SUBSTITUTE ORDINANCE NO. BL2025-954

An Ordinance amending Title 6 of the Metropolitan Code to amend the definition of Entertainment Transportation Vehicles and to regulate the operation of Seated Sightseeing Vehicles.

WHEREAS, Nashville has a rich cultural heritage, with various locations throughout the county celebrating the city's history, politics, culinary and fine arts, entertainment, and~~, of course, its~~ music; and

WHEREAS, each year Nashville welcomes tens of thousands of families from across the world to The Athens of the South, encouraging visitors to experience all aspects of our great city; and

WHEREAS, for 50 years, Nashville's historic tours have helped connect visiting families to cultural sites, telling the great story of Nashville~~ while providing "hop on, hop off" transportation services~~; and

WHEREAS, the Metro Code envisions that vehicles for hire are regulated by category, with separate code chapters designated for taxicabs (Chapter 6.72), low speed vehicles (Chapter 6.73), pedicabs and pedal carriages (Chapter 6.75), and now entertainment vehicles (Chapter 6.77); and

WHEREAS, though they are both regulated as entertainment transportation vehicles (ETVs), the Metropolitan Transportation Licensing Commission currently distinguishes between sightseeing vehicles and party buses; and

~~WHEREAS, seated sightseeing vehicles operate on a fixed and approved route, the majority of which occurs outside of the urban core; and~~

WHEREAS, seated sightseeing vehicles are different from party buses, both by the nature of the vehicles themselves and by the method and purposes they serve to the general public, and so should be regulated separately; and

WHEREAS, seated sightseeing vehicles operate on a pre-approved fixed route; and

WHEREAS, passengers of seated sightseeing vehicles remain seated while the vehicles are in operation, thus the vehicles may be able to safely keep up with the speed of traffic ~~while in operation because the passengers are seated~~; and,

WHEREAS, it is in the best interest of the Metropolitan Government to enact a regulatory scheme for seated sightseeing vehicles that is separate and apart from the regulatory scheme of entertainment transportation vehicles.

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

Section 1. That Section 6.77.010 of the Metropolitan Code is hereby amended by deleting the definition of "Entertainment Transportation Vehicle" in its entirety and replacing it with the following language:

> "Entertainment transportation vehicle" means any motor vehicle that is designed or constructed to accommodate and transport more than one 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, electric-assist pedal carriage, or seated sightseeing vehicle.

Section 2. That Title 6 of the Metropolitan Code is hereby amended by adding the following new Chapter 6.78:

CHAPTER 6.78 – SEATED SIGHTSEEING VEHICLES

6.78.010 - 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 (“MTLC”) for the sole purpose of authorizing the certificate holder to provide transportation through a seated sightseeing vehicle. A certificate holder may hold one or more permits as defined under this section.

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

"Change in control" means either: (i.) a change in ownership such that fifty percent or more of the direct or indirect voting or economic interests in such permittee is transferred to a transferee; or (ii.) a change in the power to direct or cause the direction of management and policy of the permittee is transferred to a transferee~~; or (iii)~~. For the purposes of this definition, "permittee" means the holder of a certificate or permit issued pursuant to this chapter and "transferee" means a person, entity, or group of people or entities acting in concert.

"Driver" means any individual who physically operates a seated sightseeing 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 a seated sightseeing vehicle.

"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 a seated sightseeing 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 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 MTLC.

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

"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 Nashville Department of Transportation and Multimodal Infrastructure on behalf of the MTLC.

"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.

"Owner" means the person who holds the legal title of the seated sightseeing vehicle.

"Passenger" means any person on a seated sightseeing vehicle other than the driver and staff.

"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.

“Seated sightseeing vehicle” means any motor vehicle that is designed or constructed to accommodate and transport more than one passenger for hire, which consistently operates on one or more fixed routes, where all passengers are required to remain seated at all times while the vehicle is in operation, and where alcohol is never permitted or served on the vehicle. A “seated sightseeing vehicle” is considered “entertainment transportation” under Tenn. Code Ann. § 7-51-1008.

