Metropolitan Nashville and Davidson County, TN

Legislation Details (With Text)

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Title:	An ordinance making amendments to various provisions of Titles 2, 12, and 13 of the Metropolitan Code to facilitate the implementation and operation of a Smart Parking program.		
Sponsors:	Freddie O'Connell, Bob Nash, Tonya Hancock, Ginny Welsch, Sean Parker		
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Date	Ver.	Action By	Action	Result
4/21/2021	2	Mayor	approved	
4/20/2021	2	Metropolitan Council	passed on third reading	
4/6/2021	1	Metropolitan Council	passed on second reading	
4/6/2021	2	Metropolitan Council	substituted	
4/6/2021	1	Traffic, Parking, and Transportation Committee	approved with a substitute	
4/6/2021	1	Public Works Committee	approved with a substitute	
4/5/2021	1	Budget and Finance Committee	approved with a substitute	
3/16/2021	1	Metropolitan Council	deferred	
3/8/2021	1	Traffic and Parking Commission	approved	
3/2/2021	1	Metropolitan Council	deferred	
2/16/2021	1	Metropolitan Council	passed on first reading	

An ordinance making amendments to various provisions of Titles 2, 12, and 13 of the Metropolitan Code to facilitate the implementation and operation of a Smart Parking program.

WHEREAS, Section 11.907 of the Charter provides the following as to the Traffic and Parking Commission (the "Commission"):

Sec. 11.907. - Management and control of parking meters, garages and other traffic facilities.

The commission shall have power to control and manage parking facilities in any metropolitan street or road, including the installation of parking meters or other necessary equipment in connection therewith. The commission shall prescribe and may revise a schedule of service charges in connection with the use of parking meters, a copy of which schedule shall be kept on file and subject to public inspection at the office of the commission and at the office of the metropolitan clerk.

The commission shall also have control and management of any public parking garage or other traffic facilities, and with the acquisition, construction and establishment of the same. The commission may enter into lease agreements with private operators to operate the parking facilities owned by the metropolitan government. The commission is authorized to

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collect rents, fees or other charges for such parking garage and other traffic facilities as it may operate and manage.

All moneys collected by the commission from parking meters, or any other service charges, shall be remitted by it to the metropolitan treasurer, who shall keep such moneys in a separate account earmarked for traffic and parking improvements; and,

WHEREAS, the Metropolitan Government ("Metro") has determined that its on-street metered parking program (the "Metered Parking System") is in need of modernization, is not as efficient and convenient as it could be, and does not maximize the value of the program for funding traffic and parking improvements, as described in Section 11.907 of the Charter; and,

WHEREAS, the authority provided in Section 11.907 of the Charter, which authorizes Metro to enter into lease agreements with private operators to operate parking facilities, such as on-street metered parking within the rights of way of Metro, effectively authorizes Metro to utilize a competitive procurement process to contract for the operation of the on-street metered parking within the Metro rights-of-way; and,

WHEREAS, Metro plans to publish a Smart Parking RFP (the "RFP") with the objective to enter into a parking services agreement with an outside parking management partner to upgrade and manage the operations of Metro's parking system by integrating state-of-the-art hardware, software, and operating solutions to maximize convenience and payment options, streamline and optimize enforcement activities, and increase parking compliance and,

WHEREAS, in order to ensure that Metro's parking management program is best serving our citizens, the initial term of any contract with a private operator that provides for any level of enforcement authority shall not exceed 5 years; and

WHEREAS, it is the intention of the Metropolitan Council that the scope of any such contract be reevaluated prior to renewal, and a determination should be made as to whether it is in Metro's best long term interest for the parking management and enforcement operations to be returned to Metro.

WHEREAS, it is in the best interests of potential offerors and ultimately Metro, that various related changes be made to the Metropolitan Code.

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

Section 1. Section 2.44.070 of the Metropolitan Code shall be deleted in its entirety, and shall be replaced with the following:

2.44.070 - Parking enforcement patrol.

A. There is created a parking enforcement patrol, for service in connection with the traffic law enforcement functions of the department of metropolitan police and Department of Public Works, which shall, with the assistance of the Traffic and Parking Commission and staff thereof, including any contractors and subcontractors thereof, police and control parking meter areas located on public thoroughfares, alleys and streets, such patrolling and supervision being necessary for the proper enforcement of parking violations. The parking enforcement patrol officers shall be instructed and trained by the Department of Public Works, and at the request of the Director of Public Works, the chief of police shall appoint a designee who shall be responsible for any additional training of parking enforcement patrol officers that the Director of Public Works and the Chief of Police deem necessary. The parking enforcement patrol officers shall be hired by the Department of Public Works in accordance with that department's usual civil service procedures, but may also be appointed as special police with authority to enforce parking ordinances, and police powers to enforce meter and other parking violations are hereby extended to such parking enforcement patrol officers within the area of the metropolitan government.

