

COMMITTEE ON ORDINANCES - October 23, 2018
MEETING AT 7:00 PM, 133 William Street, New Bedford, MA - City Council Chambers - Room 214
AGENDA

REVISED AGENDA

1. PUBLIC HEARING on AN ORDINANCE, RELATIVE TO THE ZONING OF ADULT DAY CARE FACILITIES (To be Referred to the Committee on Ordinances and the Planning Board.) (Ref'd 9/27/18) (Duly advertised in The Standard-Times on Tuesday, October 9, 2018 and Tuesday, October 16, 2018.)

1a. COMMUNICATION, Tabitha Harkin, City Planner, to Councillor Hugh Dunn, Chairman, Committee on Ordinances, advising that the Planning Board held a public hearing on October 10, 2018 to discuss the proposal to amend the City's Zoning Ordinance, Row 4 labeled "Adult Day Care" of Chart C labeled "Commercial" of Appendix A of Chapter 9 of the Code of Ordinances be amended by striking the word "N" as it corresponds to columns IA, IB, and IC and inserting in place thereof the word "BA"; the Planning Board voted to send a **FAVORABLE RECOMMENDATION**, recommending that the City Council approve the amendments to the Zoning Ordinance as outlined. (Ref'd 10/12/18)

INVITEES: David Gerwatowski, Legal Counsel Attorney; Tabitha Harkin, City Planner; Mikaela McDermott, City Solicitor; Attorney Christopher T. Saunders

2. AN ORDINANCE, RELATIVE TO VEHICLES FOR HIRE (Ref'd 10/27/16) (3/21/17-remain in Committee) (10/17/17-tabled for 30 days to allow for amendments: increase number of years from 3 to 5 under section 24-14 and add a pedicab clause) (11/14/17-amend ordinance to add to 24:14 any person required to register as a sex offender in any jurisdiction; tabled, invite cab and livery drivers to next ordinance meeting to discuss ordinance before final approval from Council) (6/21/18-tabled)

INVITEES: Dennis Farias, City Clerk / Clerk of the City Council; David Gerwatowski, Legal Counsel Attorney

3. WRITTEN MOTION, Council President Morad, requesting that the Committee on Ordinances review the City Code, specifically Section 22-15; Snow and Ice - Removal From Sidewalks; Required, in an effort to determine if changes should be made to said Code Section as currently written. (To be Referred to the Committee on Ordinances.) (Ref'd 4/12/18) (5/15/18-tabled 60 days)

INVITEES: David Gerwatowski, Legal Counsel Attorney; Mikaela McDermott, City Solicitor; Jamie Ponte, Commissioner, Department of Public Infrastructure; Danny D. Romanowicz, Commissioner, Department of Inspectional Services

In accordance with the Americans with Disabilities Act (ADA), if any accommodations are needed, please contact the Clerk of Committees Office at 508-979-1482. Requests should be made as soon as possible but at least 48 hours prior to the scheduled meeting.



Item Title:
REVISED AGENDA

Item Detail:

REVISED AGENDA

Additional Information:



Item Title:

ORDINANCE re ZONING OF ADULT DAY CARE FACILITIES

Item Detail:

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Additional Information:

ATTACHMENTS:

Description	Type
1. ORDINANCE re ZONING FOR ADULT DAY CARE FACILITIES	Cover Memo
1a. Letter to Council_18-42_Planning Board Recommendation	Cover Memo



CITY OF NEW BEDFORD

In the Year Two Thousand and Eighteen

AN ORDINANCE

RELATIVE TO THE ZONING OF ADULT DAY CARE FACILITIES

31- 509

Be it ordained by the City Council of the City of New Bedford as follows:—

SECTION 1.

Row 4 labeled "Adult Day Care", of Chart C labeled "Commercial" of Appendix A of Chapter 9 of the Code of Ordinances is hereby amended by striking the word "N" as it corresponds to columns IA, IB and IC and inserting in place thereof the word "BA".