“Seated sightseeing vehicle permit” means a permit issued by the MTLC for a seated sightseeing vehicle to carry passengers.

“Seated sightseeing vehicle driver’s permit” means a permit issued by the MTLC for a person to operate a seated sightseeing vehicle to carry passengers.

“Seated sightseeing vehicle stand” means a place alongside a street, or other public way, where designated stops and passenger pickups have been approved by the Director of the Nashville Department of Transportation and Multimodal Infrastructure, or his or her designee, and the Traffic and Parking Commission.

"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.

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

“Urban core” means the area between and including Korean Veterans Boulevard and Church Street and 1st Avenue and 8th Avenue within the jurisdiction of the Metropolitan Government of Nashville and Davidson County.

Article I. - Certificate of Public Convenience and Necessity

6.78.020 - Required and term.

A. No seated sightseeing 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.

B. It shall be unlawful for any person to transport or offer to transport passengers in any seated sightseeing vehicle which does not have affixed to the front window of the seated sightseeing vehicle a valid permit issued through the MTLC.

C. No certificate issued pursuant to this chapter may be assigned, transferred, sold, or given from one person or entity to another without the express written approval of the MTLC upon the filing of an application for such a transfer. For the purposes of this chapter, a transfer includes a change in control of the certificate holder.

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.

6.78.030 - Findings-Issuance of certificate or additional permits.

A. The MTLC must make an annual finding as to what number of seated sightseeing service providers and vehicles are required by the public convenience and necessity, in Nashville and Davidson County, before it may issue any new certificates of public convenience and necessity, renew any previously issued expiring certificates, or add any additional permitted vehicles to an existing certificate holder's permitted fleet. Further, the MTLC must find 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, before the MTLC may issue a certificate of public convenience and necessity. The certificate shall state 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 seated sightseeing vehicles already in operation, whether existing service is adequate to meet the public need, whether adding additional seated sightseeing vehicles unnecessarily adds to traffic congestion, the character, experience, financial condition and responsibility of the applicant, and such other criteria as may be adopted by the MTLC in its rules.

6.78.040 - Application-Information and fees required.

A. An application for a certificate of public convenience and necessity shall be filed with the MTLC. 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 driver covering the ten years immediately preceding the date of application;

4. Names and addresses of two references as to the applicant's financial responsibility;

5. Prior experience of applicant in transport of passengers;

6. 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;

7. Procedures for training drivers;

8. Rules and regulations governing driver appearance and conduct;

9. 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;

10. A copy of each driver's official motor vehicle report or equivalent form showing the driver's driving history for the past three years from all states within which the applicant has resided in the past three years~~.~~;

11. Any additional information the applicant desires to include to aid in the determination of whether the requested certificate should be issued; and

12. 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 the seated sightseeing vehicle business has no separate legal existence beyond a shareholder, owner, or partner who is under the age of twenty-one 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, 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 Chapter 6.77 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 applicant, owner, partner, officer, director, or member has been found by a court of competent jurisdiction in violation of state law or Metropolitan Code provisions three or more times within the past three hundred sixty-five days ~~pertaining to noise from motor vehicles, lewd conduct as part of a commercial business, and/or alcoholic beverage open containers~~.

6.78.050 - Issuance and denial—Fees.

A. If the MTLC or the MTLC director determines that further seated sightseeing vehicles 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 seated sightseeing 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 seated sightseeing vehicle permit associated with the certificate. There shall be a separate fee for the company/certificate holder and additional separate permit fees required on a per vehicle basis.

6.78.060 - Annual renewal.

