

CHAPTER 300 TAXICABS

[HISTORY: Adopted by the Board of Aldermen of the City of Nashua 3-24-1998 by Ord. No. O-98-18 (Secs. 21-16 to 21-41 of the 1987 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Towing — See Ch. [306](#).

Vehicles and traffic — See Ch. [320](#).

§ 300-1 Definitions.

[Amended 9-13-2000 by Ord. No. O-00-45]

For the purpose of this chapter, the following definitions shall apply:

DISQUALIFYING CRIMINAL CONVICTION

Within the past seven years, any felony convictions, including but not limited to, convictions involving a controlled substance, violence, or crimes against persons, or any criminal misdemeanor convictions involving a controlled substance, violence, or threats of violence, or crimes against persons.

DISQUALIFYING MOTOR VEHICLE CONVICTION

Within the past seven years, conviction as a habitual offender, or for reckless driving, operating under the influence, or any motor vehicle convictions which may affect the safety of persons or property.

HYBRID ELECTRIC VEHICLE

A vehicle powered by two or more energy sources, one of which is electricity. Hybrid electric vehicles may combine the engine and fuel of a conventional vehicle with the batteries and electric motor of an electric vehicle in a single drivetrain.

[Added 2-23-2010 by Ord. No. O-10-05 ; and 2-23-2010 by Ord. No. O-10-06]

REVOCAION

The permanent loss of a taxicab vehicle license or taxicab driver's license.

SUSPENSION

The temporary loss of a taxicab vehicle license or taxicab driver's license.

TAXICAB

Any motor vehicle; having a manufacturers rated capacity of not more than seven passengers, used in the call and demand transportation of passengers from within the limits of the City to a destination inside or outside of the City, for compensation to or from points chosen or designated by the passengers and not operated on a fixed schedule, between fixed termini, or any such vehicle leased or rented, or held for leasing or renting, with or without driver or operator. This definition shall not include a motor vehicle subject to regulation by the Public Utilities Commission of the state; sightseeing buses or limousines designed to carry eight persons or more from a fixed place to places of interest about the City; motor vehicles collecting fares by tickets or coupons sold for interstate transportation; or motor vehicles owned by any person, firm, corporation, or association engaged in the business of providing transportation services to another person, firm, corporation, or association solely under the terms of written and signed contracts and which are not otherwise engaged in the solicitation of occasional passengers.

TAXICAB BUSINESS or TAXICAB COMPANY

Any person, firm, corporation or association engaged in the business of transporting passengers in a taxicab from one destination to another for a fee. A taxicab company may provide its own dispatching service or lease such service.

TAXICAB DISPATCH COMPANY

Any person, firm, corporation, or association engaged in the business of providing dispatch service for taxicabs for the purpose of transporting passengers from one destination to another for a fee.

TAXICAB DRIVER

Any individual who has a valid taxicab driver's license.

TAXICAB OVERSIGHT COMMITTEE

The Mayor, the Chief of Police, City Solicitor/Corporation Counsel, and the City Clerk, or a designated

representative of any of these named persons.

§ 300-2 Vehicle licensing.

[Amended 9-13-2000 by Ord. No. O-00-45]

A.

It shall be unlawful for any person, firm, or corporation to engage in the business of operating a taxicab company in the City without first having secured a taxicab vehicle license for each taxicab from the City.

B.

Applications for a taxicab vehicle license shall be made to the City Clerk upon a form to be determined by the City Clerk. The application shall include:

(1)

The name, date of birth, social security number, home address, home phone number, business name, business address and business phone number of the applicant, and name, address, and phone number of intended dispatch service.

(2)

If the applicant is any type of business entity, such as a corporation, partnership, etc., a list of the names, dates of birth, social security numbers, home addresses, and home phone numbers of any other person or persons having an interest in the business.

(3)

A description, including the manufacturing year, make, model, motor vehicle license plate state and number and vehicle registration number, of the proposed taxicab.

(4)

A copy of the vehicle's registration.

(5)

A certificate of insurance, signed by an insurance company licensed to do business in the state, indicating that the applicant has been issued an insurance policy by that insurance company, indemnifying the applicant in an amount not less than \$100,000 for injury to one person or \$300,000 for injury to more than one person, and \$25,000 property damage in any one accident, arising out of the operation of each taxicab of the applicant. Such certificate shall also provide that the insurance company shall not change, terminate or cancel the policy prior to the expiration date except upon 30 days advance written notice to the City Clerk. The certificate of insurance shall indicate the maximum number of taxicabs which may be in use for passenger service under the provisions of the insurance policy, including the year, make, model, motor vehicle license plate state and number and vehicle registration number of each.

