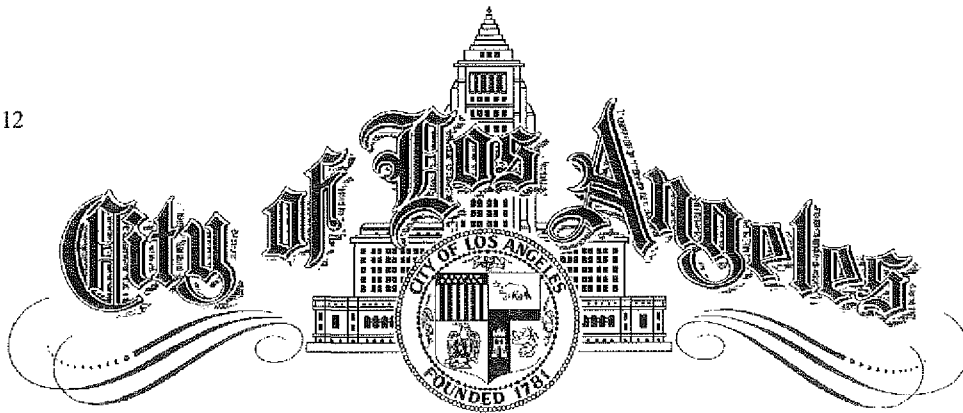


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CARMEN A. TRUTANICH
City Attorney

REPORT NO. R 1 1 - 0 2 8 2

REPORT RE:

JUL 19 2011

**DRAFT ORDINANCE ADDING A NEW SECTION 103.203 TO THE
LOS ANGELES MUNICIPAL CODE TO ESTABLISH A
VALET PARKING OPERATOR PERMIT PROGRAM**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 09-0206

Honorable Members:

Pursuant to your request, this Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. This draft ordinance would add Section 103.203 to the Los Angeles Municipal Code to establish a Valet Parking Operator permit ordinance.

Your Honorable Body requested that this Office, with the assistance and cooperation of the Board of Police Commissioners, the Departments of City Planning and Transportation and the Office of Finance, prepare and present an ordinance to establish a Valet Parking Operator permit program, as recommended by the Chief Legislative Analyst (CLA).

As recommended in the CLA's report, the Valet Parking Operator permit ordinance will be subject to the same application requirements as all other permits issued by the Board of Police Commissioners. The draft ordinance would allow

companies to obtain a Master Valet Parking Operator permit and obtain temporary permits for additional valet parking locations on the same day applications are filed with the Office of Finance. The draft ordinance would require applicants to identify the name and location of the parking lot where the vehicles will be parked or stored for the businesses served. The draft ordinance would also impose operating requirements on the permittee such as performing background checks on all its employees and requiring employees to wear standard uniforms, including safety vests when in the public rights-of-way.

CEQA Determination

We recommend that, prior to adoption of this ordinance, you determine that your action is exempt from the California Environmental Quality Act (CEQA) under State CEQA Guidelines Sections 15060(c)(2) and (3) because it will not result in a direct, or reasonably foreseeable indirect physical change in the environment. Moreover, your action merely creates a funding mechanism, or comprises other fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment, and is therefore not a project as defined in CEQA Guidelines section 15378 (b)(4). In addition, you may find that the proposed ordinance is exempt under CEQA Guidelines Section 15301 in that the ordinance involves negligible or no expansion of use beyond that existing at the time of the City's determination. Lastly, Council may determine that adoption of the ordinance is exempt from CEQA under City CEQA Guidelines Article II, Section 1 (General Exemption) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

If the Council concurs with the above, it may comply with CEQA by making one or all of these determinations prior to or concurrent with its action on the ordinance. It is also recommended that you direct Staff to cause the filing of a Notice of Exemption in accordance with CEQA Guidelines section 15062.

Fee Notice Requirement

We note that, because this ordinance would effectuate an increase in an existing fee and impose a new fee, notice of its proposed adoption should be given in accordance with the provisions of California Government Code Sections 66018 and 6062(a). Those Sections of State law require that prior to adoption of a new or increased fee, a public hearing be held and notice of that hearing be published in a newspaper with two publications at least five days apart over a ten-day period. The notice period begins the first day of publication, and there must be at least five days intervening between the first and the second publications, not counting the dates of publication.

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Executive Director of the Board of Police Commissioners, Departments of City Planning and Transportation and the Director of Finance with instruction that all comments, if any, be presented directly to the City Council or its Committees when this matter is considered.