A. All certificates issued under the provisions of this chapter shall expire 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 April 30 of each year, if the applicant meets all applicable standards for renewal as established by the MTLC, and if it has not been determined, pursuant to Section 6.78.030 above, that the number of seated sightseeing vehicles already in operation is so great as to be exceeding the public need and adding to traffic congestion. 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 seated sightseeing vehicle company or individual fails to renew prior to the end of the renewal period, the license shall expire and the renewal applicant shall be treated as a new applicant.

D. Within 90 days of the passage of this ordinance, any certificate holder that holds an entertainment transportation vehicle permit with a ~~"Seated Sightseeing or Charter Tour Vehicle"~~ "seated sightseeing" designation, pursuant to Chapter 6.77, and that meets the definition of "seated sightseeing vehicle" as set forth in this Chapter, ~~shall immediately~~ may forfeit their existing entertainment transportation vehicle permit(s) with ~~and shall be granted~~ a seated sightseeing vehicle ~~permit that~~ designation to MTLC staff in exchange for a seated sightseeing vehicle certificate. Such seated sightseeing vehicle certificates will be valid until the date of the first seated sightseeing vehicle annual hearing following the passage of this ordinance. At the time of the first seated sightseeing vehicle annual hearing following the passage of this ordinance, no entertainment transportation vehicle permits with a seated sightseeing designation shall be renewed, and instead, all entertainment transportation vehicle permits with a "seated sightseeing" designation pursuant to Chapter 6.77 that were issued prior to May 1, 2024 shall be granted a seated sightseeing vehicle certificate by the MTLC in accordance with state law. Those certificate holders that hold an entertainment transportation vehicle permit with a "seated sightseeing" designation pursuant to Chapter 6.77 that either does not meet the definition of "seated sightseeing vehicle" under this chapter or was issued after May 1, 2024, shall retain their entertainment transportation vehicle permit with the seated sightseeing vehicle designation until the next annual hearing following the passage of this ordinance, at which time the MTLC will consider such certificate holder's application for renewal under chapter 6.77.

6.78.070 – 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 with its application 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:

1. Holders of certificates of public convenience and necessity shall maintain commercial general (public) liability insurance, inclusive of contractual liability, in a minimum amount as determined by the MTLC in consultation with the Metropolitan Government Insurance and Claims Manager written on an occurrence basis. This insurance shall be issued by an insurance company qualified to do business in the state and naming the metropolitan government as an additional insured.

2. Such holders shall also maintain commercial automobile liability insurance that shall afford protection to any third-party sustaining injury or damage as a result of the negligent operation of any seated sightseeing or other motor vehicle affiliated with the company in minimum amounts and under such coverages as determined by the MTLC in consultation with the Metropolitan Government Insurance and Claims Manager. These policies shall be issued by an insurance company qualified to do business in the state and naming the metropolitan government as an additional insured. These policies shall provide for the minimum coverage amounts (set as described above) to apply to each seated sightseeing 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 seated sightseeing vehicle. The certificate of insurance shall also list the serial number or identification number of each seated sightseeing vehicle that is insured.

3. Any insurance policy issued in compliance with this article shall remain in place at least through the length of the licensing, and for any seated sightseeing vehicle insured thereunder such policies shall expressly provide that they may not be canceled, except after thirty days written notice to the commission director.

C. The operation of any seated sightseeing 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 <u>material</u> violation of this article, subjecting the owner and/or certificate holder to all applicable penalties provided in this article and this chapter.

D. Any changes in insurance must be reported to the commission immediately.

~~**6.78.080 - Request for additional vehicle permits.**~~

~~An application for additional seated sightseeing vehicle permits under the certificate issued pursuant to this article must be filed with the MTLC director and approved by the chief traffic engineer, or his or her designee, to ensure that additional permits will not create overcapacity. If approved, the established permit fee will be applied.~~

6.78.<u>080</u>~~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 or renewing a certificate or additional permits, or transferring a certificate.