(6)

Completed and notarized New Hampshire Department of Safety Division of State Police Criminal Record Release Authorization Form and Motor Vehicle Record Release Authorization Form, authorizing the City Clerk and/or the Police Department to obtain the criminal and motor vehicle records of anyone named on the taxicab vehicle license application.

C.

The City Clerk shall issue an original or renewed taxicab vehicle license after receipt of the application and a full review by appropriate personnel. The City Clerk shall have the Nashua Police Department check the criminal and motor vehicle records on anyone named on the taxicab vehicle license application for the seven years preceding the application. The City may choose to limit the total number of taxicabs that may operate in the City, but will not do so without first holding a public hearing before the Taxicab Oversight Committee.

§ 300-3 Minimum applicant requirements.

A.

An applicant for a taxicab vehicle license must meet the following minimum requirements:

(1)

Taxicabs shall be equipped with two-way communication equipment and have an arrangement for calling for prompt assistance in the event of a breakdown en route.

(2)

The taxicab company shall publish hours of dispatch service in all display advertising.

(3)

The taxicab company shall have a published business telephone number.

B.

In addition to those standards set forth in this chapter, a taxicab vehicle license shall be denied to the following persons:

(1)

To a corporation which is not licensed to do business in the state.

(2)

To an applicant other than the registered owner or lessee of the vehicles.

(3)

To a corporation if any principal officer thereof or any person having actual ownership interest therein has a disqualifying criminal conviction.

(4)

To an applicant, other than a corporation, if such applicant or any person having an actual ownership interest or management authority therein has a disqualifying criminal conviction.

C.

In addition to those standards set forth in this chapter, a taxicab vehicle license may be denied to any applicant who has had a taxicab vehicle license previously revoked.

§ 300-4 Taxicab driver's license.

[Amended 9-13-2000 by Ord. No. O-00-45]

A.

No person shall drive a taxicab unless they have secured a license therefor as herein provided.

B.

Applications for a taxicab driver's license shall be made to the City Clerk upon a form to be determined by the City Clerk. The application shall include:

(1)

The name, date of birth, home address, social security number, and telephone number of the applicant, as well as the applicant's home addresses and dates of residence for the past one year.

(2)

The name, address and nature of the applicant's previous employment.

(3)

The name, address, telephone number and relationship of someone to contact in case of emergency.

(4)

Whether the applicant is currently employed or expects to be employed by a taxicab company, and the name, address, and phone number of the company. Whether the applicant intends to lease a vehicle or utilize the services of a taxicab company or taxicab dispatch company, and the name, address, and phone number of the company.

(5)

Proof of possession of a valid driver's license.

(6)

A statement signed by the applicant that he or she is not aware of any physical or mental impairment that might prevent the safe operation of a motor vehicle.

(7)

Completed and notarized New Hampshire Department of Safety Division of State Police Criminal Record Release

Authorization Form and Motor Vehicle Record Release Authorization Form, authorizing the City Clerk and/or the Police Department to obtain the applicant's criminal and motor vehicle records in the State of New Hampshire.

(8)

A statement signed by the applicant that he or she has not been convicted of a felony or misdemeanor in any state, or if the applicant has been convicted of a felony or a misdemeanor, a date and description of the felony or misdemeanor.

(9)

A statement signed by the applicant that he or she agrees to submit to random drug tests and that such information may be shared with governmental entities, agencies, or departments that participate in that random test pool as provided for in § 300-18. The Police Department and the City Clerk may order an applicant to report to a local site for a drug test at any time. The applicant will sign a release for the results of the drug test to be sent directly to the City Clerk.

(10)

Any other information reasonably required by the Police Department or City Clerk.

C.

The following shall be part of the application process:

(1)

The City Clerk shall have the Nashua Police Department check the applicant's criminal and motor vehicle records for the seven years preceding the application.

(2)

The City Clerk shall take two photographs of the applicant, for a fee of \$2. One of these photos, along with a copy of the applicant's driver's license, shall be forwarded to the Nashua Police Department.

D.

In addition to the application requirements set forth in this section, a license to drive a taxicab shall be denied to the following persons:

(1)

An applicant who has not attained the age of 18 years.

