

ORDINANCE NO. 07/43

AN ORDINANCE OF THE CITY OF UNIVERSITY PARK, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF UNIVERSITY PARK, AS HERETOFORE AMENDED, BY ADOPTING A NEW ARTICLE 10.2700 REGULATING VALET PARKING WITHIN THE CITY LIMITS OF THE CITY OF UNIVERSITY PARK; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO HUNDRED DOLLARS (\$200.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, public streets and rights-of-way protect individual freedom of travel and the unobstructed flow of commerce, and the City Council of the City of University Park recognizes that the use of public streets and rights-of-way of the City for valet parking operations, while providing a public benefit to some by making parking more convenient, may also impede travel, interfere with the rights of many others using the streets and rights-of-way, and may affect the public safety and create a public nuisance; **NOW THEREFORE,**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF UNIVERSITY PARK, TEXAS:

SECTION 1. That the Code of Ordinances, City of University Park, Texas, is hereby amended by adding a new Article 10.2700, to read as follows:

“ARTICLE 10.2700 VALET PARKING SERVICES REGULATED

Sec. 10.2701 Purpose

The terms and provisions of this section are intended to accomplish the following public purposes:

To provide that the City may permit valet parking operations as a special privilege, not as a matter of right; that the approval of any permit for the use of the public right-of-way is on a temporary basis and is for a nonexclusive use of the public right-of-way; and, that permit holders shall have no property interest in or any entitlement to the granting or continuation of any permit for the use of any public right-of-way.

Sec. 10.2702 Definitions

For purposes of this Article, the following words shall have the following meanings:

Valet Parking shall mean and include a business engaged in, conducting or managing the parking of other persons' motor vehicles, whether such persons are employed by, or under contract to, the business, residence, or other organization for which the vehicles are being parked or whether such persons are operating independently thereof.

Public right-of-way shall mean any area dedicated for public use as a public street, pedestrian way, or other thoroughfare, including but not limited to, streets, roadways, parkways, alleys, sidewalks, and pedestrian ways.

Operator shall mean any company engaged in the business of valet parking.

Permittee shall mean any company permitted by the City of University Park to operate, for profit, a valet parking service that would use the public right-of-way for pick-up, drop-off or movement of vehicles to be parked.

Temporary Valet Parking Permit shall mean a permit issued for a period of less than two calendar days and issued not more than four times during any twelve month period.

Regular Valet Parking Permit shall mean a permit issued for a valet parking operation of longer than two calendar days.

Non-Residential Zone shall mean any area of the City having a zoning classification of Commercial, General Retail, Office, Parking, Planned Development, Retail Center or Shopping Center.

Sec. 10.2703 Permit Required

The City Council finds that valet parking requires specific regulation, in order to maintain the public health, safety and welfare of the citizens of the City. No person(s) shall engage in conduct or carry on the business of valet parking, in a non-residential zone, where movement of vehicles is on or over any public right-of-way or public property, without a City-issued valet parking permit.

Sec. 10.2704 Permit Application Requirements

Regular and temporary valet parking permits shall be issued as follows:

- (a) All regular and temporary permit applications shall be completed on a form designated by the City and signed by the applicant. All forms shall be filed with the City Manager or his designee a minimum of five days prior to the date requested for the issuance of the permit. Regular valet parking permits shall be issued annually. Renewal applications for regular permits shall be filed a minimum of thirty days prior to the expiration of any existing permit. Where the applicant is a corporation, association, partnership, or other legal entity, "applicant" shall mean each partner,

officer, director, and each shareholder owning or controlling more than ten percent of such entity. All applicants for valet parking permits shall provide the following information with their applications:

