issuance or renewal of an entertainment transportation vehicle driver's permit corresponding with the type/classification of entertainment transportation vehicle to be operated (i.e., Commercial Driver License, For-Hire endorsement, etc.).
  - 2. A Social Security card or birth certificate.
  - 3. If a resident alien, a current work permit or other valid United States Immigration and Customs Enforcement document.
  - 4. A copy of a currently effective Tennessee commercial driver's license.
- D. Each application shall be accompanied by an official driver record obtained no longer than 30 days previous to the date of application. All applicants are required to meet the following standards:
  - 1. No convictions in the last five years for any of the following offenses involving bodily injury or death and no convictions in the last three years for any of the following offenses not involving injury or death:



- a. Hit and run;
  - b. Driving under the influence of an alcoholic beverage or drug;
  - c. Reckless or careless driving.
2. For an initial permit, no more than three moving violations within the last three years and no more than two moving violations in the last year.
  3. For a renewal permit, no more than four moving violations within the last three years and no more than two moving violations in the last year.

**6.77.130 Fingerprint-based criminal background investigation.**

- A. All applicants for an entertainment transportation vehicle driver's permit must undergo a fingerprint-based identification and background check. The MTLC staff shall collect background check fees from applicants and schedule them for fingerprinting. A background check report and a copy of the driving record (MVR) of the applicant, if any, shall be attached to the application and forwarded for consideration by the MTLC.
- B. Any applicant shall, in addition to any disqualifications listed elsewhere in this chapter, be disqualified if the applicant:
  1. Has been convicted, pled guilty, placed on probation or parole, pleaded nolo contendere, or been released from incarceration within a period of five years prior to the date of application 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,
    - Kidnapping,
    - Robbery,
    - Felony theft,
    - Burglary,
    - Child sexual abuse,
    - Domestic violence,
    - Any sex-related offense,
    - Leaving the scene of an accident,
    - Criminal solicitation, or criminal attempt to commit any of 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.
  2. If, at the time of application, the applicant is charged with any offenses in subsection (1) of this section, consideration of the application shall be deferred until entry of a plea, conviction, acquittal, dismissal, or other final disposition of the charges.
  3. Has been convicted of or released from incarceration due to two or more felony offenses within the past ~~ten~~ seven years.
  4. Has been convicted for a period of two years prior to the date of application of the violation of two or more sections of this Code or other ordinances governing the operation of entertainment transportation vehicles.

- C. If the applicant fails to disclose any criminal conviction, except traffic citations, on the application for a permit, the application may be referred to the MTLC for consideration.

#### **6.77.140 Application—Approval or disapproval.**

The MTLC or its staff shall, upon the consideration of the application and any reports and certificates required to be attached thereto, approve or reject the application. Any applicant rejected by the MTLC staff may file an appeal within 30 days of denial and request an appearance before the MTLC. The appeal shall be heard by the MTLC at the next available MTLC meeting with the appellant appearing in-person for consideration of the application.

#### **6.77.150 Issuance—Permit contents and display.**

- A. Upon approval of an application for an entertainment transportation vehicle driver's permit, the MTLC director shall issue a permit to the applicant, which shall bear the name, driver's permit number, height, date of birth, photograph of the applicant, and other information deemed appropriate.
- B. Every driver shall at all times conspicuously display a permit either on the clothing of the driver's upper body or within the entertainment transportation vehicle. A driver shall allow the MTLC director, MTLC inspector, or a police officer to examine the permit upon request.

#### **6.77.160 Unpermitted drivers.**

- A. If any person is found operating any entertainment transportation vehicle within the metropolitan area without a valid entertainment transportation vehicle driver's permit on behalf of any holder of a certificate of necessity and public convenience, the MTLC director may immediately take action to suspend or revoke the certificate.
- B. A person whose entertainment transportation vehicle driver's permit is suspended shall not drive an entertainment transportation vehicle within the metropolitan area during the period of suspension.

#### **6.77.170 New application after denial.**

Upon denial of an application for a driver's permit, no new application shall be considered for a period of three months.

#### **6.77.180 Expiration—Issuance and replacement fee.**

- A. Each entertainment transportation vehicle driver's permit shall be issued for a period of one year, or until March 31.
- B. A permit may be issued to qualified applicants upon the payment of a fee established by the MTLC ~~twenty dollars~~ plus the costs of investigation. If the permit for the preceding year has been revoked, no new permit shall be issued without prior MTLC approval. A fee established by the MTLC ~~of ten dollars~~ shall be charged for all replacement driver permits. Such fees shall be in addition to the cost of any investigation.