(2)

An applicant who has received a disqualifying criminal conviction, or who has been imprisoned at any time during the preceding seven-year period for a disqualifying criminal conviction, provided that the conviction was for an offense rationally related to the purpose of licensing taxicab drivers.

(3)

An applicant who has received a disqualifying motor vehicle conviction, or whose privilege to operate a motor vehicle in any jurisdiction has been revoked or suspended at any time during the one year preceding the application for any reason.

E.

An applicant who is denied a taxicab driver's license under the standards of this section, or who has reason to believe that they may be denied a taxicab driver's license under these standards, may file a written request for a review of the application by the Taxicab Oversight Committee. The Committee will approve or disapprove the fitness of the applicant for a taxicab driver's license. The Committee may require the submission of qualifying evidence to make an assessment, including character references, alcohol or drug treatment records, and/or evaluation by a qualified professional, and may set such conditions, review procedures, or monitoring activities as it deems appropriate as a condition of licensure.

F.

The City Clerk shall make and keep a written record of every decision to deny an application for a taxicab driver's license for a period of one year.

G.

The City Clerk shall issue an original or renewed license after receipt of application or renewal documentation and upon full review by appropriate personnel.

§ 300-5 **License fees.****A.**

The annual fee for a taxicab vehicle license is \$75 per vehicle, except that the annual fee for a taxicab vehicle license for a hybrid electric vehicle is \$1 per vehicle. Licenses shall expire annually on April 30. The taxicab business shall conspicuously and permanently affix the vehicle license, a single metal plate issued by the City Clerk, bearing the vehicle license number, to the lower left-hand corner of the trunk deck or tailgate, in such a fashion that it shall be clearly visible to the public from the rear of the vehicle. This plate shall be firmly fastened to the body of the vehicle in such a manner that it will not easily become detached, and under no conditions will the plate be attached to the state registration plate or the bumper of the taxicab. The number of plates issued to a taxicab company shall not exceed the maximum number of vehicles that may be in passenger service under their insurance certificate. Vehicle license renewals shall occur annually between April 1 and April 30 of each year.

[Amended 2-23-2010 by Ord. No. O-10-06]

B.

The annual fee for a taxicab driver's license is \$50. Each license to drive a taxicab shall expire annually on April 30. Renewal of each license must be requested at least 30 days prior to license expiration. The City Clerk shall deliver to the licensee an identification card, approximate size of four inches by six inches, setting forth the number and terms of the license, a photograph, the name and personal description of the licensee, including age, height, weight, complexion, color of hair, and color of eyes. The licensee's address shall be placed on the back of the license. The licensee shall, when driving or in charge of a taxicab, display the identification card conspicuously in a holder in his taxicab. The licensee shall show the card whenever so requested by a representative of the City Clerk's office, any passenger, or any law enforcement officer.

§ 300-6 **Suspension or revocation of license.**

[Amended 9-13-2000 by Ord. No. O-00-45]

A.

No taxicab driver's license shall be effective for the purposes of this chapter during any period in which the driver's motor vehicle license is suspended or revoked, or following a positive drug test as provided for under this chapter until such license is reinstated by the Committee; and no taxicab vehicle license shall be effective for the purposes of this chapter during any period in which the owner's insurance coverage, as required under this chapter, is no longer in effect or does not meet the coverage requirements of this chapter. Until the circumstances that led to the suspension have been corrected, the City Clerk may not restore the suspended taxicab vehicle license.

B.

The City Clerk may suspend or revoke any license granted under the provisions of this chapter after a violation of this chapter or for cause. The City Clerk shall make reasonable attempts to notify the licensee in writing of the Clerk's decision using the licensing information available. If desired, the licensee may make a written request for a hearing before the Taxicab Oversight Committee within 45 days of the suspension or revocation. The City Clerk shall schedule a hearing within 20 days of the licensee's date of request, notifying the licensee of the date. The Taxicab Oversight Committee may restore the license, sustain the suspension or revocation, or otherwise set such conditions on the license as it deems appropriate. The licensee will be notified of the decision of the Committee, which shall be final.

C.

A license may be suspended or revoked upon a finding that the licensee has:

(1)

Had a positive drug test or failed to report to a drug test when notified, or failed to sign a release for the results of the drug test to be sent directly to the City Clerk.

(2)

Falsified any record, document, or information required to be kept or submitted by this chapter or failure to supply information asked or required of the applicant.

