

Order 286-07/08

Given first reading on 6/2/08

Public Hearing & Passage 6/16/08 8-0 (Donoghue abstaining)

EDWARD J. SUSLOVIC (MAYOR)  
KEVIN J. DONOGHUE (1)  
DAVID A. MARSHALL (2)  
DANIEL S. SKOLNIK (3)  
CHERYL A. LEEMAN (4)

**CITY OF PORTLAND  
IN THE CITY COUNCIL**

JAMES I. COHEN (5)  
JOHN M. ANTON (A/L)  
JILL C. DUSON (A/L)  
NICHOLAS M. MAVODONES (A/L)

**ORDER AMENDING TAXICAB ORDINANCE  
CHAPTER 30, ARTICLES I AND II**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, MAINE  
IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

1. *That Chapter 30, Vehicles for Hire, Articles I and II of the Portland City Code is hereby amended to read as follows:*

**Chapter 30 VEHICLES FOR HIRE\***

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\*Cross reference(s)--Operation of buses in parks, § 18-20; streets, sidewalks and other public places, Ch. 25; traffic and motor vehicles, Ch. 28.  
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**Art. I. In General, §§ 30-1--30-15**

**Art. II. Taxicabs, §§ 30-16--30-38.5**

Div. 1. Generally, §§ 30-16--30-30

Div. 2. Licenses, §§ 30-31--30-38.5

**Art. III. Horse-Drawn Cabs, §§ 30-39--30-74**

Div. 1. Generally, §§ 30-39--30-41

Div. 2. Licenses, §§ 30-42--30-46

Div. 3. Operating Requirements, §§ 30-47--30-74

**Art. IV. Bicycle Cabs, §§ 30-75--30-92**

Div. 1. General Provisions, §§ 30-75--30-76

Div. 2. Licenses, §§ 30-77--30-91

Div. 3. Operating Requirements, §§30-82--30-92

**ARTICLE I. IN GENERAL**

**Sec. 30-1. Reserved.**

**Sec. 30-2. Reserved.**

**Sec. 30-3. Reserved.**

**Sec. 30-4. Reserved.**

**Sec. 30-5. Applicability to transportation of disabled persons.**

This chapter shall not apply to any vehicle used for the transportation of passengers for hire which meets each and every one of the following requirements:

- (a) The vehicle is equipped with a ramp or lift mechanism designed to accomplish wheelchair access;
- (b) The vehicle, at all times when used for hire, is transporting one (1) or more physically disabled persons; provided, however, not all persons within the vehicle need be physically disabled provided they are accompanying a physically disabled person;
- (c) the vehicle is designed and operated to provide only non-emergency transportation to passengers who are wheelchair-bound or otherwise restricted in mobility due to physical incapacity, injury, sickness or other medical or age-related reason. For purposes of this chapter, non-emergency medical transportation vehicles are taxicabs, except that any motor vehicle utilized by a regional or nationally affiliated transportation agency that is registered and in good standing as a Maine non-profit corporation or is a public state or local agency, and that performs a background check on its drivers shall be excluded from this definition and the provisions of Article II. Any person or business who is unlicensed and claims to qualify for this exception bears the burden of proof to demonstrate that the exception is applicable; and
- (d) The vehicle is operated for hire only by prearrangement.

Any doubt as to the applicability of the exemption created by this section shall be resolved against the application of this section. Any vehicle operated for hire, although designed for handicapped use, when not so used, shall be subject to the applicable provisions of this chapter.

(Ord. No. 534-86, 5-5-86)

**Sec. 30-6. Reserved.**

- Sec. 30-7. Reserved.
- Sec. 30-8. Reserved.
- Sec. 30-9. Reserved.
- Sec. 30-10. Reserved.
- Sec. 30-11. Reserved.
- Sec. 30-12. Reserved.
- Sec. 30-13. Reserved.
- Sec. 30-14. Reserved.
- Sec. 30-15. Reserved.

**ARTICLE II. TAXICABS; LIVERIES\***

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\*Cross reference(s)--Operation of buses in parks, § 18-20; streets, sidewalks and other public places, Ch. 25; traffic and motor vehicles, Ch. 28.  
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DIVISION 1. GENERALLY

**Sec. 30-16. Definitions.**

Terms used in this article shall have their common meanings except that the definitions set forth in chapter 15 or in this section shall apply unless the context clearly indicates that a different meaning is intended.

*Director* means the designee of the city manager.

*Disqualifying criminal offense* means and include any conviction for any criminal offense punishable by imprisonment for any period of time, whether or not the sentence was imposed or served, but shall not include any conviction which is shown to have been set aside on appeal or collaterally, or for which a pardon, certificate of rehabilitation, or the equivalent under the law of the sentencing jurisdiction has been granted.

*License inspector* means and includes any person designated by the director to perform inspections of taxicabs.

*Limousine* means any vehicle designed to carry 5 or more passengers behind the driver's seat which is of a type customarily designated as a luxury "stretch limousine" and is used for the transportation of passengers for hire solely on a reserved hourly or flat rate basis.

*Livery* means any motor vehicle designed to carry 3 or more passengers behind the driver's seat which is used for the transportation of passengers for hire on a prior reserved hourly or flat rate basis. Livery vehicles shall not be available for hire on a "hail" or walk-up basis by passengers on the street and shall not include a limousine.

*Metered zone* means and includes the Cities of Portland, South Portland and Westbrook and the Towns of Cape Elizabeth, Falmouth and Scarborough.

*Taxicab* means and includes any motor vehicle used for the transportation of passengers for hire, the destination and route of which are under the direction and control of the passengers; except that the provisions of this article shall not apply to a motor vehicle licensed by another municipality to operate as a taxicab or other vehicle for hire which is operated within the City of Portland in response to:

- (a) A call to convey a passenger from the city to such other municipality; or
- (b) A request to convey a passenger from the city to such other municipality when such request is made at the point of delivery in the city of a passenger from such other municipality; or
- (c) A request to convey a passenger from such other municipality to the city.