If you have any questions regarding this matter, please contact Deputy City Attorney Brian Sottile at (213) 978-8384. He or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

CARMEN A. TRUTANICH, City Attorney

By



PEDRO B. ECHEVERRIA
Chief Assistant City Attorney

PBE:BS:aa
Transmittal

ORDINANCE NO. _____

An ordinance adding a new Section 103.203 to Division 8 of Article 3 of Chapter X of the Los Angeles Municipal Code to establish a Valet Parking Operator permit in the City of Los Angeles.

WHEREAS, throughout the City of Los Angeles, many businesses rely upon valet parking to more effectively use scarce parking spaces; and

WHEREAS, the use of public streets and public rights-of-way for valet parking may provide a benefit by making parking more convenient, it may also impede travel, interfere with the rights of others using the streets and public rights-of-way, and may affect the public safety and create a public nuisance; and

WHEREAS, effective regulation of valet parking in Los Angeles would lead to increased consumer confidence, less congestion, improved parking management, enhanced public safety, and the recovery of lost parking revenue that results from the parking of cars in non-permitted lots; and

WHEREAS, to address these concerns, it is necessary to establish a Valet Parking Operator permit program in the City of Los Angeles.

NOW, THEREFORE,

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. A new Section 103.203 is added to Division 8 of Article 3 of Chapter X of the Los Angeles Municipal Code to read as follows:

SEC. 103.203. VALET PARKING.

(a) **Definitions.**

1. **“VALET PARKING”** shall mean the receiving, taking possession of, driving, moving, parking, or storing of any vehicle that is left at one location to be driven to another location for parking, whether or not a charge is imposed to anyone for the valet parking service.

2. **“VALET PARKING OPERATOR”** shall mean any person engaged in the business of Valet Parking.

3. **“PERSON”** shall mean a natural person, firm, partnership, association, corporation or other entity.

4. **“VALET PARKING ATTENDANT”** shall mean any employee or agent of the Valet Parking Operator who receives, takes possession of or moves any vehicle, or who handles the keys to any vehicle left with the attendant for Valet Parking.

5. **“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, roadways, parkways, alleys, sidewalks and pedestrian ways.

6. **“PERMITTEE”** shall mean any person permitted by the City of Los Angeles to operate a Valet Parking business that uses the public rights-of-way for pick-up, drop-off or movement of vehicles to be parked.

7. **“MASTER VALET PARKING OPERATOR PERMIT”** shall mean a permit that is issued to any person engaged in the business of Valet Parking at more than one location.

(b) **Permit Required.**

1. No person shall engage in, conduct, or carry on the business of Valet Parking where movement of vehicles is on or over any public right-of-way or public property without a written Valet Parking Operator permit from the Board and the payment of all permit fees required pursuant to Chapter X, Article 3, Division 3 of this Code.

2. Permittees that conduct, manage, or operate multiple Valet Parking locations shall obtain a Master Valet Parking Operator permit.

(i) The Master Valet Parking Operator permit application shall comply with the requirements set forth in Section 103.02.1 and shall separately identify each location to which it applies. A Master Valet Parking Operator permit shall apply only to those locations specifically identified in the permit at the time it is issued.

(ii) Permittees that have obtained a Master Valet Parking Operator permit shall file applications for additional Valet Parking locations in person only at the main office of the Office of Finance. Applications for additional locations shall identify the location and the name of the Valet Parking Operator employee designated to manage, supervise or operate the location.

(iii) The Board may grant a temporary permit for an additional location on the same day the application for such location is submitted to the Office of Finance provided the following conditions are met:

- a. A Master Valet Parking Operator permit is on file at the Office of Finance;
- b. A complete permit application for the additional location is on file at the Office of Finance;
- c. All permit fees and taxes owed to the City have been paid to the Office of Finance; and
- d. A preliminary investigation by the Board does not reveal information which would constitute grounds for denial.

(c) Additional Application Requirements.

In addition to the requirements specified in Chapter X, Article 3, Division 3 of this Code, each applicant for a Valet Parking Operator permit shall furnish the following information with the application:

1. The name and location of the businesses to be served;
2. The seating capacity or other occupancy capacity of the businesses to be served;
3. A signed statement from the owners or managers of the businesses to be served requesting the services of the applicant;
4. The hours of operation and the number of employees of the applicant who will be assigned to that location;
5. The name and location of the parking lot where vehicles will be parked or stored for the businesses served;
6. The name, location, and telephone number of the employee or agent of the applicant who shall be available at all times during the hours of operation for that location;
7. The routes to be used between the passenger loading/unloading zone or other vehicle pickup point and the parking or storage location;
8. A copy of the written contract between the applicant and the operator of any parking facility designated as the parking or storage location. The applicant shall notify the City within fifteen (15) days of any modification, transfer, amendment or termination of the contract; and
9. A signed statement from the operator of any parking facility designated as the parking or storage location as to that facility's ability to accept

the cars, the number of spaces to be reserved for the applicant's operations, and the total number of spaces in such parking facility. In cases where the parking facility is part of a building or premises devoted to other uses that require off-street parking, the statement shall also include information as to the number of parking spaces that were required by law to be provided in the parking facility to serve such other uses when said uses were established;