(3)

Driven or authorized any person to drive a taxicab which was not properly equipped and in safe condition as required by the laws of the state or the provisions of this chapter.

(4)

Used, or authorized to be used, a trade name, color scheme, or other identification upon a taxicab or in any advertising or public listing, which was likely to be confused with the registered trade name, scheme, or identification of another licensee or which tended to deceive or mislead the public as to the type of service offered.

(5)

Carried any passenger to his destination by a route that was not the most direct, unless the most direct route was not safe, or the customer specifically authorized or requested the deviation or alternate route.

(6)

Refused to accept as a passenger any person who requested transportation when the taxicab was not already carrying a passenger, unless the taxicab is traveling to pick up a fare, the potential passenger creates a hazard to the driver's safety or utilizes the taxicab for an illegal purpose, or the taxicab has its "out-of-service" sign displayed.

(7)

Drove or authorized a driver to drive a taxicab without a valid taxicab driver's license.

(8)

Declined to provide service to a neighborhood of the City, or refused to respond to a call from a dispatcher because of the location of the pickup.

(9)

Violated any provision of this chapter.

(10)

Received a disqualifying criminal conviction, provided that the conviction was for an offense rationally related to the purpose of the licensing of taxicab drivers.

(11)

Received a disqualifying motor vehicle conviction or had their motor vehicle drivers license suspended or revoked in any jurisdiction.

§ 300-7 Nontransferability.

A.

Licenses granted under this chapter shall remain the property of the City and are to be returned to the City Clerk's office during a period of suspension, after revocation, or if the taxicab company ceases to operate.

B.

No taxicab vehicle license held by a corporation, association, partnership, individual, or other entity shall be transferred to another.

C.

No taxicab driver's license shall be transferred to another individual.

§ 300-8 Pick-up and drop-off restrictions for certain licensed vehicles and operators.

A.

Only taxicabs with a current taxicab vehicle license from the City of Nashua may pick up passengers within Nashua if they are also being dropped off within Nashua. Taxicabs licensed in other cities or towns may pick up or drop off fares in Nashua if such fares are dropped off or picked up in another City or town.

B.

Only taxicab operators with a current taxicab driver's license from the City may pick up passengers within Nashua if they are also being dropped off within Nashua. Taxicab drivers licensed in other cities or towns may pick up or drop off fares in Nashua if such fares are dropped off or picked up in another City or town.

§ 300-9 Rates for fares.

A.

The dispatcher, if called by the passenger, and the taxicab operator, when the passenger enters the taxicab, must both clearly state the total amount of the fare. If the passenger requests additional service, the taxicab operator will clearly state the new total fare.

B.

For waiting time after the cab has arrived at a requested place and time of call or while standing at the direction of the passenger, the taxicab may charge no more than \$0.25 for each minute or fraction thereof.

C.

No charge shall be made for waiting in advance of the time at which the cab is wanted as given in the call nor for delay due to inefficiency of the taxicab or its operation.

D.

The taxicab driver shall carry hand luggage free.

E.

There shall be no additional charges added on for cab sharing.

§ 300-10 Receipt to be provided upon request.

Taxicab drivers shall provide customers with a receipt, when requested. The receipt shall include the following information in legible form:

A.

Name of the vehicle driver;

B.

The taxicab driver's license number;

C.

The date, time, and place of origin and departure;

D.

Time and place of destination;

E.

The total fare paid or charged; and

F.

The amount of tip.

§ 300-11 Recordkeeping requirements.

[Amended 9-13-2000 by Ord. No. O-00-45]

A.

Each taxicab company with at least one licensed taxicab, and taxicab dispatch company shall be required to keep a log detailing all requests for services as received and shall contain no less than following information: date and time call received, address of caller, destination, cab to which call was assigned, name of driver and fare charged. The log shall be maintained in order by date at the principal place of business of each taxicab company or taxicab dispatch company for the current calendar year and for the calendar year immediately preceding the current calendar year and shall be made available upon request, for review by any law enforcement agency or by the office of the City Clerk.

B.

Every taxicab vehicle owner shall provide for each of his licensed taxicabs a suitable logbook in which shall be kept the name of the driver, the date, time, origin of trip, and destination, and amount of each fare. If a trip is made pursuant to a contract as may be allowed by this chapter, the log shall show the fare charged and the identification of the contract under which the transportation was provided. The logbook shall be kept available for inspection by members of the Police Department and the office the City Clerk, and shall be preserved for at least one year from the date of the last entry at the address for which the vehicle license is issued.