"Taxicab" does not include a limousine or livery vehicle as defined above, or a vehicle which operates solely on a fixed schedule and route such as, but not limited to, a bus.

*To operate* means and includes to drive, or regularly to cause, induce, permit or suffer another to drive, whether or not such other person acts in the capacity of an agent, servant,

employee, lessee or independent contractor.

(Code 1968, § 902.2; Ord. No. 231-80, 12-22-80; Ord. No. 303-92, 4-6-92; Ord. No. 231-99, 3-15-99; Ord. No.57-04/05, 10-4-04; Ord. No. 294-04/05, 6-20-05)

**Cross reference(s)**--Definitions and rules of construction generally, § 1-2.

### **Sec. 30-17. Applicability.**

(a) All provisions of this Article shall apply to taxicabs and liveries which operate between any of the municipalities within the metered zone and the city, except that livery vehicles shall not be required nor allowed to have taximeter and the provisions of section 30-21 shall not apply to liveries. This article shall not apply to the Casco Bay Islands other than Peaks Island.

(b) Limousines operating within the city or based in the city are exempt from the provisions of this Article.

(c) Livery operators which hold a current interstate operating authority from the Federal Motor Carrier Safety Administration and the liveries covered by such interstate operating authority are exempt from this Article. Failure to have a written prior reservation record at the time of pick-up, drop-off or conveyance of a passenger creates a rebuttable presumption that the vehicle and operator are required to be licensed as a taxicab under this Article. No livery shall operate as a taxicab nor accept passengers on a "hail" or walk-up basis even if such livery is covered by interstate operating authority or is licensed as a livery under this Article.  
(Ord. No. 57-04/05, 10-4-04)

### **Sec. 30-18. Equipment.**

(a) *General requirements.*

(1) All taxicabs and liveries shall submit to random vehicle inspections by the license inspector or the inspector's designee or a member of the Portland police department, in addition to the city's required annual inspection.

- (2) Taxicabs and liveries shall be at all times clean and in good repair inside and out. "Clean and in good repair" shall mean and include, without limitation, the following:
- a. No visible tears in carpeting;
  - b. No dents larger than six (6) inches in diameter;
  - c. No tears in seat upholstery;
  - d. No loose trash or large amounts of dirt or sand in the interior passenger area, whether or not the area is currently occupied by a passenger;
  - e. No missing trim or body work;
  - f. No cracks in windshield or windows;
  - g. Seat belts for all passenger seats visible and in working order;
  - h. No missing hubcaps;
  - i. No visible primer paint;
  - j. No rust greater than one (1) inch in diameter; and
  - k. An operational jack and inflated spare tire.
- (3) Taxicabs and liveries shall be maintained at all times in compliance with the laws of the state relating to passenger vehicles and the rules and regulations of the state enacted pursuant thereto.
- (4) *Taximeters*. Taxicabs, other than those which operate exclusively on the islands, shall be equipped with taximeters which have been tested, approved and sealed by the state sealer of weights and measures, and which shall indicate fare and mileage by means of legible figures which are electrically illuminated during the period between sunset and sunrise, which fare shall be

computed in accordance with the rate card and shall be calibrated the same fraction of a mile as the maximum fare provided in section 30-21(b)(1). Taximeters shall be so placed that the figures are in plain view of all passengers. Taximeters shall be connected directly to and be driven directly from the transmission by means of flexible shafts and flexible housing so connected and sealed as to not be subject to tampering.

- (5) *Exterior light.* Every taxicab shall be equipped with an exterior light affixed to the roof thereof which shall be covered with a translucent fixture marked with the word "Taxi" in legible lettering and which shall be operated during the period between sunset and sunrise. A livery vehicle is prohibited from having an exterior light.
  
- (6) *Notice to the Public.* Every taxicab and livery shall conspicuously display the following rules and regulations to notify the public of the requirements of all taxicab and livery vehicles;
  - a. For taxicabs only, maximum fare schedule;
  - b. Smoking is not permitted in any taxicab or livery vehicle at any time;
  - c. Taxicab or livery driver permit, with picture i.d., shall be prominently displayed within the vehicle;
  - d. The operator of each taxicab or livery shall conduct himself in a courteous and professional manner at all times;
  - e. No person other than the driver is permitted to remain in the taxicab or livery at any time without the express consent of all passengers.
  - f. Effective July 1, 2008, the director shall supply appropriate signage for each taxicab and livery and shall designate the location of such signage in the vehicle.

ANY VIOLATION OF THESE RULES AND REGULATIONS BY THE TAXICAB OR LIVERY DRIVER OR OWNER MAY BE REPORTED BY CALLING (207) 756-8310 OR BY WRITING TO:

TAXICAB LICENSING  
C/o Manager of Transportation Policy  
City of Portland  
389 Congress Street  
Portland, Maine 04101

Please include your name, address and telephone number to allow adequate follow-up by the City.

(b) *Identification.* Every taxicab shall be conspicuously, professionally and permanently marked in letters not less than one and one-half (1 1/2) inches in height with the word "Taxicab" and the owner's name or trade name or, in lieu of such name or trade name, with a design or monogram containing the owner's name or trade name. Such design or monogram shall be not less than eight (8) inches in diameter. The identification required hereunder shall be placed, at minimum, on the two front doors of the vehicle. Livery vehicles are required to be similarly marked as "Livery", and the words "taxi", "cab" or "taxicab" cannot be used in such marking.

(Code 1968, § 902.7; Ord. No. 231-80, 12-22-80; Ord. No. 643-81, § 1, 5-4-81; Ord. No. 303-92, 4-6-92; Ord. No. 39-92, § 1, 7-6-92; Ord. No. 231-99, 3-15-99; Ord. No. 57-04/05, 10-4-04; Ord. No. 294-04/05, 6-20-05)

**Sec. 30-19. Conduct of driver.**

When transporting passengers, all licensees shall be neat and clean in appearance. All articles of clothing shall be clean and in good repair.