5. Notwithstanding the foregoing provisions of this section, entertainment transportation vehicle permits that were issued with a "seated sightseeing" designation under chapter 6.77 prior to May 1, 2024, and that have been converted to seated sightseeing vehicle permits under this chapter, shall only be revoked for good cause shown in an administrative hearing, in accordance with state law.

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 sixty days from the date of the emergency suspension.

Article II. - Vehicle and Driver Permits

6.78.090~~110~~ - Permit required-Violations and term.

A. No person shall drive or otherwise operate a seated sightseeing vehicle engaged in the transportation of passengers unless he or she has a seated sightseeing vehicle driver's permit and a currently effective Tennessee commercial or other legal driver's license with a passenger (P) endorsement. 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 a violation of this chapter if he or she operates a seated sightseeing vehicle in the Metro area without a seated sightseeing vehicle driver's permit issued by the MTLC.

C. A seated sightseeing vehicle certificate holder commits a violation of this chapter if it employs or otherwise allows a person to operate a seated sightseeing vehicle owned,

controlled, or operated by the permittee unless the person has a driver's permit issued by the MTLC.

D. Each seated sightseeing vehicle permit and driver's permit shall be valid for one year and shall be subject to renewal pursuant to the provisions set forth in this article.

6.78.<u>100</u>~~120~~ – Application-Information and fees required.

A. An application for a seated sightseeing 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. 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 fifty states within the United States of America for the issuance or renewal of a seated sightseeing vehicle driver's permit corresponding with the type/classification of seated sightseeing vehicle to be operated (i.e., commercial driver license, for-hire endorsement, etc.).

2. A Social Security card or birth certificate, or if a resident alien, a current work permit or other valid United States Immigration and Customs Enforcement document.

3. A copy of a currently effective Tennessee commercial or other legal driver's license with a passenger (P) endorsement.

D. Each application shall be accompanied by an official driver record obtained no longer than thirty 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 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.

6.78.<u>110</u>~~130~~ - Fingerprint-based criminal background investigation.

A. All applicants for a seated sightseeing 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 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 seated sightseeing vehicles.

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

6.78.120 ~~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 thirty 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.

6.78.130 ~~150~~ - Issuance-Permit contents and display.

A. Upon approval of an application for a seated sightseeing vehicle driver's permit, the MTLC director shall issue a permit to the applicant, which shall bear the name, company affiliation and other information deemed necessary by the MTLC director.

B. Every driver shall at all times conspicuously display a permit either on the clothing of the driver's upper body or within the seated sightseeing vehicle. A driver shall allow the MTLC director, MTLC inspector, or a police officer to examine the permit upon request.

6.78.140 ~~160~~ - Unpermitted drivers.

A. If any person is found operating any seated sightseeing vehicle within the metropolitan area without a valid seated sightseeing 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 seated sightseeing vehicle driver's permit is suspended shall not drive a seated sightseeing vehicle within the metropolitan area during the period of suspension.

6.78.150 ~~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.

6.78.160 ~~180~~ – Expiration-Issuance and replacement fee.

A. Each seated sightseeing 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 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 shall be charged for all replacement driver permits. Such fees shall be in addition to the cost of any investigation.

6.78.170 ~~190~~ - Hospitality training program-Participation required.

A. Every driver shall have attended a hospitality program approved by the MTLC prior to receiving a seated sightseeing vehicle driver's permit, and shall attend an approved hospitality training course or refresher course prior to applying for or renewal of a seated sightseeing 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 seated sightseeing vehicle shall attend the hospitality training program required by this section prior to riding on a seated sightseeing vehicle as part of his/her employment.

6.78.<u>180</u> ~~200~~ - Suspension, revocation, and appeal.

A. The MTLC director may suspend or revoke any applicant's 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 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, 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 seated sightseeing 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 thirty days.

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 suspend or revoke a seated sightseeing vehicle driver's permit if the director determines that the permittee has engaged in conduct detrimental to the public safety, provided the driver has received notice of the charges against them and has had the opportunity to present evidence on their behalf to the MTLC.