10. A copy of a valid Automobile Parking Lot permit issued under Los Angeles Municipal Code §103.202 to any parking facility designated as the parking or storage location, if applicable;

11. The location of any proposed Valet Parking signs and any proposed attendant stands;

12. Proof that the applicant has insurance in force satisfying the requirements specified in subsection (e), below; and

13. Disclosure of all prior Valet Parking Operator permits issued to applicant by the City of Los Angeles.

(d) Operating Requirements.

1. **Operating in the Public Rights-of Way.** The Permittee shall at no time, unless expressly authorized on the permit:

(i) Receive or take possession of (for the purpose of parking or temporary storage until the return of the same to the patron) a patron's vehicle upon any portion of the public right-of way or other public property; or

(ii) Park and leave standing any patron's vehicle upon any portion of the public right-of-way or other public property (including any publicly owned off-street parking space); or

(iii) Use the public rights-of-way for vehicle pickup and drop off locations; or

(iv) When use of the public right-of-way is permitted for Valet Parking purposes, the City may impose fees for the use of parking spaces and public streets:

a. **Use of Parking Meters.** The City may charge a parking meter usage fee for designated pickup and drop off valet parking locations on the public rights-of-way, which fee shall be set from time to time by resolution of the City Council.

b. **Street Usage.** The City may charge a street usage fee for the use of city streets and properties by valet parking operations on the public rights of way, which fee shall be set from time to time by resolution of the City Council.

2. **Claim Checks.** The Permittee shall issue a sequentially numbered claim check to each patron upon receipt of patron's vehicle for valet parking. The claim check shall explicitly state the terms and conditions under which the vehicle is being accepted.

3. **Pedestrian Walkways.** The Permittee shall ensure that pedestrian walkways are not blocked at any time during valet parking operations.

4. **Parking on Private Property.** The Permittee shall at no time allow any patron's vehicle to be parked upon private property without a signed statement of authorization by the owner or other person having legal control of such private property.

5. **Valet Parking Attendants.** The Permittee shall employ Valet Parking Attendants sufficient in number to park vehicles so that traffic on streets or sidewalks will not be impeded by the activities of the Permittee.

6. **Locking of Vehicles.** The Permittee shall ensure that Valet Parking Attendants who park a vehicle lock the ignition and the vehicle, remove the key and place the key in a safe place. The Permittee shall ensure that Valet Parking Attendants do not place the key in or upon the vehicle that is parked.

7. **Sign Requirements.** Each Permittee shall maintain, at each location at which a patron surrenders his or her vehicle for parking, a sign plainly visible from the street with letters/numerals in contrasting colors, showing the Permittee's name, the address and telephone number of the business, the hours of operation, and the valet parking fees, if any. If fees are charged, such fees also shall be stated as follows:

- (i) Rates per hour;
- (ii) Rates per fraction of an hour, if any;
- (iii) Rates for subsequent hours or fractions thereof; and
- (iv) The maximum charge.

All fractions of time must be spelled out in letters. Valet parking signs must not be less than 24 by 36 inches in size. The "Valet Parking" and the maximum charge portion of the sign must have a minimum lettering/numeral size of three inches per character.

8. **Rate Restrictions.** The Permittee shall not charge any higher rates for parking than those rates posted.

9. **Closing Time.** At closing time, the Permittee shall lock all vehicles that remain in its possession or custody, except those locked by the patron. Permittee shall deposit the vehicle keys with a responsible person at a safe and convenient place, to be delivered to the person who left the vehicle with Permittee upon surrender of the claim check, or otherwise upon proof that such person has the right to possess the vehicle, and payment of any applicable fees or charges.

10. **Parking Longer Than 48 Hours – Notice to Police.** The Permittee shall notify the police whenever a vehicle has been left in its possession or custody for a period in excess of forty-eight (48) hours without a prior contractual arrangement for such period of time in order to determine whether the vehicle is stolen or abandoned.

11. **Employee Identification, Uniforms and Safety Equipment.** The Permittee shall ensure that all employees who drive a patron's vehicle or who handle a patron's vehicle keys have a current and valid California driver's license, and wear a standard uniform that conspicuously identifies the employee by his or her full name and the name of the Valet Parking business. The Permittee shall ensure that all employees who receive, take possession of, or move a patron's vehicle upon any portion of the public right-of-way wear high-visibility safety vests.