(Ord. No. 303-92, 4-6-92; Ord. No. 39-92, § 2, 7-6-92; Ord. No. 57-04/05, 10-4-04)

**Sec. 30-20. Smoking in vehicle.**

Smoking is not permitted in any taxicab or livery vehicle at any time, including times when there are no passengers in the

vehicle or when the vehicle is not in operation as a taxicab or livery.

(Ord. No. 303-92, 4-6-92; Ord. No. 231-99, 3-15-99; Ord. No. 57-04/05, 10-4-04)

**Sec. 30-21. Taxicab fares for service.**

The maximum fares for taxicabs shall be as follows:

(a) *Peaks Island.* The maximum passenger fare for taxicab or livery service in taxicabs or liveries operating exclusively on Peaks Island shall be one dollar and fifty cents (\$1.50) per passenger per trip; except that the maximum passenger fare for service to that portion of Peaks Island located beyond the intersection of Seashore Avenue and Trefethren Avenue or the intersection of Whitehead and Seashore Avenue shall be two dollars (\$2.00).

(b) *Other than on islands:*

(1) *Within the metered zone.* Except as otherwise provided herein, the maximum fare for taxicab service solely which begins or ends in the city and is within the metered zone, other than taxicabs operating exclusively on the islands, shall be one dollar and ninety cents (\$1.90) for the first one-tenth of a mile (the "drop" rate) or a fraction thereof and thirty cents (\$0.30) for each one-tenth of a mile or fraction thereof, thereafter. The fare shall be computed and displayed by the taximeter. No fare charged shall be in excess of the amount displayed by the taximeter. There shall be one (1) fare, divided equally, in the case of two (2) or more passengers who engage the taxicab for a trip between the same two (2) points. In all other cases, each passenger shall pay a separate fare, based upon the total taximeter rate to their individual destinations..

(2) *Outside the metered zone.* If a trip begins or ends within the city and the other point of destination is outside the metered zone, the passenger and driver shall agree upon the fare before the trip commences; otherwise the passenger shall be under no obligation to pay any fare.

(3) *Minimum Jetport fare.* The minimum fare for pickup at the Portland International Jetport is five dollars (\$5.00) even if the taximeter fare is less. The taximeter shall be used for all such pickups.

(c) *Waiting time.* A charge for waiting time may be made only for time waited at the express direction of the passenger after the trip has begun and for time waited before the trip has begun, commencing five (5) minutes after the time at which the passenger has requested the taxicab to call, or five (5) minutes after the taxicab actually calls, whichever is later. The charge for such waiting time shall be forty cents (\$0.40) per minute.

(d) *Sight-seeing.* Taxicabs may be employed for purposes of sight-seeing only according to a published route and rate which shall be provided to the passenger prior to commencement of the trip.

(e) *Bags and parcels.* No charge shall be made for the transportation of the bags or parcels of a passenger.

(Code 1968, § 902.8; Ord. No. 231-80, 12-22-80; Ord. No. 576-81, §§ 1, 2, 4-6-81; Ord. No. 471-84, 3-7-84; Ord. No. 332-88, 4-20-88; Ord. No. 63-89, 7-17-89; Ord. No. 303-92, 4-6-92; Ord. No. 249-97, 4-23-97; Ord. No. 56-04/05, 9-8-04; Ord. No. 57-04/05, 10-4-04)

### **Sec. 30-22. Rates to be displayed by taxicabs.**

(a) *Rate and information card.* The director shall issue, together with each taxicab business license, a rate and information card which sets forth the foregoing rates in clear, legible letters and a description of the metered zone. The rate and information card shall be clearly visible to passengers at all times when the taxicab is in service.

(b) *Statement of rates.* The maximum rate of fares charged by the taxicab pursuant to this article and any lesser rate actually charged by the taxicab shall be advertised on both back doors of the taxicab in lettering of a size to be approved by the director.

(c) *Statement of discounts.* Notice of any lesser rates routinely offered shall be displayed in clear and legible letters immediately adjacent to the rate and information card.

(Code 1968, § 902.9; Ord. No. 231-80, 12-22-80; Ord. No. 643-81, §§ 2, 3, 5-4-81; Ord. No. 471-84, 3-7-84; Ord. No. 303-92, 4-6-92; Ord. No. 57-04/05,

**Sec. 30-23. Display of license.**

Every driver licensed hereunder shall display his or her taxicab or livery driver's license in the manner described by the director when the cab or livery is in service. The license shall be surrendered upon revocation, suspension or expiration of the taxicab or livery driver's license.

An annual inspection and registration decal, to be issued by the director upon annual inspection commencing May 1, 1999, shall be affixed to the left lower corner of the windshield of each taxicab or livery licensed by, and operated in, the City of Portland. It shall be a violation of this ordinance to fail to display such inspection and registration decal. A license inspector or law enforcement officer shall immediately order the removal from service of any taxicab or livery that fails to display this decal or may immediately impound the taxicab operated without the required decal. A penalty of \$100.00 shall be paid by the owner of any taxicab or livery vehicle for each day it is operated without the required decal.

(Code 1968, § 902.10; Ord. No. 231-80, 12-22-80; Ord. No. 278-90, 3-19-90; Ord. No. 303-92, 4-6-92; Ord. No. 231-99, 3-15-99; Ord. No. 57-04/05, 10-4-04; Ord. No. 294-04/05, 6-20-05)

**Sec. 30-24. Order of taxicab or livery vehicle from service.**

(a) The license inspector or any law enforcement officer may require any licensee to present a taxicab or livery for inspection whenever the inspector or officer deems such inspection necessary because of a serious threat to the health or safety of passengers and may, in writing, order a taxicab or livery business licensee to remove from service any taxicab or livery which is in violation of this article; provided that a re-inspection shall be scheduled as soon as possible but in no case more than three (3) business days thereafter. There shall be a charge of fifty dollars (\$50.00) for each re-inspection of any taxicab or livery ordered removed from service hereunder.