C.

A taxicab company or taxicab dispatch company shall notify the City Clerk within three days of receipt of any knowledge that a taxicab driver has had his motor vehicle operator's license suspended or revoked by the state. Similarly, if the City Clerk shall be made aware that a taxicab driver has had their motor vehicle operator's license suspended or revoked, the City Clerk shall notify the taxicab business with which the driver is associated with, as may reasonably be determined by the licensing documentation, of the suspension of the licensee's taxicab driver's license by the City.

D.

Any person with a taxicab vehicle license or a taxicab driver's license shall notify the City Clerk in writing within 10 days of any change of address.

E.

Any taxicab vehicle owner or taxicab driver shall notify the City Clerk within three days of receiving a felony or misdemeanor criminal conviction or motor vehicle conviction or notification that their motor vehicle license has been suspended or revoked by any jurisdiction.

§ 300-12 Condition and appearance of vehicles.

[Amended 9-13-2000 by Ord. No. O-00-45]

A.

It shall be the responsibility of the owner of each taxicab to keep the taxicab in safe and operable condition according to the state motor vehicle inspection laws. In addition to the annual inspection required by the state, a second midyear inspection of taxicabs is to be made in the sixth month following the required state inspection. All inspections shall be done at a New Hampshire registered inspection station. Within 10 days after the end of the midyear inspection month, the City Clerk must receive proof that the taxicab passed the additional midyear New Hampshire state inspection. The taxicab owner is responsible for all costs related to these inspections.

B.

In addition to the inspections required by Subsection A, once a year, during the same month as the state-required annual inspection, all taxicabs must report to the Nashua Police Department for a brief inspection by the police, focusing on the general condition and appearance of the car and adherence to the requirements of this section. The Police Department and the City Clerk shall communicate with each other to ensure that all police inspections occur in a timely manner.

C.

The City Clerk shall be notified in writing of any physical damage to a taxicab within 48 hours of such damage. Such notification shall include a copy of any written report submitted to the insurance company, if one exists. The City Clerk or Police Department may order a special inspection of the damaged vehicle at a New Hampshire registered inspection station. All taxicabs must be repaired as expeditiously as possible, and at most within 30 days, unless an extension is granted by the City Clerk.

D.

Every vehicle used as a taxicab shall be a sedan or station wagon with a passenger and cargo volume of 110 cubic feet or more, van, minivan, sport utility vehicle, or special purpose vehicle as listed in the United States Department of Energy's Fuel Economy Guide. Notwithstanding the foregoing, all four door hybrid electric vehicles qualify to be used as taxicabs.

[Amended 2-23-2010 by Ord. No. O-10-05]

E.

Every vehicle used as a taxicab shall not be more than nine years old by model year.

F.

Every vehicle used as a taxicab shall be maintained consistent with the vehicle's original intended appearance, taking into account normal wear and tear. Every taxicab shall be washed on a regular basis.

G.

The interior of all taxicabs shall be clean and sanitary at all times, and shall be suitable for the occupancy and safety of passengers. At a minimum, the taxicab shall be thoroughly cleaned at least once a week.

H.

Every vehicle used as a taxicab shall be of the closed type, having at least two operational doors for direct and

unimpeded access to the passenger area behind the driver's seat. The doors shall be so constructed so that they will remain securely fastened during normal operation, while the taxicab is in motion, but may be readily opened by a passenger in case of emergency. The taxicab shall have operational windows that roll down at least halfway.

I.

Every vehicle used as a taxicab shall have seats that are intact, and not torn or ripped.

J.

The taxicab vehicle license number shall be displayed on the rear side posts of the taxicab, in clearly visible numbers of a minimum three inches in height.

K.

Every owner of a taxicab which is temporarily removed from passenger service shall clearly identify such vehicle as being "out of service" via an exterior light, if so equipped, or by placing a placard in the vehicle's rear window identifying the vehicle as being out of service. The placard shall be placed in such a way so as to be visible from the rear but not so it is in conflict with state motor vehicle regulations.

L.

All drivers shall be courteous to the public, clean and neat in appearance, shall not drink intoxicating liquors during their hours of employment, shall operate their vehicles at a reasonable rate of speed and shall obey the laws of the road and all traffic regulations. Each taxicab driver may decide if their passengers will be allowed to smoke inside the taxicab. Upon the request of a passenger, the taxicab driver will refrain from smoking inside the taxicab.