IN CITY COUNCIL, September 27, 2018

Referred to the Committee on Ordinances and the Planning Board.

Dennis W. Farias, City Clerk

a true copy, attest

City Clerk



PATRICK J. SULLIVAN
DIRECTOR

City of New Bedford

Department of Planning, Housing & Community Development

133 William Street, New Bedford, Massachusetts 02740

Telephone: (508) 979.1488 Facsimile: (508) 979.1576

October 12, 2018

Councilor Hugh Dunn, Chairman
Committee on Ordinances
133 William Street
New Bedford, MA 02740

RE: PROPOSED ZONING ORDINANCE AMENDMENT RELATIVE TO ADULT DAY CARE FACILITIES

Dear Chairman Dunn,

This letter is to advise you that the Planning Board met on Wednesday, October 10, 2018 to discuss the proposal to amend the city's Zoning Ordinance Row 4 labeled "Adult Day Care", of Chart C labeled "Commercial" of Appendix A of Chapter 9 of the Code of Ordinances be amended by striking the word "N" as it corresponds to columns IA, IB, and IC and inserting in place thereof the word "BA". The Planning Board sends a favorable recommendation for this proposal with comments noted herein.

Attorney Christopher Saunders spoke at the public hearing on behalf of Welby Park Associates, LLC. He presented that his client seeks to expand an existing Adult Daycare Facility in Welby Park to another site in the Park. However, Welby Park is located in an Industrial zone, and Adult Day Care is not an allowed use in the zone. Instead of requesting a zoning change for the park, which would impact other uses present there, he did some research to find out why Adult Day Care Facilities were not an allowed use in the Industrial A, B, and C districts. His research led him to believe that the "Adult Daycare Facility" use was added to the Zoning Table of Uses after his client's site was developed in the early 1980's, and perhaps it was overlooked as a use in the Industrial zone. He noted that other similar uses such as Child Care and Nursing Homes are allowed in the Industrial districts. He further noted that industrial uses, as they have traditionally been known, are going away. As he stated, the City itself has adopted overlay districts that allow residential in certain Industrial zoned areas. Lastly, he pointed out that the use would still require a Special Permit and public hearing before the Zoning Board of Appeals if the amendment was accepted as proposed.

Councillor William Brad Markey, Ward 1, spoke in favor of the request. He explained that the property owner had reached out to him and Councilor Dunn about this issue. He supported the remarks of Attorney Saunders. He explained the amendment would allow for this needed use to go into a lot more areas of the city.

No one spoke or was recorded in opposition to the ordinance as presented.

The board discussed the request, noting that the proposal made sense given the other allowed uses in the district. They also noted the growing need for this use given the aging baby boomer population and changes to insurance structures to allow for this type of care.

After closing the public hearing and deliberating the requested ordinance, a motion was made in the affirmative to recommend an ordinance amendment as follows: Row 4 labeled "Adult Day Care", of Chart C labeled "Commercial" of Appendix A of Chapter 9 of the Code of Ordinances be amended by striking the word "N" as it corresponds to columns IA, IB, and IC and inserting in place thereof the word "BA". The motion passed unanimously on a vote of 5-0.

Sincerely,



Tabitha Harkin
City Planner

encls. Staff Report

cc. John Mitchell, Mayor
Danny Romanowicz, Building Commissioner

Mickaela McDermott, City Solicitor
Dennis Farias, City Clerk



PATRICK J. SULLIVAN
DIRECTOR

City of New Bedford
Department of Planning, Housing & Community Development
608 Pleasant St, New Bedford, Massachusetts 02740
Telephone: (508) 979.1500 Facsimile: (508) 979.1575

STAFF REPORT

REPORT DATE
October 9, 2018

PLANNING BOARD MEETING
October 10, 2018

Case #18-42: Ordinance Amendment Relative to Zoning of Adult Day Care Facilities

Referred by: Councillor Hugh Dunn, Ward 3 and
Councillor William Brad Markey, Ward 1

Proposal

Councillor Hugh Dunn and Councillor William Brad Markey have proposed to amend the zoning ordinance use table to allow Adult Day Care Facilities in the Industrial A, B, and C districts by a Special Permit granted through the Zoning Board of Appeals.