E. Any permittee whose permit 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.

F. A driver whose permit is revoked may not reapply for ninety days from the date of revocation and will be treated as a new applicant.

6.78.<u>190</u> ~~210~~ - Revocation of a valid driver's license.

A seated sightseeing 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 seated sightseeing vehicle to be operated. Any time that a permittee's driver's license is suspended, revoked, or cancelled, their seated sightseeing vehicle driver's permit shall likewise be immediately suspended, revoked, or cancelled. The seated sightseeing vehicle driver's permit shall immediately be surrendered to the MTLC until such time as their driver's license is reinstated.

6.78.200 ~~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 who does not possess a seated sightseeing vehicle driver's permit to operate the seated sightseeing vehicle;

3. Not permit more passengers to be carried in a seated sightseeing 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 seated sightseeing vehicle not specifically designed or designated as a seat;

4. Not operate a seated sightseeing vehicle while under the influence of intoxicating beverages or drugs;

5. Not operate a seated sightseeing vehicle while possessing a lighted cigarette, cigar, or pipe at any time;

6. Observe and obey all state and local noise and traffic laws and regulations;

7. Not permit any passenger to possess an open container or consume alcohol at any time; and

8. Not permit any passenger to stand while the seated sightseeing vehicle is in motion.

6.78.210 ~~230~~ - Driver appearance.

A. The MTLC shall have the authority to adopt rules specifically governing the type of permitted and prohibited driver attire, unless otherwise prohibited by law. ~~Every seated sightseeing vehicle driver, while on duty, shall be dressed in compliance with those rules adopted by the MTLC.~~

B. Every seated sightseeing vehicle driver, while on duty, shall be dressed in compliance with those rules adopted by the MTLC. ~~All drivers must wear uniform attire with the seated sightseeing vehicle company's name and/or logo.~~

C. All drivers must wear uniform attire with the seated sightseeing vehicle company's name and/or logo, unless otherwise prohibited by law. ~~The MTLC shall have the authority to adopt rules specifically governing the type(s) of permitted and prohibited attire.~~

6.78.220 ~~240~~ - Operation regulations for seated sightseeing vehicle.

A. A certificate holder or seated sightseeing vehicle driver commits a violation of this chapter if he or she provides beer, ale, wine, or other alcoholic beverage to a passenger for a fee or as part of the passenger transport service.

B. A certificate holder or seated sightseeing vehicle driver commits a violation of this chapter if he or she provides or stocks any beer, ale, wine, or other alcoholic beverage in the seated sightseeing vehicle.

C. The consumption of beer, ale, wine, or other alcoholic beverages upon or within a seated sightseeing vehicle is strictly prohibited. The certificate holder shall make clear on any company website that promotes a seated sightseeing vehicle, at points of sale, and upon entry to a seated sightseeing vehicle that alcohol is prohibited on a seated sightseeing vehicle. Within 60 days of the passage of this ordinance, the MTLC shall review the websites and procedures of the certificate holder, and generate a report indicating compliance or lack thereof with this section. Thirty (30) days following the issuance of such a report, noncompliance with this section shall be deemed a violation to be adjudicated by the MTLC in accordance with the MTLC Rules and Procedures.

D. It is unlawful for any person driving or in any way operating a seated sightseeing vehicle to knowingly allow a passenger or staff to consume alcoholic beverages within a seated sightseeing vehicle. For purposes of this subsection, "knowingly allow" means the driver or operator ~~person~~ has actual notice of or, through reasonable due diligence, should know that a passenger is consuming an alcoholic beverage or beer within a seated sightseeing vehicle.

~~E. Three (3) violations of the alcohol prohibitions in this section within a permit year is a material violation and may subject a certificate holder to suspension or revocation of that certificate holder's seated sightseeing vehicle permit.~~

E. ~~F.~~ Seated sightseeing vehicle passengers must remain seated at all times when the vehicle is in operation. The certificate holder shall make clear on any company website that promotes a seated sightseeing vehicle, at points of sale, and upon entry to the seated sightseeing vehicle that passengers are to remain seated at all times the vehicle is in operation. Drivers shall ensure that passengers remain seated while the vehicle is in operation.