A. The primary duty of the parking enforcement patrol officers shall be to patrol the streets of the metropolitan government area that have parking meters and to issue parking violation tickets for meter and parking violations. Their primary areas of patrol will be the parking meter areas, but they may be assigned to assist the police to enforce parking laws and regulations in other areas.

B. All expenses of training, uniforms, equipment and salaries, and all other incidental expenses of the parking enforcement patrol program shall be borne by the metropolitan traffic and parking commission, Public Works, or

its contractors.

C. To the extent permitted by state law and the Metropolitan Charter, the parking enforcement patrol may utilize one or more contractors to perform the responsibilities assigned in this section, including assistance in the investigation of potential parking violations such as the collection and transmission of images recorded on any medium by a traffic control photographic system, license plate recognition technology, or other devices. Parking enforcement patrol officers may conduct investigations by reviewing evidence presented to them by contractors and may issue or cause the issuance of citations based on such evidence where warranted. Parking patrol officers may utilize contractors to deliver notices of citation to the owners of vehicles in violation, but any such citation shall be based on a parking enforcement patrol officer's determination that there is probable cause to believe that a violation of the parking provisions of the Metropolitan Code has been committed.

D. The initial term of any contract with a contractor as authorized by this section shall be limited in duration to no greater than sixty months.

Section 2. Section 2.56.210 of the Metropolitan Code is amended as follows:

By adding the following text at the end of subsection F.:

Alternatively, the traffic violations bureau, police department, parking enforcement patrol and its contractors may utilize electronic forms for notifying traffic violators to appear in answer to charges of violating traffic ordinances or traffic regulations of the city, so long as there are equivalent ways to ensure that such forms are retained in duplicate copy (which may also be in electronic form) as reliably as the method specified above.

Section 3. Section 12.04.230 of the Metropolitan Code is amended by deleting the period at the end of this section and adding the following at the end of the sentence:

"; a parking meter may include a parking pay station, including one that services multiple parking spaces."

Section 4. Section 12.04.235 of the Metropolitan Code is amended by deleting the existing language in its entirety and replacing it with the following:

"Parking meter space" means any space adjacent to a parking meter, or on the same block as a parking meter that services multiple spaces, and which is duly designated for the parking of a single vehicle.

Section 5. Section 12.08.150 of the Metropolitan Code is hereby amended as follows:

By deleting the definition contained in subsection A.1. thereof in its entirety and replacing it with the following:

A.1. "Immobilization" or "Immobilize" means the attachment of any device to a vehicle that prevents the vehicle from being legally driven.

By deleting the first sentence of subsection B. thereof and replacing it with the following:

B. Members of the metropolitan police department or the parking enforcement patrol or its contractor shall have authority to impound or immobilize any vehicle under the circumstances hereinafter enumerated:

By deleting subsections D., E. and F. thereof in their entirety, and replacing them with the following:

D. Whenever an officer of the metropolitan police department or the parking enforcement patrol or its contractor (with authorization from the parking enforcement patrol) removes a vehicle from any alley, street, highway or thoroughfare, as authorized in this section, the officer or contractor shall obtain from the wrecker or tow-in service employee a receipt in triplicate, one copy of which shall be retained by the wrecker or tow-in service employee, describing the vehicle, the reasons for its removal, the place where the vehicle is to be stored, and all items of a personal nature found in the vehicle and not attached to or a part of the vehicle. Such officer or contractor shall give or cause to be given to the owner of such vehicle the duplicate copy of such receipt described in the preceding sentences as notice to such owner of the fact of removal. The original of such receipt described above shall be retained by the police department, or parking enforcement patrol, (as applicable) as a permanent record. If the parking enforcement patrol's contractor arranges for the removal of the vehicle, the contractor shall turn over the duplicate copy of this receipt to the parking enforcement patrol staff at the Department of Public Works for retention.