Reason for Proposed Amendment

The following rationale has been provided to explain the reason for the request:

"With the rising cost associated with round-the-clock nursing home care, adult day care facilities are servicing a need with adults with physical problems and disabilities. Adult day care facilities allow adult individuals a properly supervised environment to be cared for during the day while allowing relatives and family members of these individuals to continue to be employed and to then care for these individuals at the end of the work day. This alleviates the cost of long term nursing home care. Adult day cares are currently successfully operating in industrial zones in the City of New Bedford as non-conforming uses. Child day care facilities are presently an allowed use in industrial zoned districts in the City of New Bedford. The allowance of adult day care facilities in an industrial zone will not have a detrimental impact on the citizenry or the zoning of the City of New Bedford."

Overview

Under the current zoning ordinance "Adult Day Care Facilities" are defined as "a social day care or adult day health facility, as those terms are defined by the Commonwealth's Department of Elder Affairs."

Definition of Adult Day Care Facility in New Bedford Zoning Ordinance:

Adult Day Care Facilities: A social day care or adult day health facility, as those terms are defined by the Commonwealth's Department of Elder Affairs.

Definition of Adult Day Health Program by the Commonwealth's Department of Elder Affairs:

An Adult Day Health Program is any entity, however organized, whether conducted for profit or not for profit that:

- Supports families and other caregivers thereby enabling the participant to live in the community
- Provides nursing care, supervision, and health related support services in a structured group setting to persons 18 years of age or older who have physical, cognitive, or behavioral health impairments; and
- Is community-based and non-residential

For Board Consideration

Currently, Adult Day Care Facilities are allowed in Residential A, B, C, AA, and Mixed Use Business zoned districts. They are prohibited from all other zoning districts. In the districts they are allowed, Adult Day Care Facilities are required to obtain a Special Permit from the Zoning Board of Appeals prior to beginning operation.

Existing Use Table

Use Type	Zoning Districts										
C. Commercial	RA	RB	RC	RAA	MUB	PB	IA	IB	IC	WI	KHTOD
4. Adult day care	BA	BA	BA	BA	BA	N	N	N	N	N	Y

Proposed Use Table

Use Type	Zoning Districts										
C. Commercial	RA	RB	RC	RAA	MUB	PB	IA	IB	IC	WI	KHTOD
4. Adult day care	BA	BA	BA	BA	BA	N	BA	BA	BA	N	Y

Other similar uses such as Assisted or Independent living facilities, Nursing or Convalescent homes, and Child Care facilities are allowed in all zoning districts. While, the proposal does not allow for the use in all districts, it would expand the available areas in the city for Adult Day Care Facilities to include the Industrial A, B, and C zones in addition to the Residential A, B, C, AA, and Mixed Use Business zones they are already allowed in.

The use would be allowed only through a Special Permit process which would provide for a public hearing upon each newly proposed facility to determine if the facility benefits the city and meets the special permit requirements.

Special permits shall be granted by the zoning board, only upon its written determination that the benefit to the City and the neighborhood outweigh the adverse effects of the proposed use, taking into account the characteristics of the site and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this Ordinance, the determination shall include consideration of each of the following:

- Social, economic, or community needs which are served by the proposal;
- Traffic flow and safety, including parking and loading;
- Adequacy of utilities and other public services;
- Neighborhood character and social structures;
- Impacts on the natural environment; and
- Potential fiscal impact, including impact on City services, tax base, and employment.

Additionally, the zoning ordinance stipulates parking and loading requirements for Adult Day Care Centers. Adult Day Care Centers are required to have one (1) parking space per employee, a three (3) space drop-off zone, and if the building is between 10,000 SF -99,999 SF it is to have one (1) loading space for a building or if a building is 100,000 SF or larger it is required to have two (2) loading spaces.