F. ~~G.~~ Seated sightseeing vehicles shall be required ~~permitted~~ to operate on a fixed route or schedule, which has been pre-approved by the Director of the MTLC and the chief traffic engineer of the Nashville Department of Transportation and Multimodal Infrastructure, or his or her designee, within the boundaries of the Metropolitan Government of Nashville and Davidson County, between the hours of 8:00 a.m. and 11:00 p.m. No seated sightseeing vehicle may operate in the Urban Core during the hours of 4:00 p.m. to 6:00 p.m., except as permitted by section 6.78.320 ~~340~~. Approval required under this section for fixed routes and schedules shall not be unreasonably withheld, conditioned, or delayed.

6.78.230 ~~250~~ - Return of passengers' property.

A driver of a seated sightseeing vehicle shall immediately attempt to return to a passenger any property left by the passenger in the seated sightseeing 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 thirty days, unless otherwise directed by the director.

6.78.240 ~~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 seated sightseeing vehicle driver's permit.

Article III. - Equipment and Operation

6.78.250 ~~270~~ - Vehicle permit required.

Each seated sightseeing vehicle must have a vehicle permit issued by the MTLC. The vehicle permit will identify each seated sightseeing 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. Seated sightseeing vehicle permits shall be renewed annually in accordance with this chapter and Tenn. Code Ann. § 7-51-1008. Permits are not transferable to other seated sightseeing vehicles or other certificate holders. For the purposes of this chapter, a transfer includes a change in control of the permittee or certificate holder.

6.78.260 ~~280~~ - Ownership and control of vehicles.

All seated sightseeing 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.

6.78.270 ~~290~~ - Vehicle to display identification.

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

6.78.280 ~~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 a seated sightseeing 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 a seated sightseeing 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 adequate seating as determined by the MTLC.

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 a mechanic, as reasonably approved by the MTLC director, and 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 seated sightseeing vehicles and other equipment used in the seated sightseeing vehicle service.

G. The MTLC shall have the authority to promulgate rules and regulations consistent with applicable law to ensure the safe operation of seated sightseeing vehicles.

6.78.290 ~~310~~ - Records and reports.

A. Each certificate holder shall maintain business records of its seated sightseeing vehicle business at a single location. The records must be maintained in a manner approved by the MTLC director and contain the following information:

1. An identification of the seated sightseeing vehicles operating each day;

2. An identification of the drivers operating the seated sightseeing 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

6.78.300 ~~320~~ - Accidents.

A. All accidents arising from or in connection with the operation of a seated sightseeing vehicle shall be reported within seventy-two 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 five thousand dollars.

B. A driver operating a seated sightseeing vehicle at the time of an accident involving bodily injury is required to report for a drug screen, within twenty-four 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. A seated sightseeing 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.

6.78.310 ~~330~~ - Passengers—Receiving and discharging by drivers; designated stops

A. Drivers shall receive and discharge passengers at designated seated sightseeing vehicle stands. ~~Any stand in operation as of January 1, 2023 may remain unless the Director of Nashville Department of Transportation and Multimodal Infrastructure, or his/her designee, in the exercise of their professional traffic engineering judgment, determine the that the stand should be removed from the public right-of-way.~~ Locations of seated sightseeing vehicle stands must be pre-approved by the Director of the Nashville

Department of Transportation and Multimodal Infrastructure ("NDOT"), or his/her designee, and the Traffic and Parking Commission.