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E. The owner or authorized driver or operator of the impounded vehicle may submit an application to the police department, parking enforcement patrol or its contractor (as applicable) to take possession of the same and remove such vehicle from the place to which it has been removed or stored by paying the costs of removing the vehicle from such street or alley and all charges which may have accrued for the storage of the vehicle. The contents and format of such form application shall be approved metropolitan chief of police and the department of law. Notwithstanding the foregoing, if the metropolitan general sessions court or other court of competent jurisdiction, after hearing the facts and circumstances, determines that the impoundment was not lawfully authorized, the towing and storage fees shall be refunded to the person paying such fees.

F. The owner or authorized driver or operator of any immobilized vehicle under the provisions of this section may take possession of the vehicle upon paying a twenty-five dollar immobilization removal fee to the metropolitan traffic violations bureau or its contractor; provided, that if the metropolitan general sessions court or other court of competent jurisdiction, after hearing the facts and circumstances, determines that the placement of the immobilization device was not lawfully authorized, the immobilization removal fee shall be refunded to the person paying such fee.

Section 6. The definition of “Department” in Section 12.41.010 of the Metropolitan Code is amended by deleting the period following “public works” and adding the following at the end of the sentence:

“, or its designee. The designee of the department of public works may be its contractor, provided the initial term of such contract does not exceed sixty months.”

Section 7. Subsection B. of Section 12.41.040 of the Metropolitan Code is amended by replacing the third use of the word “shall” in that Subsection with the word “may.”

Section 8. Section 12.42.010 of the Metropolitan Code is amended by adding the following new definition to it, which shall be placed in alphabetical order with regard to the other definitions contained therein:

“’Chief Traffic Engineer’ means the Chief Traffic Engineer or his/her designee. The designee of the Chief Traffic Engineer may be a contractor, provided the initial term of such contract does not exceed sixty months.”

Section 9. Section 12.44.010.A. of the Metropolitan Code is amended by inserting a period following the words: “Schedule VIII” and deleting all the text of that subsection following thereafter.

Section 10. Chapter 12.44. of the Metropolitan Code is amended by adding the following new Section 12.44.015:

12.44.015 - Use of contractors.

No contract providing for contractor enforcement of any of the provisions of this chapter shall have an initial term exceeding sixty months in duration. Any renewal or extension of the contract must be approved by an ordinance enacted by the Metropolitan Council.

Section 11. Section 12.44.020 of the Metropolitan Code is amended by deleting the existing language in its entirety and replacing it with the following:

12.44.020 - Meter design and installation specifications

A.

1. The department of public works, or its contractor, shall cause parking meters to be installed in the parking meter zones established as provided in this chapter upon the curb adjacent to, or located on the same block with, the designated parking space(s). Each meter shall be capable of being operated upon the receipt of payment for the full period of time for which parking is lawfully permitted in any such parking meter zone.

2. Alternatively, where so authorized by the Traffic and Parking Commission, the department of public works or its contractor may charge for parking in an on-street parking space within the parking meter zone without a parking meter being installed and without using a parking meter, but by setting up a system where payments for parking in such spaces may be made by customers via a web-based application. Signs or paint markings shall be used to identify a particular space consistent with the information provided via the web-based application, and a receipt for payment for the parking shall be conveyed to the customer, electronically or by other means, so as to enable the customer to prove that he or she paid to park in that particular space.

B. Upon the expiration of the time period for which the customer paid to park, the customer shall be given adequate notice of the expiration of that period, by one or more of the following methods.

1. If there is a parking meter installed adjacent to the designated parking space, that parking meter shall be so designed, constructed, installed and set that, upon the expiration of the time period for which the customer had paid to park, it will indicate by an appropriate signal that the lawful parking meter period has expired, and during such period of time and prior to the expiration thereof, will indicate the interval of time remaining. If a parking meter on a block services multiple parking spaces, that parking meter shall be capable of displaying the status of each parking space serviced (i.e., whether it is expired, or if not, how much time remains of the period for which payment was made).

2. Spaces that are part of the parking meter zone but which do not have parking meters installed, and where payment for parking in those spaces is instead made via a web-based application described in subsection A.2. of this section, the customer shall be given adequate notice of the expiration of the period for which he or she has paid to park, by text message or by another means of communication to which the customer has consented.

Section 12. Section 12.44.040 of the Metropolitan Code is hereby deleted in its entirety and replaced with the following:

12.44.040 - Payment for parking-Time limits for use.