#### **6.77.190 Hospitality training program—Participation required.**

- A. Every driver shall have attended an approved hospitality program prior to receiving an entertainment transportation vehicle driver's permit, and shall attend an approved hospitality

training course or refresher course prior to applying for or renewal of an entertainment transportation vehicle driver's permit each year.

- B. This course shall include updated information on any new MTLC regulations and safety requirements.
- C. In addition to the driver, every employee of a certificate holder that rides on the entertainment transportation vehicle shall attend the hospitality training program required by this section prior to riding on an entertainment transportation vehicle as part of his/her employment.

#### **6.77.200 Suspension, revocation, and appeal.**

- A. The MTLC director may suspend or revoke any applicant's ~~license~~ certificate if the director determines that the applicant fails to comply with any requirement of this chapter. The director shall notify the applicant of any specific failure to comply with this chapter resulting in the suspension or revocation of their ~~license~~ certificate and the applicant's right to an appeal by first class mail, express mail, overnight carrier, or personal service. If the MTLC director suspends or revokes a certificate ~~license~~, the applicant may appeal within ten days of such suspension or revocation to the MTLC for a hearing to determine if such suspension or revocation is justified. The decision of the MTLC shall be final, subject to any appropriate judicial review.
- B. The MTLC director is hereby given authority to suspend any entertainment transportation vehicle driver's permit issued under this article for a driver's failure or refusal to comply with the provisions of this article. Such suspensions may not last for a period of more than 30 days. The MTLC director is also given authority to revoke any permit for failure to comply with the provisions of this article.
- C. If a driver is charged in any court with a misdemeanor involving moral turpitude, or with any felony, or with driving while intoxicated or under the influence of drugs, or with violations of this article, the MTLC director is hereby given authority to suspend the driver's permit pending final disposition of the charges against them, and to revoke such permit upon conviction thereof.
- D. The MTLC director may revoke an entertainment transportation vehicle driver's permit if the director determines that the permittee has engaged in conduct detrimental to the public safety.
- E. The MTLC director may not suspend or revoke any permit unless the driver has received notice of the charges against them and has had the opportunity to present evidence on their behalf.
- F. Any permittee whose license has been suspended or revoked by the MTLC director may file a written appeal with the MTLC within ten days. If an appeal is not made to the MTLC within ten days of the MTLC director's decision, the MTLC director's decision shall be final. A letter addressed to the MTLC and delivered to the MTLC office stating that an appeal from the decision of the MTLC director is desired shall perfect such appeal. The MTLC, as soon as practicable after receiving such notice of appeal, shall notify the applicant or permittee of the date and time of the hearing which shall be not less than five days after the mailing of such notice. After the hearing of the appeal, the MTLC shall sustain, modify or reverse the findings of the MTLC director, and shall notify the MTLC director and the applicant or permittee of its findings. The findings of the MTLC shall be final, subject to any applicable legal processes.
- G. A driver whose permit is revoked may not reapply for 90 days from the date of revocation and will be treated as a new applicant.

#### **6.77.210 Revocation of a valid driver's license.**

An entertainment transportation vehicle driver's permit issued under this chapter shall be coterminous with the permittee's valid driver's license issued by one of the fifty states in the United States of America for the type/classification of entertainment transportation vehicle to be operated. Any time that a permittee's driver's license is suspended, revoked, or cancelled, their entertainment transportation vehicle driver's permit shall likewise be immediately suspended, revoked, or cancelled. The entertainment transportation vehicle driver's permit shall immediately be surrendered to the MTLC until such time as their driver's license is reinstated.

#### **6.77.220 Conduct of drivers.**

A driver shall at all times:

1. Act in a reasonable, prudent, safe, and courteous manner;
2. Not permit a person not possessing an entertainment transportation vehicle driver's permit to operate the entertainment transportation vehicle;
3. Not permit more passengers to be carried in an entertainment transportation vehicle than for which there is proper seating, and at no time shall the driver allow any passenger to ride in any area of the entertainment transportation vehicle not specifically designed or designated as a seat;
4. Not permit any passenger twelve years of age or younger to ride in an entertainment transportation vehicle unaccompanied by an adult;
5. Not operate an entertainment transportation vehicle while under the influence of intoxicating beverages or drugs;
6. Not operate an entertainment transportation vehicle while possessing a lighted cigarette, cigar, or pipe at any time;
9. Observe and obey all state and local noise and traffic laws and regulations;
10. Not permit a passenger to stand or ride on any part of the entertainment transportation vehicle other than the designated seating area while the entertainment transportation vehicle is in motion and to advise the passengers that they must be seated except when loading or unloading.