B. Within 30 days of the passage of this ordinance, certificate holders with seated sightseeing vehicle stands must provide the Director of NDOT, or his or her designee, with maps showing the location of such existing stands. Prior to the date of the first seated sightseeing vehicle annual hearing following the passage of this ordinance, the Director of NDOT, or his/her designee, shall provide a report to the Traffic and Parking Commission of all existing seated sightseeing stands in operation, along with a recommendation for keeping or removing such stands. The recommendations made in this report shall be based on criteria including, but not limited to, traffic patterns, public safety, and operational inefficiencies. The Traffic and Parking Commission shall approve or disapprove these locations at its next regularly scheduled meeting following the completion of the report.

C. ~~B.~~ Seated sightseeing vehicles may stop at an approved seated sightseeing vehicle stand for no more than five ~~three~~ minutes unless extenuating circumstances require more time ~~, not to exceed five minutes~~. In consultation with and the preapproval of the Director of the NDOT ~~Nashville Department of Transportation and Multimodal Infrastructure~~, or his/her designee, and subject to the approval of the Traffic and Parking Commission ,a certificate holder may designate an approved stand that is located outside of the Urban Core ~~urban core~~ as the certificate holder's home stand for the initial unloading and loading of passengers. The initial unloading and loading of passengers at a home stand may take longer than ten minutes.

6.78.320 ~~340~~ - Application for permit to operate between 4:00 p.m. and 6:00 p.m. in the Urban Core - Information and fees required.

A. No seated sightseeing vehicle shall operate between the hours of 4:00 p.m. and 6:00 p.m. in the Urban Core unless the certificate holder obtains a permit from the MTLC to operate during those hours.

B. A seated sightseeing vehicle certificate holder may apply for a permit to operate in the Urban Core between the hours of 4:00 p.m. and 6:00 p.m., Monday through Friday.

C. An application for a permit to operate a seated sightseeing vehicle between the hours of 4:00 p.m. and 6:00 p.m. in the Urban Core, Monday through Friday, shall be filed with the MTLC on forms provided by the MTLC.

D. Such application shall be certified under oath and shall at a minimum contain the following information:

1. A traffic study performed by an engineer who is licensed in the state of Tennessee with experience in performing such studies. The engineer and/or engineering firm and the methodology to be used in the traffic study must be pre-approved by the Nashville Department of Transportation and Multimodal Infrastructure's Chief Traffic Engineer, or his/her designee. The traffic study must demonstrate that the relevant seated sightseeing vehicle(s) travels at the posted speed limit or maintains speed to keep up with the flow of traffic. ~~, with passengers on board, during normal operations for which it is presently permitted~~. To operate between 4:00 p.m. to 6:00 p.m. in the Urban Core, the vehicle must maintain speed to keep up with the flow of traffic at all times. If an applicant's traffic study shows that the relevant seated sightseeing vehicle is unable to travel at the speed limit or maintain speeds to keep up with the flow of traffic, the application for a 4:00 p.m. to 6:00 p.m. permit will be denied. Any traffic study approved by the Nashville

Department of Transportation and Multimodal Infrastructure's Chief Traffic Engineer, or his/her designee, prior to the passage of this ordinance shall be deemed to satisfy this requirement; and

2. Any seated sightseeing vehicle certificate holder shall certify that they:

(i) operate on pre-approved fixed routes approved by the Director of the MTLC and NDOT's Chief Engineer;

(ii) allow ticketed passengers to freely board and disembark at any designated stop between 4:00 p.m. and 6:00 p.m. without requiring advance notice;

(iii) maintaining a consistent schedule and frequency of service that facilitates point-to-point circulation throughout the Urban Core;

(iv) require passengers to remain seated at all times while the vehicle is in operation;

(v) prohibit alcohol service and consumption on the vehicle; and,

(vi) ensure that a majority of the route is outside of the Urban Core.