- (1) The name and location of the business(es) to be served (if applicable);
- (2) The hours of operation and the number of employees of the operator who will be assigned to carry out the activity for which the permit is sought;
- (3) Information as to the seating capacity or other capacity of the business(es) to be served (if applicable);
- (4) A statement from the owner(s) or manager(s) of the business(es) requesting the services of the operator (if applicable);
- (5) The location(s) where vehicles will be parked or stored for the business(es) served (if applicable);
- (6) The name, location, and telephone number where a responsible person, employee, or agent of the operator will be available at all times during the hours of operation;
- (7) Disclosure of all prior valet parking permits issued to applicant by the City of University Park during the prior twelve months
- (8) A statement from the operator(s) of any parking facility designated as the parking or storage location(s) as to that facility's ability to accept the cars, the number of spaces to be reserved for the permittee's operations, the total number of spaces in such parking facility, and estimates of the percent of usage of the facility prior to, and subsequent to the proposed activity for which the permit is sought. In cases where the parking facility is part of a building or premises devoted to other uses which require off-street parking, the statement shall also include information as to the number of parking spaces which were required by law to be provided in the parking facility to serve such other uses when said uses were established (for use in non residential zones);
- (9) A copy of the written contract or covenant between the applicant and the operator of the parking facility designated as the parking or storage location(s), which contract or covenant shall contain a provision that it cannot be canceled without at least sixty days notice to the other party and to the City (for use in non residential zones);

- (10) The location of any proposed signs for the valet service and any proposed attendant stands;
- (11) Proof that the applicant has insurance in force acceptable to City of University Park Risk Manager;
- (12) Payment of a nonrefundable permit fee in an amount to be set by resolution adopted by the City Council;

(b) Temporary valet parking permits. In a circumstance involving a non-recurring special event or a special need of an applicant to commence operations prior to the time an application can be processed for regular permit issuance, a temporary parking permit for a period of operation not exceeding two calendar days may be issued by the City Manager or his designee upon the submittal of an application, accompanied by the applicable fees, the certificate of insurance required by this Article, and such other information as the City Manager or his designee determines is necessary to assess the requested application.

Sec. 10.2705 Operating Requirements

- (a) The permittee shall at no time, unless expressly authorized by the permit, park or leave standing any patron's or guest's vehicle upon any portion of a public right-of-way or other public property (including any publicly owned off-street parking space).
- (b) No operator shall park any patron's or guest's vehicle upon private property without express authorization by the owner or other person in charge of such private property.
- (c) No operator shall fail to provide adequate staffing to park vehicles so that traffic is not impeded by the activities of the permit. No vehicle may stop or stand at a drop-off or loading area for longer than five minutes.
- (d) Pedestrian walkways must not be blocked at any time during valet parking operations and operators must provide a minimum pedestrian passing clearance of five feet.
- (e) No operator shall fail to give a claim check to the owner upon receipt of each motor vehicle accepted for valet parking. The claim check shall explicitly state the terms and conditions under which the vehicle is being accepted.
- (f) Except where a patron or guest parks his or her own vehicle, the attendant parking a vehicle shall lock the ignition and the vehicle, remove the key and place the key in a safe place. The attendant shall not place the key in or upon the vehicle parked.
- (g) A copy of the operator's permit must be displayed at every valet parking operation site.

(h) Each permittee shall install and maintain, at each location in a non residential zone at which a patron or guest surrenders his or her vehicle for parking, a reflective sign with contrasting letters and numerals plainly visible from the street, displaying "Public Valet Parking," the permittee's name, the address and telephone number of the business, the time when the permittee is no longer on duty, and the parking fees, if any.

Valet signs must not be less than twenty-four by thirty-six inches in size. The "Valet Parking" and the maximum rate portion of the sign must have a minimum lettering/numeral size of three inches per character.

(j) At closing time, the operator shall lock or cause to be locked each vehicle, except those locked by the person bringing the vehicle to the valet parking service, if a key is available, and shall deposit or cause to be deposited such key with a responsible person at a safe and convenient place, to be delivered to the person who parked the vehicle upon surrender of the parking ticket if one was given to such person, or otherwise upon proof that such person has the right to possess the vehicle.