A. If any one of the following applies, no person shall park a vehicle in any parking space upon a street within a parking meter zone during the restricted and regulated time applicable to the parking meter zone in which such parking space is located, unless the applicable parking rate has been paid for the period of time for which said vehicle is parked in such parking space.

1. The parking space is located alongside of and next to a parking meter.

2. The parking space is located on a block where a parking meter servicing multiple parking spaces is installed and the parking space where the vehicle is parked has signs or markings indicating that payment is required to be made for parking in that space.

3. The parking space is a part of the parking meter zone whereby payment for parking in that space is made via a web-based application, such as is described in subsection A.2. of Section 12.44.020, and the parking space where the vehicle is parked has signs or markings indicating that payment is required to be made for parking in that space.

B. If any one of the following applies, no person shall permit a vehicle within his or her control to be parked in any such parking space during the restricted and regulated time applicable to the parking meter zone in which such parking space is located, unless the applicable parking rate has been paid for the period of time for which said vehicle is parked in such parking space.

1. The parking space is located alongside of and next to a parking meter.

2. The parking space is located on a block where a parking meter servicing multiple parking spaces is installed and the parking space where the vehicle is parked has signs or markings indicating that payment is required to be made for parking in that space.

3. The parking space is a part of the parking meter zone whereby payment for parking in that space is instead made via a web-based application described in subsection A.2. of Section 12.44.020, and the parking space where the vehicle is parked has signs or markings indicating that payment is required to be made for parking in that space.

C. No person shall park a vehicle in any such parking space for a consecutive period of time longer than that limited period of time for which parking is lawfully permitted in the parking meter zone in which such parking space is located, regardless of the amount of the payment made. If any vehicle shall remain parked in any such parking space beyond the parking time limit fixed for such parking space the customer shall be given adequate notice of the expiration of that period by one or more of the methods indicated in subsections C.1-C.2., below. The fact that notice has been given through one of the methods indicated below, shall be prima facie evidence that such vehicle has been parked overtime and beyond the period of legal parking time in any such part of a street where any such parking space is located, and shall be a violation of this section. Each period of overtime parking beyond the duration of that limited period of time, for which parking is lawfully permitted in the parking meter zone, in which such parking space is located, shall be considered a separate offense.

1. If there is a parking meter installed adjacent to the designated parking space, that parking meter shall be so designed, constructed, installed and set that, upon the expiration of the limited period of time for which parking is lawfully permitted in the parking meter zone in which such meter is located, it will display a sign or signal showing illegal parking. If a parking meter on a block services multiple parking spaces, that parking meter shall be capable of displaying the status of each parking space serviced (i.e., whether it constitutes illegal parking beyond the time limit fixed for such parking space).

2. In the case of spaces that are part of part of the parking meter zone but which do not have parking meters installed, and where payment for parking in those spaces is instead made via a web-based application described in subsection A.2. of Section 12.44.020, the customer shall be given adequate notice by text message, or by another means of communication, to which the customer has consented, that the limited period of time for which parking is lawfully permitted in the parking meter zone, in which such meter is located, has expired, and that continued parking in that space beyond that period constitutes illegal parking.

3. The provisions of this section shall not relieve any person from the duty to observe other and more restrictive provisions of this title and the State Vehicular Code prohibiting or limiting the stopping, standing or parking of vehicles in specified places or at specified times.

Section 13. Section 12.44.060 of the Metropolitan Code shall be amended by adding the phrase “or other related equipment” to the end of this section.

Section 14. Section 12.44.070 of the Metropolitan Code shall be amended by deleting the existing language in its entirety and replacing it with the following:

Section 12.44.070 - Disabled driver parking in parking meter zones-Notice.

The department of public works shall either post appropriate signage within parking meter zones or include a statement on each parking meter informing drivers that, pursuant to T.C.A. 55-21-105, no parking meter fee is required for vehicles with a valid disabled driver license plate or placard. The foregoing does not entitle a vehicle with a valid disabled driver license plate or placard to park for a consecutive period of time exceeding any parking time limit applicable to the parking meter zone in question, without that violation being subject to penalty, in the form of the application of the fine for parking for a consecutive period of time, longer than that limited period of time, for which parking is lawfully permitted in the parking meter zone, in which such parking space is located.

Section 15. Section 12.44.080 of the Metropolitan Code shall be deleted in its entirety.

Section 16. Pursuant to Tenn. Code Ann. Section 9-1-108(c)(3), the Metropolitan Government hereby waives the collection of the processing fees for payments made for on-street parking by customers of Metro’s parking system in an amount that is equal to the amount paid by the third party processor for processing the payment.