(b) The license inspector or any law enforcement officer shall order a taxicab or livery business licensee or taxicab operator to immediately remove from service, or shall immediately impound, any taxicab or livery which does not exhibit a taxicab or livery decal issued pursuant to Section

30.23.

Any licensee aggrieved by an order made under this section may appeal at any time to the city director who shall, as soon as possible, and in no case more than five (5) business days thereafter, determine whether such taxicab or livery is in violation of this article and shall either affirm the order of the license inspector or law enforcement officer or give the licensee written permission to return the taxicab or livery to service. Notwithstanding any other provision of this article or chapter 15, the license of any licensee charged with operating a taxicab or livery which the license inspector has ordered out of service shall be suspended in accordance with section 15-8(b)(3), and shall either be suspended or revoked upon a finding, after notice and hearing, that the violation has in fact been committed.

(Code 1968, § 902.13; Ord. No. 231-80; 12-22-80; Ord. No. 306-82, § 4, 1-4-82; Ord. No. 484-83, § 1, 4-20-83; Ord. No. 303-92, 4-6-92; Ord. No. 124-96, § 1, 11-4-96; Ord. No. 231-99, 3-15-99; Ord. No. 57-04/05, 10-4-04; Ord. No. 294-04/05, 6-20-05)

#### **Sec. 30-25. Log; customer receipt.**

(a) Each person licensed as a taxicab or livery business or driver hereunder shall maintain a log of all calls received and services provided, specifying the date, time, name, if available, and the pickup and drop-off location of each transport which either begins or ends within the metered zone. Such log shall be provided to the director or law enforcement officer upon request or may be examined by said director or officer during regular business hours of the business.

(b) Each person licensed as a taxicab or livery business or driver hereunder shall provide a receipt to any customer upon that customer's request. Such receipt shall show, at minimum, the date and time of the service provided, the name of the taxicab or livery company, and the cost thereof.

(Ord. No. 57-04/05, 10-4-04; Ord. No. 294-04/05, 6-20-05)

#### **Sec. 30-26. Notice of violation; waiver of administrative hearing.\***

The director, the license inspector or any authorized law enforcement officer may, prior to commencement of an administrative hearing, issue a notice of violation to any

person charged with a violation of this article. Such notice shall be in a form approved by the city manager.

(Ord. No. 306-82, § 4, 1-4-82; Ord. No. 303-92, 4-6-92; Ord. No. 57-04/05, 10-4-04)

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**\*Editor's note:** the waiver provision is now in § 30-38.

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### **Sec. 30-27. Penalty.**

Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. The city may enjoin or abate any violation of this article by appropriate action. In addition to the penalty set forth in section 1-15 of this Code, if the court finds for the city, the city shall recover its costs of suit including reasonable experts' fees, attorney's fees and reasonable and necessary investigative fees.

(Ord. No. 303-92, 4-6-92; Ord. No. 57-04/05, 10-4-04)

### **Sec. 30-28. Severability.**

The provisions of section 1-14 of this Code shall apply to this article.

(Ord. No. 303-92, 4-6-92; Ord. No. 57-04/05, 10-4-04)

### **Sec. 30-29. Reserved.**

### **Sec. 30-30. Reserved.**

## DIVISION 2. LICENSES\*

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**\*Cross reference(s)**--Licenses and permits generally, Ch. 15.

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### **Sec. 30-31. Required.**

(a) *Business license.* Each taxicab or livery business, whether an individual, corporation, d/b/a, limited liability corporation, partnership, or other legal entity, shall obtain a taxicab or livery license from the director prior to permitting the operation of any taxicab or livery vehicles in the city. A taxicab or livery business license shall be obtained which covers all vehicles which will be used under the license. As

provided in Chapter 15, there shall be a fee of three hundred dollars (\$300.00) per vehicle listed on the business license. Only those vehicles listed on the business license may be used by the licensee as a taxicab or livery vehicle in the city. Vehicles can only be used for one purpose, i.e. either a taxicab or livery, and can only be listed on one license.

(b) *Driver's license.* No person shall operate a taxicab or livery vehicle within the city unless such taxicab or livery is covered by a business license and the driver thereof is currently licensed by the city to operate a taxicab or livery.

(c) *Licenses non-transferable.* Pursuant to section 15-11 of this Code, licenses issued hereunder are not transferable. If a taxicab or livery business license is denied or is revoked as a result of a disqualifying criminal conviction of the applicant or licensee for a class A, B or C crime, a taxicab or livery business license shall not be issued to an immediate family member for the period of such disqualification. "Immediate family member" means a spouse, parent, sibling or child living in the same household as the applicant or licensee who committed the disqualifying criminal conviction.

(Code 1968, § 902.1; Ord. No. 231-80, 12-22-80; Ord. No. 303-92, 4-6-92; Ord. No. 231-99, 3-15-99; Ord. No 57-04/05, 10-4-04; Ord. No. 294-04/05, 6-20-05)

### **Sec. 30-32. Application.**

(a) Applications under this division shall be filed in accordance with chapter 15. In addition to the requirements of that chapter:

(1) *Taxicab or livery business licenses.* Every application shall contain the following:

- a. Every application shall be signed and verified by each of the principal officers of the applicant if the applicant is a corporation, and in all other cases by all persons having actual ownership interests in the applicant. If the applicant is a corporation, the application shall state the name and address and the date and place of birth of each of the principal officers of the applicant and of every person having management

authority in the business of the applicant. In all other cases, the application shall state the name and address and the date and place of birth of every person having an actual ownership interest or having management authority in the business of the applicant.