3. A copy of a fixed route that has been pre-approved by the Director of the MTLC and NDOT's Chief Engineer. Any seated sightseeing vehicle certificate holder that has been approved to operate between 4:00 p.m. and 6:00 p.m. in the Urban Core shall operate on such pre-approved fixed route and shall publicly list the pre-approved fixed route online and at the point of sale ~~the relevant seated sightseeing vehicle's pre-approved fixed route~~; and,

~~3.~~4. Payment of a non-refundable fee. The amount of the application fee shall be established by the MTLC based upon the cost of processing the application.

E. 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. Approval required under this section for fixed routes and schedules shall not be unreasonably withheld, conditioned, or delayed. Any applicant rejected by MTLC staff may file an appeal within thirty 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.

F. Any seated sightseeing vehicle certificate holder issued a permit to operate between 4:00 p.m. and 6:00 p.m. in the Urban Core shall comply with the following requirements and regulations as well as any requirements or regulations established by the MTLC related to this permit, including but not limited to:

(i) pre-approved fixed routes;

(ii) allowing ticketed passengers to freely board and disembark at any designated stop between 4:00 p.m. and 6:00 p.m. without requiring advance notice;

(iii) maintaining a consistent schedule and frequency of service that facilitates point-to-point circulation throughout the Urban Core;

(iv) requiring passengers to remain seated at all times while the vehicle is in operation;

(v) prohibiting alcohol service and consumption on the vehicle; and,

(vi) ensuring that a majority of the route is outside of the Urban Core.

G. Any seated sightseeing vehicle certificate holder issued a permit to operate between 4:00 p.m. and 6:00 p.m. in the Urban Core must conspicuously display such a permit on the vehicle in a location to be determined by the Director of the MTLC, in accordance with the MTLC Rules and Procedures. A driver shall allow the MTLC Director, MTLC inspector, or a police officer to examine the permit upon request.

H. The MTLC shall have the authority to promulgate, implement, and enforce additional rules and regulations pertaining to the permit for the operation of seated sightseeing vehicles between 4:00 p.m. and 6:00 p.m. in the Urban Core.

I. Operating a seated sightseeing vehicle in the Urban Core between 4:00 p.m. and 6:00 p.m. without a permit do to so shall be considered a material violation. Any certificate holder found by the MTLC following a hearing to be operating a seated sightseeing vehicle in the Urban Core between 4:00 p.m. and 6:00 p.m. without a permit to do so shall be subject to disciplinary action including probation, suspension or revocation of that certificate holder's seated sightseeing vehicle permit at the discretion of the MTLC following a hearing.

6.78.330 ~~350~~ - Disposition of disorderly passengers.

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

6.78.340 ~~360~~ - 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 seated sightseeing vehicle services.

6.78.350 ~~370~~ - 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 MTLC, which will order or take appropriate action, or issue a citation as authorized under Section 6.78.390.

B. In addition to the enforcement authority provided to inspectors in subsection A. of this section, other employees of the Nashville Department of Transportation and Multimodal Infrastructure tasked with such enforcement and 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 ensure ~~insure~~ effective regulation of seated sightseeing vehicles.

6.78.360 ~~380~~ - Limitation of service due to weather conditions.

Seated sightseeing vehicles shall not receive passengers 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 seated sightseeing vehicles in inclement weather conditions.

Article IV. - Violations—Civil Penalty Schedules

6.78.370 ~~390~~ - 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 seated sightseeing vehicles, provided such rules and regulations are consistent with the provisions of this chapter. In developing these rules and regulations, the MTLC shall ensure safety, traffic flow, and compliance with existing noise ordinances.

D. Using a permitted service vehicle to increase capacity shall be grounds for immediate suspension of the certificate holder's permit. Use of a permitted service vehicle is limited to replacing an out of service permitted vehicle only.

E. Not keeping up with the speed of traffic shall be considered a violation of this Chapter.

6.78.<u>380</u> ~~400~~ - 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 this Ordinance shall take effect from and after its final passage, the welfare of the Metropolitan Government of Nashville and Davidson County requiring it.

SPONSORED BY:

Jacob Kupin
Member of Council