#### **6.77.230 Driver appearance.**

- A. Every entertainment transportation vehicle driver, while on duty, shall keep a clean and well-groomed appearance, and shall be dressed in compliance with those rules adopted by the MTLC.
- B. All drivers must wear uniform attire with the entertainment transportation vehicle company's logo.
- C. The MTLC shall have the authority to adopt rules specifically governing the type(s) of permitted and prohibited attire.

#### **6.77.240 Alcohol in an entertainment transportation vehicle.**

- A. A certificate holder or driver commits an offense if he or she provides beer, ale, wine, or other an alcoholic beverage to a passenger for a fee or as part of the passenger transport service.

- B. A certificate holder or entertainment transportation vehicle driver commits an offense if he or she provides or stocks any beer, ale, wine, or other alcoholic beverage in the entertainment transportation vehicle.
- C. The consumption of beer, ale, wine, or other alcoholic beverages upon or within an unenclosed entertainment transportation vehicle is strictly prohibited.

**6.77.250 Return of passengers' property.**

A driver of an entertainment transportation vehicle shall immediately attempt to return to a passenger any property left by the passenger in the entertainment transportation vehicle. If unable to locate the passenger, the driver shall turn the property into the certificate holder's company office at the end of the driver's shift or at the first available opportunity. In such cases, the certificate holder shall make a good faith effort to locate the passenger, and, if not successful, hold the property in storage at its location for at least 30 days, unless otherwise directed by the director.

**6.77.260 Compliance with provisions.**

Every driver granted a permit under this article shall comply with all metropolitan government, state, and federal laws. Failure to do so may result in disciplinary actions including suspension and up to revocation of the entertainment transportation vehicle driver's permit.

**Article III. Equipment and Operation**

**6.77.270 Vehicle permit required.**

Each entertainment transportation vehicle must have a permit issued by the MTLC. The permit will identify each entertainment transportation vehicle by a unique number in accordance with rules and procedures established by the MTLC, and will be associated with the specific classification and by certificate holder. Permits are not transferable to other entertainment transportation vehicles or other certificate holders.

**6.77.280 Ownership and control of vehicles.**

All entertainment transportation vehicles permitted under this chapter must be under the lawful control of a certificate holder demonstrated either by proof of ownership or a copy of a valid lease agreement and must be under the direct control of a permitted driver while in operation or use.

**6.77.290 Vehicle to display identification.**

All entertainment transportation vehicles operated under the authority of this chapter shall be equipped with identification as prescribed by the MTLC in rules and regulations.

**6.77.300 Vehicle requirements; Safety standards.**

- A. To the fullest extent permitted by Tennessee and federal law, Prior to the use and operation of any vehicle under the provisions of this chapter, 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.

- B. To the fullest extent permitted by Tennessee and federal law, Every vehicle operating under this chapter is subject to random and periodic inspections to ensure the continued maintenance of safe operating conditions. A certificate holder shall make an entertainment vehicle available for inspection upon or prior to the expiration of the notice period provided for in the rules and regulations adopted by the MTLC, when ordered to do so by MTLC staff. If, upon inspection it is determined that an entertainment vehicle for hire is not in compliance with this chapter or MTLC rules, the MTLC staff shall order the vehicle to be removed from service or brought into compliance within a reasonable period of time and require it to be re-inspected.
- C. Every vehicle operating under this chapter shall be kept in a clean and satisfactory condition, according to rules and regulations promulgated by the MTLC.
- D. Every vehicle operating under this chapter must be equipped with seats for each passenger.
- E. To the fullest extent permitted by Tennessee and federal law, Every vehicle operating under this chapter shall undergo an annual detailed mechanical inspection conducted by an approved mechanic pursuant to the requirements of rules and regulations adopted by the MTLC. The records of these inspections must be maintained and made available to MTLC staff as provided by the rules and regulations adopted by the MTLC. The certificate holder shall certify under oath to the MTLC director compliance with this subsection.
- F. The MTLC may, by rule, establish additional inspection requirements for entertainment transportation vehicles and other equipment used in the entertainment transportation vehicle service.
- G. The MTLC shall have the authority to promulgate rules and regulations consistent with applicable law to ensure the safe operation of entertainment transportation vehicles.