(k) The permittee, or his agents and employees, shall notify the University Park Police Department whenever a vehicle has been left in his or her custody for a period in excess of forty-eight hours without a prior contractual arrangement for such period of time in order to determine whether the vehicle is stolen or abandoned.

(l) The permittee and all employees of the permittee who drive patrons' or guests' vehicles or who handle keys belonging to patrons or guests shall each have an appropriate current and valid driver's license.

Sec. 10.2706 Penalties

(a) For failure to pay a permit fee when due, the City Manager or his designee may revoke the permit or add a penalty of ten percent of the original permit processing fee on the last day of each month after the due date, provided that the total penalty does not exceed fifty percent of the original fee.

(b) Any person who operates a valet parking service prior to obtaining a permit shall pay a penalty of double the permit processing fee. The payment of the penalty shall not relieve such person from the obligations imposed by this Article, or from the penalties otherwise prescribed herein.

(c) Any person violating this Article or any condition of a permit issued pursuant to this Article shall be guilty of a misdemeanor and may be subject to revocation of any permit issued as set forth in Section 10.2707 below.

Sec. 10.2707 Grounds for Revocation, Suspension or Denial

- (a) A permit may be revoked or denied if:
- (1) The permittee, or his agents or employees, through carelessness, negligence or failure to make proper provision for the safeguarding of vehicles left in his custody, has facilitated or contributed toward the theft or conversion of any such vehicle; or
 - (2) The permittee, or his agents or employees, has failed to cooperate with the University Park Police Department in the investigation of any accident involving a patron's vehicle, or a theft or other crime committed on a parking lot used or which arose out of the conduct of the business for which the permit was issued; or
 - (3) The permittee, or his agents or employees, knowingly delivered a vehicle in his custody to a person who is neither the registered owner thereof nor entitled to the custody of such vehicle;
 - (4) The permittee has made a material misrepresentation in his application;
 - (5) The business or valet operation of the permittee has substantially impacted traffic or disrupted the peace and quiet within any area of the City;
 - (6) The valet parking operation at the specified locations is found to be incompatible with other uses in the vicinity;
 - (7) The permittee has violated any condition of a previous or existing permit within the City of University Park during the past five years;
 - (8) The proposed valet operation fails to comply with other criteria designated under this Section for the issuance of a permit or any other rules or regulations governing valet parking;
 - (9) The building, structure, premises or equipment used by the permittee to conduct business fails to comply with all applicable health, zoning, fire, building and safety laws of the State of Texas or the City of University Park;
- (b) An applicant/permittee shall be notified in writing when a permit is denied or revoked.

Sec. 10.2708 Insurance Requirements

- (a) Prior to the issuance of a permit under this Article, the applicant shall obtain a business auto liability policy, to include garage keeper's legal liability, with a limit of not less than one hundred thousand dollars for each accident.
- (b) The City of University Park shall be covered as an additional insured under the business auto liability policy of the permittee.
- (c) Insurance must be placed with insurers admitted in the State of Texas or have a current A.M. Best rating of no less than A+.
- (d) Any deductibles must be declared and approved by the City of University Park. Self-insurance is not approved in lieu of a policy of insurance.
- (e) The insurance policy shall be endorsed to state that coverage shall not be cancelled except after thirty days prior written notice by certified mail has been given to the City.
- (f) Prior to the issuance of a permit under this Article, and at all times while the permit is in effect, the applicant shall maintain on file with the City proof of the insurance required herein and provide the City a copy of applicable insurance policies.
- (g) If the insurance policies issued to the permit holder pursuant to this Article are cancelled for any reason, the permit issued under this Article is automatically suspended. In order to reinstate the permit, the permit holder shall provide a new certificate and policy of insurance to the City.
- (h) The permittee shall maintain in force and effect at all times while the permit is in effect Workers' Compensation insurance as required by law.