- b. A record of any disqualifying criminal conviction of any officer of, or person having an actual business ownership in, the applicant, or a statement that no such conviction exists shall be provided.
- c. The make, type, year, serial number and license plate number of each vehicle for which a taxicab or livery business license is sought and the address of the garage or other terminal at which the vehicle will be stationed when not in service shall be stated.
- d. A detailed description of the graphic design, insignia, wording and coloring which will appear upon the vehicle, if licensed, shall be included.
- e. An appropriate form of statement over the signature of each person signing the application, giving all persons and governmental agencies having information relevant to the above items permission to release the same to the director.
- f. A person or business may obtain both a livery and taxicab business license, but there shall be a separate application form and fee for each such license. A vehicle shall not be licensed nor used both as a taxicab and a livery vehicle.

(2) *Taxicab or livery drivers' licenses.* The taxicab or livery driver's license application shall:

- a. State the age of the applicant;
- b. State current contact information, including home

and work address, and home, work and cell telephone numbers, and e-mail address if available;

- c. Contain a complete record of the applicant with respect to any disqualifying criminal conviction or a statement that no such conviction exists;
  - d. Contain a record of convictions for reckless driving, driving to endanger, operating or attempting to operate under the influence during the year preceding the application;
  - e. State whether any driver's license held by the applicant is presently revoked or has been revoked during the three (3) years preceding the application and the reasons for such revocation or revocations; and
  - f. The application shall contain an appropriate form of statement over the signature of the applicant giving all persons and governmental agencies having information relevant to the above items permission to release the same to the director and shall be accompanied by two (2) photographs of the applicant of such size as the director may specify.
  - g. An applicant may obtain both a taxicab and a livery driver's license but there shall be separate application forms and fees for each such license. No person shall drive a taxicab or livery without having the appropriate license hereunder.
- (3) Every business licensed hereunder must maintain current records of the names, home addresses and telephone numbers of all of their drivers and must supply this information promptly to the director upon request. Every driver required to be licensed hereunder must have a current license for the vehicle he or she drives, and must provide the director with

current contact information, including name, home and work address and home, work and cell telephone numbers and any e-mail address available. The driver shall promptly notify the director of any change in the contact information.

(Code 1968, § 902.3; Ord. No. 231-80, 12-22-80; Ord. No. 303-92, 4-6-92; Ord. No. 57-04/05, 10-4-04; Ord. No. 294-04/05, 6-20-05)

### **Sec. 30-33. Standards for denial.**

(a) In addition to those standards set forth in chapter 15, a license under this division shall be denied to the following persons:

(1) *Taxicab or livery business licenses:*

- a. A corporation which is not licensed to do business in the state;
- b. An applicant other than the registered owner of the vehicle;
- c. A corporation if any principal officer thereof or any person having actual ownership interest therein has a disqualifying criminal conviction;
- d. An applicant, other than a corporation, if such applicant, any principal officer, or any person having an actual ownership interest or management authority therein has a disqualifying criminal conviction; and
- e. Any applicant whose taxicab or livery business license has been revoked within the three (3) years preceding the application.

The director shall make and keep a written record of every decision to deny an application for a taxicab or livery business license in the manner required by Title 1 M.R.S.A., Chapter 13.

(2) *Taxicab or livery drivers' licenses:*

- a. An applicant who has not attained the age of

eighteen (18) years; b. An applicant who has a disqualifying criminal conviction, based upon the following:

1. For a period of one (1) year from the date of the discharge of the sentence for the most recent conviction for a Class D or E crime, or an equivalent offense in any other jurisdiction, that falls into any one of the following categories: theft, robbery, burglary, assault, sex crimes, drugs, prostitution, weapons, or any major traffic offense except those specified in paragraph d below. In addition to the foregoing, this same one (1) year disqualification applies to an applicant who has a record of repeated minor traffic offenses which are not criminal violations. "Repeated minor traffic offenses" hereunder means more than two motor vehicle moving traffic violations within the twelve (12) months prior to the date of application, or more than five (5) moving traffic violations within the thirty-six (36) months prior to the date of application, with at least one of those offenses occurring within the twelve (12) months prior to the date of application. In the case of these non-criminal traffic offenses, the twelve (12) month disqualification period shall begin as of the date of the finding of violation of the most recent offense. Notwithstanding the foregoing, any motor vehicle moving violation which results in bodily injury or property damage shall be considered a major offense hereunder.
  
2. For a period of one (1) year from the date of reinstatement of a license which has been suspended or revoked in any jurisdiction, with the following exceptions:

- i. Where a license suspension results from the failure to file insurance with the Secretary of State pursuant to 29-A M.R.S.A. Chapter 13 (or other applicable law) or an order of court, the applicant must provide the director with (1) proof of valid insurance; and (2) documentation of the reinstatement of the applicant's driver's license. Following such proof, the license suspension shall not disqualify the applicant from receiving a taxicab or livery driver's license, provided there is no other disqualifying condition.
  - ii. Where a license suspension results from the failure to pay child support pursuant to 19-A M.R.S.A. Chapter 65 (or other applicable law) or an order of the court, the applicant must provide the director with documentation of reinstatement of the applicant's driver's license. Following such proof, the license suspension shall not disqualify the applicant from receiving a taxicab or livery license, provided there is no other disqualifying condition.
3. For a period of three (3) years from the date of the discharge of the sentence for the most recent conviction for a Class C crime, or an equivalent offense in any other jurisdiction.
4. For a period of four (4) years from the date of discharge of the sentence for the most recent conviction for reckless driving, driving to endanger or operating a motor vehicle under the influence of intoxicating liquor or drugs more than one (1) time in the preceding ten (10) year period,

regardless of the class of the offense and regardless of any lesser disqualification which might otherwise apply hereunder.