**6.77.310 Reserved. Inspection and maintenance of vehicles—Compliance required.**

- A. ~~Prior to the use and operation of any entertainment transportation vehicle under the provisions of this chapter, such vehicle shall be thoroughly examined and inspected by the certificate holder and found to comply with such rules and regulations as may be prescribed by the MTLC. To the greatest extent permitted by Tennessee and federal law, these rules and regulations shall be promulgated to provide safe transportation and shall specify such safety equipment and regulatory devices as the MTLC shall deem necessary. Every entertainment transportation vehicle operating under this chapter shall be periodically inspected by the certificate holder at such intervals as shall be established by the MTLC to ensure the continued maintenance of safe operating conditions. A certificate holder, owner, or driver shall make the entertainment transportation vehicle available for inspection at such place within the metropolitan area as the MTLC director or his designee may direct. If, upon inspection, the director or his designee determines that an entertainment transportation vehicle is not in compliance with this chapter or the entertainment transportation vehicle rules, the director or his designee shall, based upon the condition noted, order the entertainment transportation vehicle be removed from service or that the vehicle be brought into compliance within a reasonable period of time and require it to be re-inspected.~~

- ~~B. Every entertainment transportation vehicle operating under this chapter shall be kept in a clean and satisfactory condition according to rules and regulations promulgated by the MTLC.~~
- ~~C. Every entertainment transportation vehicle operating under this chapter shall annually undergo a detailed inspection conducted by an approved mechanic to determine if the vehicle conforms to the standards set out by the MTLC. A safety certificate form, when completed by an approved mechanic, shall be provided to the MTLC director within 30 days of the inspection.~~
- ~~D. The MTLC may, by rule, establish additional inspection requirements for an entertainment transportation vehicle and other equipment used in the entertainment transportation vehicle service.~~

#### **6.77.320 Operating area.**

Entertainment transportation vehicles shall operate upon the streets within the metropolitan area on routes or zones, and within hours of operation, established by the MTLC or its staff. Any deviation from these approved routes, zones, or hours of operation must be approved by the MTLC or its staff. Any approved deviation must be reported to the MTLC or the MTLC director staff prior to beginning of operations.

#### **6.77.330 Records and reports.**

- A. Each holder shall maintain at a single location business records of its entertainment transportation vehicle business. The records must be maintained in a manner approved by the MTLC director and contain the following information:
  - 1. An identification of the entertainment transportation vehicles operating each day;
  - 2. An identification of the drivers operating the entertainment transportation vehicles each day and a statement of the hours each driver operated the vehicle each day; and
  - 3. Any other information the MTLC director determines necessary for monitoring the activities, operations, service, and safety record of the licensee.
- B. A certificate holder shall make its records available for inspection by the MTLC director, inspector, law enforcement officer or designated officials.

#### **6.77.340 Accidents.**

- A. All accidents arising from or in connection with the operation of an entertainment transportation vehicle shall be reported within 72 hours from the time of occurrence to the MTLC director if the accident results in:
  - 1. Death or bodily injury to any person, or
  - 2. Damage to any vehicle, or to any property in an amount exceeding the sum of four hundred dollars.
- B. A driver operating an entertainment transportation vehicle at the time of an accident involving bodily injury is required to report for a drug screen, within 24 hours from the time of occurrence, at a testing site approved by the MTLC. Failure to report for a screen shall result in revocation of the driver's permit.

- C. An entertainment transportation vehicle damaged in an accident, but still operable without placing the driver or passengers at risk, must be repaired within two weeks of the accident or removed from operation until repaired and inspected.

**6.77.350 Passengers—Receiving and discharging by drivers.**

- A. Drivers shall only receive and discharge passengers at designated staging areas/locations approved by the MTLC.
- B. Drivers shall not allow additional passengers to board the entertainment transportation vehicle after the vehicle has left its fixed starting point.

**6.77.360 Disposition of disorderly passengers.**

Drivers shall act in a reasonable and professional manner in dealing with disorderly passengers.

**6.77.370 Soliciting business.**

No certificate holder or driver of an entertainment transportation vehicle shall offer any compensation of whatever form to any person or entity in exchange for the direction or recommendation of passengers to that entertainment transportation vehicle, provided that this section shall not prohibit certificate holders from advertising their entertainment transportation business.

**6.77.380 Compliance with other laws.**

It shall be a violation of this chapter for a certificate holder or driver to violate any other applicable federal, state or local law or regulation in offering or providing entertainment transportation vehicle services.