Sec. 10.2709 Indemnification

The permittee, and any person acting under or pursuant to an operator's permit, agrees to indemnify, hold harmless, release and defend (even if the allegations are false, fraudulent or groundless), to the maximum extent permitted by law, and covenants not to sue, the City, its Council and each member thereof and its officers, employees, board and commission members and representatives, from any and all liability, loss, suits, claims, damages, costs, judgments, and expenses (including attorney's fees and costs of litigation) which in whole or in part result from, or arise out of: (1) any use or performance under the permit; (2) the activities and operations of the permittee and his or her employees, subcontractors or agents; (3) any condition of property used in the operation; or (4) any acts, errors or omissions (including, without limitation, professional negligence) of the permittee and his or her employees, subcontractors or agents in connection with the valet parking operation.

Sec. 10.2710 Regulations

(a) The City Manager or his designee may from time to time issue written regulations for distribution to applicants and permittees regarding the implementation of the provisions of this Article, including, but not limited to, the safe and lawful conduct of all valet operations, permit application procedures and permit standards.

(b) Such regulations shall be binding upon applicants and permittees, who shall comply with such written regulations as a term and condition of the permit.

Sec. 10.2711 Authorized Valet Parking Zones

A valet parking operation in non residential zones may be conducted only at a location and during hours approved by the permit and designated by official valet parking signs stating the authorized location and hours of operation. Permits shall designate the specific location for which a valet parking operation in a non residential zone is approved. Valet parking operations are permitted as a special privilege and not as a matter of right and are considered temporary, nonpermanent and for a nonexclusive use of the specific location.

Sec. 10.2712 Conformance with Applicable Laws

Nothing in this Article is intended to authorize or authorizes the parking of motor vehicles by valet parking operators and sponsors in a manner contrary to, and all permittees shall comply with, applicable state laws and local parking and traffic regulations, including the University Park Code of Ordinances.

Sec. 10.2713 Conditions Imposed on Permit

(a) Conditions reasonably necessary to protect the peace and tranquility of any area, mitigate traffic impacts, protect other uses in the area, or protect the public health, welfare and safety may be imposed on permits and may be modified subject to the permit holder's right to notice and the opportunity to be heard.

(b) Every person issued a permit pursuant to this Article shall comply with all conditions that are imposed as part of the permit pursuant to subsection (a) of this Section."

SECTION 2. That all ordinances of the City of University Park in conflict with the provisions of this ordinance are hereby repealed.

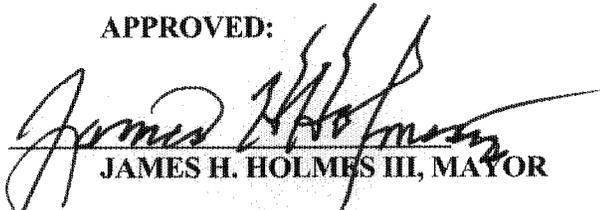
SECTION 3. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect

the validity of this ordinance as a whole, or any part or provision thereof, other than the part decided to be invalid, illegal or unconstitutional.

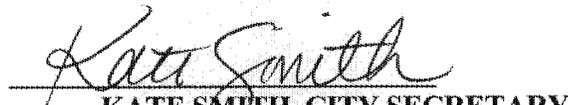
SECTION 4. That any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of University Park, Texas, shall be subject to a fine not to exceed the sum of two hundred dollars (\$200.00) for each offense.

SECTION 5. That this ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and Charter in such cases provide. **DULY PASSED** by the City Council of the City of University Park, Texas, on the 4th day of December 2007.

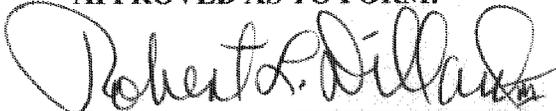
APPROVED:


JAMES H. HOLMES III, MAYOR

ATTEST:


KATE SMITH, CITY SECRETARY

APPROVED AS TO FORM:


CITY ATTORNEY
(RLD/11-09-07/22119)