M.

Every taxicab owner shall post a notice in each taxicab that shall state that any passenger who wishes to complain or comment about any aspect of the taxicab or driver may call or write to the City Clerk, and shall provide the correct address and telephone number.

N.

Every vehicle used as a taxicab will be subject to random inspections. Owners will be given no more than 10 working days to correct deficiencies and may be ordered to take vehicles out of service until such deficiencies are corrected.

O.

Every taxicab licensed under the provisions of this chapter shall have displayed near the outside of each forward door or of each rear door, the name or the trade name of the taxicab company or taxicab dispatch company holding the vehicle license, in clearly visible letters of at least three inches in height.

§ 300-13 Care of passengers.

A.

No taxicab drivers shall directly solicit customers.

B.

No taxicab driver shall carry any person other than the passenger first employing his cab without the consent of the first passenger.

C.

Any taxicab agent at any bus, railroad, airport, or other terminal or station, before directing a second passenger to a taxicab employed, shall ask the person first employing the taxicab if he consents to another passenger or passengers.

D.

No taxicab shall stop to take on or discharge passengers at any place or on any street or square except at the curb or as near thereto as possible. Passengers shall be permitted to enter or leave the vehicle only from the side nearest the curb, unless there are extraordinary circumstances.

E.

No person may sit or ride upon any fender, dash, step, top or door of any taxicab.

§ 300-14 Lost articles.

Taxicab drivers must check vehicles at the end of each shift for any articles of value left behind by passengers. When possible, the taxicab company or taxicab dispatch company shall notify the passenger within 24 hours with notice of the found articles. The Police Department shall also be provided with a description of any such articles within 24 hours unless reclaimed by passengers prior to that time, and the taxicab company or taxicab dispatch company shall retain all lost articles for a period of 60 days from the date of notice to the Police Department before disposing of the articles.

§ 300-15 Prohibited conduct by vehicle licensee and driver.

The holder of a taxicab vehicle license and the holder of a taxicab driver's license shall not:

A.

Operate or allow the operation of a taxicab in violation of any of the provisions of the highway laws of the state or of the ordinances of the City regulating traffic.

B.

Demand a fare in excess of the amount previously quoted.

C.

Use a scanning device, radio, or any instrument to intercept calls of other cab companies.

D.

Fail to maintain a log detailing all requests for services as required in such a manner that the activities of a particular company and/or leased vehicle cannot be properly identified and reviewed by the office of the City Clerk or a law enforcement officer.

E.

Refuse to cooperate with state or local police.

F.

Violate any other provisions of this chapter.

§ 300-16 Drug and alcohol policy.

[Amended 9-13-2000 by Ord. No. O-00-45]

A.

It is the policy of the City that licensed drivers of taxicabs (hereinafter the "licensees") shall not be substance abusers. The abuse of alcohol or the use of illegal drugs reduces awareness and increases the potential for accidents. Substance abuse thereby increases both the risk of injury to fares and citizens of the City and the risk of damage to public and private property.

B.

It is the policy of the City that the use or possession of alcohol beverages or illegal drugs by taxicab licensees while on duty is prohibited. Licensees shall not report for duty under the influence of alcoholic beverages or with sufficient amounts of illegal drugs in their system so as to give rise to a positive drug test or impair their job performance. For the purposes of this chapter, the term "illegal drugs" means any intoxicant, any narcotic, marijuana, or any controlled drug, save medication prescribed for a licensee by a licensed physician, presuming the use of such is consistent with the prescription and with the operation of a motor vehicle. Violations of this policy shall result in disciplinary action, including immediate suspension of the vehicle license.

§ 300-17 Drug- and alcohol-related prohibited conduct.

[Amended 9-13-2000 by Ord. No. O-00-45]

A licensee is expected to report for duty in appropriate mental and physical condition for work. Accordingly, a licensee shall not:

A.

Work or report to work under the influence of alcohol or illegal drugs. A licensee shall be deemed under the influence of alcohol if he or she has an alcohol concentration of 0.02 or more or is impaired to any degree as a result of the consumption or use of alcohol. A licensee shall be deemed under the influence of illegal drugs if he

or she has sufficient quantities of controlled drugs in his or her system to give rise to a positive finding on a drug test or is impaired to any degree as a result of the consumption, inhalation, or injection of alcohol, drug, or any other intoxicating substance, or any combination thereof;

B.