5. For a period of five (5) years from the date of the discharge of the sentence for the most recent conviction for reckless driving, driving to endanger or operating a motor vehicle under the influence of intoxicating liquor or drugs, which act was committed while operating any vehicle licensed under this chapter, or which act resulted in bodily injury.
6. For a period of five (5) years from the date of the discharge of the sentence for the most recent conviction for a Class B crime, or an equivalent offense in any other jurisdiction.
7. For a period of ten (10) years from the date of the discharge of the sentence for the most recent conviction for a Class A crime, or an equivalent offense in any other jurisdiction.
8. For a period of ten (10) years from the date of the discharge of the sentence for the most recent conviction if either of the following conditions occur:
  - i. The applicant has received more than two (2) criminal convictions for Class B, C or D crimes, or any combination of such crimes within the preceding ten (10) year period; or
  - ii. The applicant has utilized a weapon of any type in the commission of a crime.

Where an applicant for a taxicab or livery driver's license or a licensee has more than one (1) disqualifying criminal conviction within the

previous ten (10) years, the applicant shall be disqualified for the longest applicable period of time. If an applicant receives a subsequent disqualifying criminal conviction during a period of disqualification for another offense, the disqualification period for the subsequent offense shall run from the date of the discharge of the sentence for the subsequent conviction. If the disqualification period for the subsequent offense extends beyond the initial disqualification period, then the applicant shall remain disqualified for such additional time period.

(b) The periods of disqualification set forth in subsection (a) above, other than subsection (2)b.8. above may be reduced by six (6) months if the applicant can show that after the conviction he or she did at least one (1) of the following:

- (1) Successfully completed a drug or alcohol rehabilitation program, as evidenced by a certificate of completion of the program or a letter from an official of the program;
- (2) Successfully completed a domestic violence therapy program or treatment if the disqualifying criminal conviction involved domestic violence, as evidenced by a certificate of completion of the program, a letter from an official of the program or a letter from a licensed counselor or therapist; or
- (3) Made restitution for the crime committed, as evidenced by appropriate court documentation or probation records.

(c) The director shall make and keep a written record of every decision to deny an application for a taxicab or livery driver's license in the manner required by Title 1 M.R.S.A., Chapter 13.

(d) "Date of discharge" as used herein means the date upon which the sentence has been completed, including any probation or parole period, and the person has been discharged from the criminal justice system for the violation.

(Code 1968, § 902.4; Ord. No. 231-80, 12-22-80; Ord. No. 296-82, §§ 1, 2, 12-20-82; Ord. No. 303-92, 4-6-92; Ord. No. 144-96, 1-17-96; Ord. No. 231-99, 3-15-99; Ord. No. 57-04/05, 10-4-04; Ord. No. 294-04/05, 6-20-05)

#### **Sec. 30-34. Conditions precedent to issuance.**

Prior to issuance of any taxicab or livery vehicle license, and in addition to all other requirements of chapter 15 or this division, the following must occur:

- (a) For any business license: The applicant must file with the director a copy of the applicant's valid state certificate of registration of the vehicle to be licensed, a copy of the insurance certificate for the vehicle along with a certificate that lists the City of Portland as a certificate holder and providing for prior notice to the city of cancellation of the insurance policy, a valid certificate of inspection issued by the state sealer of weights and measures in the case of a taxicab only, and a certificate issued by the license inspector that the vehicle to be licensed complies with the safety and equipment requirements of this article. A copy of the current insurance certificate for the vehicle shall be kept in the vehicle at all times. In the case of a certificate that covers more than one (1) vehicle, a photocopy of the insurance certificate shall be kept in each vehicle.
  
- (b) For any driver's license: The applicant must file with the director a copy of a valid State of Maine driver's license. In addition, the director shall obtain a current criminal history report from the state bureau of identification and a driving record from the state department of motor vehicles; except that pending receipt of the criminal history report from the state bureau of identification a temporary taxicab or livery license may be issued to any applicant provided that

the director has received both the applicant's driving record from the department of motor vehicles and a copy of the applicant's criminal history record from the Portland Police Department which criminal history record does not contain notation of an arrest or disqualifying criminal conviction.

(Code 1968, § 902.5; Ord. No. 231-80, 12-22-80; Ord. No. 461-87, 4-22-87; Ord. No. 303-92, 4-6-92; Ord. No. 39-92, § 3, 7-6-92; Ord. No. 248-97, 4-9-97; Ord. No. 231-99, 3-15-99; Ord. No. 57-04/05, 10-4-04; Ord. No. 294-04/05, 6-20-05)

### **Sec. 30-35. Fees.**

Fees shall be as provided under chapter 15, except that a portion of the issuance fee (prorated on a weekly basis) shall be refunded upon surrender of the license if the licensee dies, or becomes permanently disabled, from conducting the taxicab business or driving a taxicab or livery vehicle.

(Code 1968, § 902.6; Ord. No. 231-80, 12-22-80; Ord. No. 303-92, 4-6-92; Ord. No. 57-04/05, 10-4-04)

### **Sec. 30-35.5. Transfer.**

Notwithstanding any other provision of this article or chapter 15, and in lieu of any other fee, a taxicab or livery business license may be transferred to another vehicle for the unexpired term thereof upon payment of a fee of twenty-five dollars (\$25.00), and upon relinquishment to the director of the decal previously issued to the corresponding taxicab or livery vehicle, provided that the license application filed pursuant to sections 15-5 and 30-32(a) shall be supplemented as required by section 15-13.

(Code 1968, § 902.6; Ord. No. 231-80, 12-22-80; Ord. No. 306-82, § 1, 1-4-82; Ord. No. 303-92, 4-6-92; Ord. No. 231-99, 3-15-99; Ord. No. 57-04/05, 10-4-04; Ord. No. 294-04/05, 6-20-05)

### **Sec. 30-36. Automatic revocation or suspension.**

(a) *State of Maine driver's license.* No taxicab or livery driver's license shall be effective for the purposes of this division during any period in which the state driver's license of the licensee is suspended or revoked.