Section 17. Subsection H. of Section 13.08.080 of the Metropolitan Code is amended by adding the following to the end of the section:

Notwithstanding the foregoing, the provisions of this section shall also not apply to the operation of a license plate scanner installed onto or within the public right-of-way that meets each of the following conditions:

a. The license plate scanner is used solely and exclusively for determining whether a vehicle is violating parking restrictions; and

b. A specific vehicle’s license plate number shall be deleted within thirty minutes of its exit from a monitored parking space, unless that vehicle is suspected of violating parking restrictions for which enforcement action would be appropriate.

Section 18. This ordinance shall take effect from and after its final passage, the welfare of the Metropolitan Government requiring it.

Analysis

This ordinance, as substituted, modifies various provisions in the Metro Code to facilitate the Mayor’s planned on-street parking modernization program. Section 11.907 of the Metro Charter provides that the Metro Traffic

and Parking Commission has the sole authority for the operation and management of Metro's parking facilities, including metered spaces and garages, but it does not prohibit the Commission from contracting out various aspects of the operation. In fact, Metro has had contracts for the operation of Metro-owned parking garages for many years. However, the Metro Code provisions pertaining to on-street parking do not specifically address the use of contractors. Section 11.907 of the Charter further provides that all revenue generated from Metro's parking program must be used for traffic and parking improvements.

Metro intends to issue a request for proposals (RFP) to solicit responses from outside parking management operators to integrate new technology into the metered parking system, which should improve parking opportunities downtown and increase revenue for Metro. This RFP approach is different from the RFP issued by the previous mayoral administration, which sought to lease Metro's on-street parking assets to a private operator for a long-term period and to share revenues with the operator, including a large one-time lump sum payment.

In order to encourage operators to submit proposals to the RFP, various changes are needed to the Metro Code to allow for new technology and private operation. A summary of the various Code changes to be made by this ordinance is as follows:

2.44.070

- Changes the current "meter maid patrol" to "parking enforcement patrol" and makes several changes to modernize antiquated language
- Allows for contractor assistance in the enforcement of parking violations. Parking enforcement patrol officers (Metro employees) would still have to be the ones to authorize the issuance of a citation based upon probable cause presented by the contractor.

2.56.210

- Allows for electronic forms for notifying violators of court dates as opposed to "forms in triplicate"

12.04.230

- Adds parking pay stations that service several spaces to the definition of "parking meter"

12.08.150

- Deletes references to "booting" and replaces with the term "immobilization"
- Replaces references to the meter maid patrol with "parking enforcement patrol or its contractor"
- Allows impounded vehicles to be reclaimed from the parking enforcement patrol or its contractor, not just from the police department

12.41.040

- Clarifies that valet operating permits may be renewed annually. The current version of the code says they "shall" be renewed.

12.42.010

- Adds a definition for "chief traffic engineer" and provides that the designee of the chief traffic engineer may be a contractor for purposes of the residential permit parking program

12.44.010

- Deletes the provisions that provided for free metered parking on Sundays and holidays

12.44.020

- Allows contractors to install parking meters in addition to Public Works staff
- Removes provisions pertaining to coin operated meters
- Allows Public Works or its contractor to set up a payment system using a web-based application with

an electronic customer receipt
- Provides for notice methods/requirements to customers regarding the expiration of the allotted parking time

12.44.040
- Updates language regarding parking time limits to reflect that meters can service multiple parking spaces
- Removes language pertaining to the deposit of coins in meters
- Allows for a method of notifying customers of expired meters via text message or other means of communication to which the customer has consented

12.44.060
- Adds “or other related equipment” to the provisions pertaining to the unlawful tampering of parking meters

12.44.070
- Clarifies that persons with disabled driver placards or license plates can still park for free, but cannot exceed the parking time limit for the particular meter. The current Code’s failure to specify this means that persons with disabled driver placards/plates can park for free for an unlimited duration, which obviously limits parking space turnover.

12.44.080
- Deletes the provisions that were added to the Code in 2010 to allow free downtown parking for vehicle owners who purchase carbon offsets. This program has not been widely used.

13.08.080
- Allows license plate scanner technology solely for the purpose of enforcing parking restrictions
- The license plate information must be deleted within 30 minutes after the vehicle leaves the space unless it is suspected of violating parking restrictions

This ordinance has been approved by the Traffic and Parking Commission.