Consume alcohol or possess an open container while on duty;

C.

Engage in any drug-related conduct prohibited under state or federal law; or

D.

Engage in any other manner of conduct involving alcohol, drugs, or any other intoxicating substance which adversely affects his or her job performance or is detrimental to the safety of his or her welfare or the public.

§ 300-18 **Types of testing.**

[Amended 9-13-2000 by Ord. No. O-00-45]

A.

Prelicensing. All applicants for licensure must submit to a urine drug test as evidence he or she does not use illegal drugs. The test shall be conducted by a local physician, lab or hospital in accordance with Substance Abuse and Mental Health Services Administration (hereinafter SAMSHA) standards. The applicant shall complete the test at a time and place specified by the office of the City Clerk. A temporary license shall be issued pending receipt of the results of the prelicensing test.

B.

Random testing. The City will conduct random drug and alcohol testing. All licensees will be included in a random selection system. This system shall provide an equal chance for each licensee to be selected for each random test. Accordingly, a particular licensee may be selected for successive tests or may not be selected at all throughout the year. Random tests shall be reasonably spread throughout the year. The City shall annually test a minimum of 50% of its licensees for drugs and a minimum of 25% of its licensees for alcohol. Upon notification of selection, a licensee shall complete the test at a time and place specified by the office of the City Clerk. The test shall be conducted by a local physician, lab or hospital in accordance with SAMSHA standards. All random drug and alcohol tests shall be paid for by the City; however, any other costs associated with a second analysis of the licensee's specimen, counseling, treatment, rehabilitation or other medical follow-up shall be paid for by the licensee.

§ 300-19 **Substances for which tests are administered.**

[Amended 9-13-2000 by Ord. No. O-00-45]

A.

Any applicant who tests positive for the presence of any of the drugs set forth herein shall be deemed unsuitable for licensure. Any licensee who tests positive for any of the substances set forth herein shall be deemed unsuitable for continued licensure and shall be subject to the provisions of § [300-6](#). The substances for which the City may test are:

(1)

Alcohol.

(2)

Amphetamines.

(3)

Cocaine.

(4)

Marijuana.

(5)

Opiates.

(6)

Phencyclidine (PCP).

B.

The City reserves the right to expand the scope of substances for which it will test at any time.

§ 300-20 Refusal to test.

[Amended 9-13-2000 by Ord. No. O-00-45]

Any person licensed to drive a taxicab by the City shall be deemed to have given consent to the drug and alcohol tests employed by the City under this chapter. Refusal to submit to any drug and alcohol test established herein shall be grounds to suspend a license. Any conduct intended to obstruct or unreasonably delay the proper administration of a test shall be deemed a refusal to submit to the test. In the event that a licensee cannot provide a sufficient urine or breath specimen, the City may direct the individual to a physician for purposes of evaluation. If the physician cannot find a legitimate medical explanation for the licensee's inability to provide a sufficient urine or breath specimen, the licensee shall be deemed to have refused to submit to the test.

§ 300-21 Substance abuse evaluation; return to duty; follow-up testing.

[Amended 9-13-2000 by Ord. No. O-00-45]

A.

Any licensee who engages in prohibited conduct shall be provided with the names, addresses and telephone numbers of a qualified substance abuse professionals (SAP). In order to requalify for a license, the licensee shall be evaluated by the SAP, submit to any treatment the SAP prescribes, and successfully complete a return-to-duty and/or alcohol test. The licensee shall also be subject to follow-up testing. Follow-up testing is separate from and in addition to any prelicensing or random testing procedures. The schedule for follow-up testing shall be unannounced and in accordance with instructions of the SAP. Follow-up testing may continue for a period of up to 12 months following the licensee's return to duty. Follow-up testing shall consist of no fewer than six tests. The cost of any SAP evaluation, prescribed treatment, return to duty and follow-up testing shall be paid by the licensee.

B.

Nothing in this section shall be construed to limit or, in any way, affect the authority of the Taxicab Oversight Committee to prescribe the period of suspension or revocation it deems appropriate under § [300-6](#).

§ 300-22 Laboratory procedures; retest.

[Amended 9-13-2000 by Ord. No. O-00-45]

A.