(b) *Obligation of taxicab or livery driver.* It is the

obligation of the licensed taxicab or livery driver to notify the director of any suspension or revocation of his or her state driver's license and to return his or her taxicab or livery driver's license to the director within fourteen (14) calendar days of such suspension or revocation. It is a violation of this ordinance for a licensee to continue to operate a taxicab or livery vehicle after suspension of his or her state driver's license and the taxicab or livery driver's license shall be suspended for up to a maximum of one year from the date of the finding by the director of such violation by a licensee, in addition to any other penalty which may apply under this article. A copy of this paragraph shall be printed on the city's taxicab and livery driver's license application.

(c) *Obligation of business licensee.* It is a violation of this ordinance for a business licensee to knowingly employ a driver who does not hold a valid state driver's license or a driver's license required hereunder and to permit him or her to operate a vehicle licensed hereunder, and such business licensee shall be subject to a suspension of all licenses issued hereunder to that person for the duration of each current license and up to one (1) year thereafter for each license. Any person permitted or suffered to drive any taxicab or livery vehicle of the business licensee shall be considered to be "employed" by said business licensee for purposes of this paragraph, however that person is designated, including but not limited to, an employee, independent contractor, lessee.

(Code 1968, § 902.11; Ord. No. 231-80, 12-22-80; Ord. No. 303-92, 4-6-92; Ord. No. 57-04/05, 10-4-04; Ord. NO. 294-04/05, 6-20-05)

### **Sec. 30-37. Grounds for suspension or revocation.**

(a) *Any license.* In addition to the grounds for suspension or revocation of licenses set forth in chapter 15 and in this article and the grounds for denial set forth in this article which shall also be grounds for suspension or revocation of a license, either a taxicab or livery business license or a taxicab or livery driver's license shall be subject to suspension or revocation upon a determination that the licensee:

- (1) Knowingly took a longer route to his or her destination than was necessary unless so requested by

the passenger;

- (2) Knowingly conveyed any passenger to a place other than that which the passenger specified;
- (3) Solicited or caused another person to solicit taxicab or livery passenger business in any manner whatsoever;
- (4) In the case of a livery, picked up or attempted to pick up a passenger on the street or in a public place, without an agreement arranged in advance for such pick-up; the burden shall be on the livery business or driver licensee to show the existence of such a pre-arranged agreement;
- (5) Transported any person other than the passenger first engaging the taxicab or livery without the express consent of such passenger;
- (6) Drove a taxicab or livery when not clean and neat in appearance;
- (7) Permitted any person other than the driver and a passenger or passengers to remain in the taxicab or livery at any such time, except a trainee, if a licensed taxicab or livery driver;
- (8) Refused to transport any orderly person upon request unless, in the case of a single taxicab or livery business the taxicab or livery vehicle is engaged, or in the case of a taxicab or livery business operating more than one (1) taxicab or livery vehicle, all vehicles operated by such business and then in service are engaged (if no taxicab or livery vehicle is available at the time when a request for taxicab or livery service is telephoned to a dispatch service, the dispatch service shall arrange with the caller for transportation by the next available taxicab or livery using such dispatch service unless the caller expressly declined to make such arrangement);
- (9) In the case of a taxicab, charged more than the

maximum fare specified in this article;

- (10) Failed to notify the director of any change of any material fact set forth in the application for such license; or
- (11) Removed from a taxicab or livery, or obscured, or caused to be removed from a taxicab or livery, or caused to be obscured, the notice and decal required by sections 30-22 and 30-23 or any other notice hereunder required to be posted in the vehicle;
- (12) Smoked or permitted another to smoke in the taxicab or livery.

(b) *Drivers' licenses only.* In addition to the provisions of subsection (a), a taxicab or livery driver's license shall be suspended or revoked upon the determination that the driver:

- (1) Engaged in any loud argument, fight or other disturbance; harassed, threatened or assaulted another person; intentionally damaged, destroyed or threatened to damage or destroy any property; or in any other manner engaged in conduct detrimental to the orderly and efficient transportation of passengers;
- (2) Failed to notify the director of any conviction for reckless driving, driving to endanger, operating a motor vehicle under the influence of intoxicating liquor or drugs, attempting to operate under the influence, or an equivalent offense in any other jurisdiction, or suspension or revocation of the privilege to operate a motor vehicle;
- (3) Failed to notify the director of any conviction or imprisonment within the then current license year.

(c) *Business licenses.* In addition to the provisions of subsection (a), a taxicab or livery business license shall be suspended or revoked upon a determination that:

- (1) There have been repeated violations by the driver or

drivers employed by the licensee which resulted in four (4) or more suspensions of the same driver, or eight (8) or more suspensions of employees of the same person holding more than one (1) business license hereunder, establishing a pattern of conduct by the holder of the taxicab or livery business license(s);

- (2) The taxicab or livery business licensee or any person employed by such licensee has operated a taxicab or livery without a current and valid taxicab or livery driver's license for such vehicle; or
- (3) Any taxicab, livery, taxicabs or liveries covered by the taxicab or livery business license have been the subject of one (1) or more violation notices for failure to comply with the standards set forth in Section 30-18.

(d) "Employed by" or "employee" as used in this Article shall include but not be limited to, any employee, independent contractor, lessee or person permitted or suffered to drive any taxicab or livery vehicle of the business licensee.  
(Code 1968, § 902.12; Ord. No. 231-80, 12-22-80; Ord. No. 306-82, § 6, 1-4-82; Ord. No. 450-86, § 1, 3-17-86; Ord. No. 277-90, 3-19-90; Ord. No. 303-92, 4-6-92; Ord. No. 124-96, § 2, 11-4-96; Ord. No. 231-99, 3-15-99; Ord. No. 57-04/05, 10-4-04; Ord. No. 294-04/05, 6-20-05)

### **Sec. 30-38. Penalties.**

(a) *Maximum suspensions.* Except where a longer suspension or revocation is provided herein, the maximum suspensions of taxicab or livery drivers' licenses or business licenses for violations of this chapter or chapter 15 shall be as follows:

- 5 days for the first violation;
- 14 days for the second violation;
- 30 days for the third violation;

within a one-year period; provided that the minimum suspension for a violation of section 30-37(b)(2) or (b)(3) shall be for the duration of the current license period, and no license may be issued for a minimum of one (1) full calendar year from the

date of suspension; such suspension or revocation to be in addition to the amount of time specified for any suspension incurred pursuant to subsection (d) below. If the director determines that the violation of section 30-37(b)(2) or (3) or section 15-8(a)(1) was knowing or willful, the suspension shall be for the duration of the current license period plus two (2) full calendar years plus the time applicable to the disqualifying criminal conviction.