12. **Employee Background.** The Permittee shall not allow any employee who has been convicted within the previous seven (7) years of a felony or any offense involving violence, dishonesty, automobile theft, automobile vandalism, reckless driving or driving under the influence of drugs or alcohol to drive a patron's vehicle or handle a patron's vehicle keys.

13. **Records.** Every Permittee shall maintain:

(i) A continuously updated list of the names and residence addresses of its employees who perform Valet Parking. Such list shall be maintained at the business address listed on the permit application and shall be produced on demand of any peace officer.

(ii) All claim checks for a minimum of two years and shall make them available to the Office of Finance for inspection at any time during the Permittee's hours of operation.

14. **Exemptions.** Provision (d)(1),(2),(7) shall not apply to any Valet Parking Operator who is providing services for a non-recurring special event at a private residence.

(e) **Insurance Requirements.**

1. The Permittee shall obtain, carry, maintain and keep in full force and effect:

(i) A policy or policies of comprehensive general liability insurance with minimum limits of One Million Dollars (\$1,000,000.00) per occurrence, combined single limit coverage and Two Million Dollars (\$2,000,000.00) in the aggregate against any injury, death, loss or damage as a result of wrongful or negligent acts or omissions by the Permittee it's agents and employees.

(ii) Insurance coverage commonly known as garage keeper's legal liability coverage with minimum limits of Two Hundred Fifty Thousand dollars (\$250,000.00) per occurrence and One Million Dollars (\$1,000,000.00) in the aggregate. Garage keeper's legal liability coverage may be secured as a separate insurance policy or secured as part of an insurance policy providing other required coverages.

(iii) A policy or policies of comprehensive vehicle liability insurance covering personal injury and property damage with minimum limits of One Million Dollars (\$1,000,000.00) per occurrence, combined single limit, covering any vehicle in the possession of the Permittee, its agents and employees in conjunction with the operation of vehicles pursuant to the permit.

2. Insurance must be placed with insurers admitted in the State of California or have a current A.M. Best rating of no less than A:6.

3. Deductibles not to exceed Five Thousand Dollars (\$5,000.00) per occurrence are authorized in connection with the comprehensive general liability coverage, garage keeper's legal liability coverage, and comprehensive vehicle liability coverage.

4. The Permittee shall maintain on file with the Office of Finance a certificate or certificates of insurance on the City's form, showing that the policies of insurance required by this Section are in effect in the required amounts and showing the amount of any deductibles. The policies of insurance required by this Section shall contain an endorsement naming the City as an additional insured. All of the policies required under this Section shall contain an endorsement specifically stating that the coverage contained in the policies affords insurance pursuant to the terms and conditions as set forth in this Section.

5. The insurance provided by the Permittee shall be primary to any coverage available to the City. The policies of insurance required by this Section shall include provisions for waiver of subrogation.

6. The Permittee shall obtain, carry, maintain and keep in full force and effect workers' compensation insurance as required by law.

(f) Indemnification.

The Permittee, and any person acting under or pursuant to a Valet Parking 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 its employees, subcontractors or agents; (3) any condition of property used in the permitted operation; or (4) any acts, errors or omissions (including, without limitation, professional negligence) of the Permittee and its employees, subcontractors or agents in connection with the Valet Parking operation.

(g) Disciplinary Action - Additional Grounds.

The following acts committed by a Permittee shall be grounds for disciplinary action in addition to the grounds listed in Section 103.35:

1. The Permittee, its agents or employees, through carelessness, negligence or failure to make proper provision for the safeguarding of vehicles left in their custody, have knowingly or unknowingly facilitated or contributed toward the theft or conversion of any such vehicle, or of the contents thereof, or the damaging of any such vehicle; or

2. The Permittee, its agents or employees, have failed to cooperate with the police to aid in the investigation of any theft or other crime committed on a parking lot used by Permittee, or which arose out of the conduct of the business for which the permit was issued; or

3. The Permittee, its agents or employees, knowingly delivered a vehicle in their custody to a person neither the registered owner thereof nor entitled to possession of such vehicle; or

4. The Permittee's Valet Parking operation has negatively impacted traffic or disrupted the peace and quiet within any area of the City; or

5. The Permittee fails to comply with all City business tax and parking occupancy tax laws; or

6. The Permittee fails to comply with any of the operating requirements in subdivision (d) of this Section or any rules or regulations adopted by the Board governing valet parking.

(h) **Severability.**

If any portion of this ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this ordinance shall remain in effect. The people of the City of Los Angeles hereby declare that they would have adopted each portion of this ordinance, notwithstanding the fact that any one or more portions of this ordinance is declared invalid or unenforceable and, to that end, the provisions of this ordinance are severable.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

JUNE LAGMAY, City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By


BRIAN L. SOTTILE
Deputy City Attorney

Date

7/19/11

File No. 09-0206