All specimens collected under this chapter will be submitted to a laboratory certified by SAMSHA. All specimens initially testing positive will be confirmed by a subsequent confirmation test before the laboratory reports a result as positive. The laboratory shall report all positive laboratory test results to the medical review officer. The licensee or applicant shall also be notified of any positive laboratory test results and have an opportunity to explain to the medical review officer such result. In the event the medical review officer determines there is no legitimate basis for the licensee's objection, the test will stand as reported. In the event the medical review officer determines there is an explanation for the positive test result other than the use or abuse of illegal drugs or alcohol, the test result shall be reported back as negative.

B.

A licensee or applicant whose test results are positive may, at his or her own expense, request a retest of the original sample. Such a request shall be made within 72 hours of the licensee or applicant being notified of the original test results; otherwise, any right to retest shall be deemed waived. The retest shall be performed by a SAMSHA certified lab. In the event the retest demonstrates a negative result, the licensee will be reimbursed for the cost of the retest.

§ 300-23 Disciplinary action.

[Amended 9-13-2000 by Ord. No. O-00-45]

A.

In addition to any other penalty permitted under this chapter, a licensee shall be subject to immediate suspension in accordance with the procedures established in § [300-6](#) if he or she:

(1)

Engages in prohibited conduct as set forth in § [300-17](#);

(2)

Refuses to submit to any drug and alcohol test which the City may administer under this chapter; or

(3)

Fails to comply with the provisions of § [300-21](#).

B.

Notwithstanding any other provisions of this chapter, any licensee having an alcohol concentration between 0.02 to 0.039 shall immediately be suspended for a period of 10 days. If the licensee has any subsequent violation of any alcohol prohibition, he/she shall be required to comply with the provisions of § [300-21](#) in order to requalify for licensing.

§ 300-24 Confidentiality.

[Amended 9-13-2000 by Ord. No. O-00-45]

Individual test results and rehabilitation records, if any, for applicants and licensees shall only be used to determine adherence to this chapter and in defense of any administrative or judicial action initiated by the licensee against the City. Unless release is required under NH RSA Chapter 91-A or by a valid subpoena, the test results and rehabilitation records shall be kept strictly confidential and released only upon the written consent of the person who submitted to the test. However, any individual who has submitted to drug testing in compliance with this chapter is entitled to access to his or her records related to such testing upon written request as long as such is available.

§ 300-25 Substance abuse testing account.

[Amended 9-13-2000 by Ord. No. O-00-45]

There is established a special account to be known as the Substance Abuse Testing Account. Such account shall consist of any money appropriated or received for the purposes of this chapter and from revenues derived from a portion of the licenses fees assessed under § [300-5B](#), as follows: \$50 of each application fee for a new license and \$35 of each application fee for a renewal license. Such monies shall be used by the City Clerk to cover costs associated with testing conducted under § [300-18](#). The account shall be nonlapsing and continually appropriated to the City Clerk for the purposes of this chapter.

§ 300-26 Violations and penalties.

[Amended 9-13-2000 by Ord. No. O-00-45]

A.

The violation of any provision of this chapter shall be punished by a fine not to exceed \$100 per day, or the revocation of the taxicab vehicle license, taxicab driver's license, or a combination of any of the three, except that a violation of §§ [300-2A](#) and [300-4A](#) shall be punishable by a fine of not less than \$500.

[Amended 3-22-2005 by Ord. No. O-05-81]

B.

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 chapter by appropriate action. In addition to the penalty set forth in this chapter, if the court finds for the City, the City shall recover its costs of suit including reasonable experts fees, attorneys fees, and necessary investigative costs.

C.

The Police Department is hereby authorized to seize or immobilize any taxicab located within the City operating without a valid taxicab vehicle license. Upon such seizure or immobilization, the Police Department shall notify the owner of the vehicle of such seizure, the reason therefore, and of the place to which such vehicle has been removed or immobilized. The Police Department shall order the holding of any such vehicle for a period of not less than 10 days from the date of the required notification to the owner. During this period, the owner may redeem any such vehicle by correcting the violation of this chapter which led to such seizure or by providing satisfactory evidence of his ability or intent to correct the violation. Any taxicab which is impounded or immobilized and which is not redeemed within 30 days of the date of notification as described in this section shall become the property of the City. Cost for towing and storage charges will be billed to the owner of the taxicab seized and must be paid before the release of the vehicle to the owner who shall be responsible for removing the vehicle from storage. The City will be held harmless for any damage occurring during the act of confiscation, transportation,

storage, and/or immobilization of each vehicle.