(b) *Civil penalty.* In addition to, or instead of suspension of a license for the first 3 violations within a one year period, the city may impose a civil penalty of seventy-five dollars (\$75.00) for the first violation; one hundred and twenty-five dollars (\$125.00) for the second violation and two hundred and fifty dollars (\$250.00) for the third violation.

(c) *Waiver fee.* In the event a licensee wishes to waive his right to an administrative hearing prior to imposition of a suspension and/or a civil penalty for a first violation, the licensee may do so by payment of a waiver fee of fifty dollars (\$50.00) which shall be the penalty for such first violation. Such payment of the waiver fee shall constitute an admission of the violation and shall be recorded as a first violation. This provision shall not apply to any violation which has a mandatory suspension hereunder nor to any violation which is also a violation of state law. If a single incident results in more than one violation hereunder, only one of those violations shall be considered a first violation for purposes of this subsection, and additional penalties may be imposed for the additional violations arising from that incident.

(d) *Revocation.* Four (4) violations within a one-year period shall result in revocation of the taxicab or livery driver's license or business license, or both, and right to apply for a license for a minimum period of three (3) years from the date of revocation, unless a longer period of disqualification for such violations is provided in this article.

(e) In the event a taxicab or livery driver is found to be in violation of any of the standards for denial of a driver's license under section 30-33(a) (2) above, any license issued to

such person shall be immediately revoked for the duration of the term of the license in addition to the disqualification provided in said subsection, with the exception of the violations in subsection 30-33(a)(2)b., paragraph 2., subparagraphs i. and ii. For which the suspension shall be for the period of time the state driver's license is suspended.

(f) *Violations cumulative.* If a person or business has more than one license under this article, violations under any of those licenses shall be cumulative for purposes of determining the number of violations by such person and/or business.

(Ord. No. 303-92, 4-6-92; Ord. No. 39-92, § 4, 7-6-92; Ord. No. 231-99, 3-15-99; Ord. No. 57-04/05, 10-4-04; Ord. No. 294-04/05, 6-20-05)

**Sec. 30-39. Notice and opportunity for a hearing.**

- (1) Except as expressly provided in this Code, no license to which this chapter applies may be revoked or suspended without prior notice to the licensee, and after an opportunity for a hearing.
- (2) In the case of the suspension or revocation of a license, a generalized statement of the nature of the complaint constituting the basis for the proposed action shall be included along with a notice of the right to a hearing. Unexcused failure of licensee (or applicant) to appear at the hearing shall be deemed a waiver of the rights to said hearing.
- (3) Upon a determination that immediate and irreparable harm will be suffered by the public prior to the time that a hearing on suspension or revocation of a license can be scheduled and a finding of probable cause for such suspension or revocation, the director may suspend a license, pending hearing, effective upon the giving of actual notice to the licensee; provided that the director shall give an opportunity to be heard as soon as practicable thereafter. At any hearing, the licensee shall be given the opportunity to answer the complaint and to present evidence. The complainant, if any, shall also be notified of the

hearing and given the opportunity to be heard.

- (4) All suspensions or revocations shall be upon substantial evidence and all hearings shall be conducted with substantial fairness and strict adherence to the rules of evidence shall not be required.
- (5) All hearings on suspension or revocation of licenses shall be held within thirty (30) days of delivery to licensee of the generalized statement of complaint.
- (6) The foregoing process of notice and an opportunity to be heard shall apply to the denial of a license, provided, however, the applicant shall have no right to operate unless and until the denial is finally overturned.

**Sec. 30-40. Appeals.**

(a) *Procedure.* An appeal to the city manager may be taken by any person aggrieved by the denial, suspension or revocation of a license by the director by filing a notice of appeal and the fee of twenty-five dollars (\$25.00) with the city manager within thirty (30) days of the decision appealed from, and not thereafter. Every appeal should be in writing and shall state the basis for the appeal. Within two (2) business days of the filing of an appeal, the city manager shall designate himself or any agent or employee, other than the director, to act as hearing officer in the appeal. The hearing officer shall hear the appeal within ten (10) business days after the filing of the appeal and may affirm, reverse or modify the decision appealed from. The taking of an appeal shall not stay a decision appealed from, except that at the request of the licensee, the director may stay the effective date of a suspension, revocation or denial of a renewal license upon a finding that the public is not likely to suffer any harm during the pendency of the appeal. In such case, the director shall make a written finding of his or her decision in this regard and shall notify the appellant.

(b) *Scope of review.* On appeal, the hearing officer shall review the decision of the director and any disciplinary action

taken pursuant thereto to determine whether the decision was based upon substantial evidence and the disciplinary action taken was proportionate to the violation and authorized hereunder. The hearing officer may take additional evidence with respect to such decision or action and if additional testimony or evidence is taken shall determine the appeal upon all of the evidence, except as provided in this section.

(c) *Appeal to the superior court.* Any person aggrieved by a decision of a hearing officer on appeal may appeal therefrom to the superior court in accordance with the provisions of Maine Rule of Civil Procedure 80B.

**Sec. 30-41. General provisions to apply.**

Except to the extent that this division contains a contrary provision, all provisions of chapter 15 shall be additional to the provisions of this division.

(Code 1968, § 902.14; Ord. No. 231-80, 12-22-80; Ord. No. 303-92, 4-6-92)