**6.77.390 ~~Inspectors—Reporting or citing violations~~ Enforcement.**

A. 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.

B. In addition to the enforcement authority provided to MTLC inspectors in subsection A. of this section, officers of the Metropolitan Nashville Police Department shall have the authority to enforce this chapter. A police officer, upon observing a violation of this chapter or of any regulation or rule established by the MTLC or the MTLC director pursuant to this chapter, shall take necessary enforcement action to insure effective regulation of entertainment transportation vehicles.

**6.77.400 Reserved. ~~Entertainment transportation vehicle passenger's bill of rights.~~**

~~A. All entertainment transportation vehicle passengers within the area of the metropolitan government shall have the following rights:~~



- ~~1. A professional driver who is licensed and knowledgeable about popular entertainment transportation vehicle routes, destinations, and attractions in Nashville and Davidson County;~~
  - ~~2. A driver who knows and obeys all traffic laws and ordinances related to entertainment transportation vehicles;~~
  - ~~3. A quality entertainment transportation vehicle that is mechanically free of problems and is clean; and~~
  - ~~4. The right to refuse to tip.~~
- ~~B. The information including in subsection A shall be posted in each entertainment transportation vehicle in plain view of all passengers, and shall include the telephone number of the MTLC.~~

#### **6.77.410 Limitation of service due to weather conditions.**

Entertainment transportation vehicles shall not receive passengers ~~be operated~~ when weather conditions are sufficiently adverse or inclement so as to endanger passengers or the public. The MTLC, by rule, may adopt specific guidelines for the operation of entertainment transportation vehicles in inclement weather conditions.

#### **Article IV. Violations—Civil Penalty Schedules**

#### **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.
- C. The MTLC shall have the authority to promulgate, implement, and enforce additional rules and regulations pertaining to entertainment transportation vehicles, provided such rules and regulations are consistent with the provisions of this chapter. Such authority includes adopting regulations pertaining to the types and levels of noise amplification on entertainment transportation vehicles.

#### **6.77.430 Severability.**

If any provision or clause of this chapter or the application thereof to any person or circumstance is held to be unenforceable by a court of competent jurisdiction, such clause or provision and the remainder of this chapter shall remain effective and enforceable to the fullest extent allowed by law, and all clauses and provisions of this chapter are hereby declared to be severable.

Section 3. That Section 6.75.240 of the Metropolitan Code is hereby amended by deleting subsection C. in its entirety.

Section 4. That Section 7.24.040 of the Metropolitan Code is hereby amended by adding the following new subsection C.:

- C. Open containers in motor vehicles.

1. Definitions:
  - a. An "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 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 raised while the vehicle is in operation and any passenger is in possession of an open container. 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. "Open Container" means any container containing alcoholic beverages or beer, the contents of which are immediately capable of being consumed or the seal of which has been broken.
  - c. An open container within a vehicle is in the possession of the passenger when it is not in the possession of the driver and is not located in a locked glove compartment, trunk, or other non-passenger area of the vehicle.
  - d. A motor vehicle is in operation if its engine is operating, whether or not the vehicle is moving.
  - e. "Alcoholic Beverage" means alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine capable of being consumed by a human being, other than patented medicine, beer, or wine, where the latter two contain an alcoholic content of eight percent by weight.
  - f. "Beer" means beer, ale or any other beverage having an alcoholic content of not more than eight percent by weight.
2. It is unlawful for any passenger to consume any alcoholic beverage or beer or possess an open container of alcoholic beverage or beer during the operation of an unenclosed vehicle.

Section 5. That Section 12.54.210 of the Metropolitan Code is hereby amended by deleting subsection C. in its entirety.

Section 6. That Section 9.20.020 of the Metropolitan Code is hereby amended by modifying subsection B. as follows:

- B. No person operating or occupying a motor vehicle, including an entertainment transportation vehicle, on any street, highway, alley, parking lot, or driveway, either public or private property, shall operate or permit the operation of any sound amplification system, including, but not limited to, any radio, tape player, compact disc player, loud speaker, or any other electrical device used for the amplification of sound from within the motor vehicle so that the sound is plainly audible at a distance of fifty or more feet from the vehicle or, in the case of a motor vehicle on private property, beyond the property line.

Section 7. If any portion or clause of this ordinance or the application thereof to any person or circumstance is held to be unenforceable by a court of competent jurisdiction, such clause or provision and the remainder of this ordinance shall remain effective and enforceable to the fullest extent allowed by law, and all clauses and provisions of this ordinance are hereby declared to be severable.

Section 68. This ordinance shall take effect from and after its enactment, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

INTRODUCED BY:

\_\_\_\_\_  
Freddie O'Connell

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Members of Council