CITY OF NEW BEDFORD

In the Year Two Thousand and Eighteen

AN ORDINANCE

RELATIVE TO THE ZONING OF ADULT DAY CARE FACILITIES

31- 509

Be it ordained by the City Council of the City of New Bedford as follows:—

SECTION 1.

Row 4 labeled "Adult Day Care", of Chart C labeled "Commercial" of Appendix A of Chapter 9 of the Code of Ordinances is hereby amended by striking the word "N" as it corresponds to columns IA, IB and IC and inserting in place thereof the word "BA".

IN CITY COUNCIL, September 27, 2018

Referred to the Committee on Ordinances and the Planning Board.

Dennis W. Farias, City Clerk

a true copy attests

A handwritten signature in cursive script, appearing to read "Dennis W. Farias".

City Clerk



Item Title:

ORDINANCE re VEHICLES FOR HIRE

Item Detail:

2. AN ORDINANCE, RELATIVE TO VEHICLES FOR HIRE (Ref'd 10/27/16) (3/21/17-remain in Committee) (10/17/17-tabled for 30 days to allow for amendments: increase number of years from 3 to 5 under section 24-14 and add a pedicab clause) (11/14/17-amend ordinance to add to 24:14 any person required to register as a sex offender in any jurisdiction; tabled, invite cab and livery drivers to next ordinance meeting to discuss ordinance before final approval from Council) (6/21/18-tabled)

Additional Information:

ATTACHMENTS:

Description	Type
2. ORDINANCE re VEHICLES FOR HIRE	Cover Memo



CITY OF NEW BEDFORD

In the Year Two Thousand and Eighteen

AN ORDINANCE

RELATIVE TO VEHICLES FOR HIRE

31- 509

Be it ordained by the City Council of the City of New Bedford as follows:—

SECTION 1. Chapter 24 of the Code of Ordinances is hereby amended by striking said Chapter in its' entirety and inserting, in place thereof, the following new Chapter:-

Chapter 24 – VEHICLES FOR HIRE.

I. Vehicles for Hire - Generally.

Sec. 24-1. Definitions.

- a) **Common Carrier:** Any vehicle operating in such a manner as to afford a means of transportation similar to that afforded by a railway company, by indiscriminately receiving and discharging passengers along the route on which the vehicle is operated or may be running, or for transporting passengers for hire as a business between fixed and regular termini pursuant to Section 1 of Chapter 159A of the General Laws of the Commonwealth.
- b) **Livery Service:** Providing transportation for hire for a prearranged fare on a prearranged basis by means of a Livery Vehicle, which does not contain a rate meter and does not charge for service based on miles traveled if the trip is less than 25 miles. Excluded from this definition are services provided by a licensed Taxicab and by a common carrier licensed under this chapter and the provisions of Chapter 159A of the General Laws.
- c) **Livery Vehicle:** Any limousine or other vehicle which is designed to carry 15 or fewer passengers, including the driver, and carriers of passengers for hire, business courtesy, employee shuttle, customer shuttle, charter or other pre-arranged transportation, and which is not required to obtain a Taxicab License, but is required to display a Livery registration plate or an equivalent number plate issued by the Massachusetts Registry of Motor Vehicles (or its successor agency) and is intended to be used to provide Livery Service in the city.

- d) **Public Vehicle Driver:** Any person whom operates a class A, B or C vehicle for hire as proscribed pursuant to this chapter.
- e) **Taxicab:** a vehicle that has been equipped with a taximeter that is available for hire at the time transportation is needed via telephone, email, texting or other electronic means as well as in person. Payment for transportation provided is made at the time of service.
- f) **Taximeter:** an electric/mechanical device by which the charge for hire is calculated whether for distance traveled, or waiting time, or for both, and upon which such charge is displayed by means of numerical figures.
- g) **Vehicle for hire:** Any common carrier, livery vehicle or taxicab.

Sec. 24-2. License required.

- a) No person shall operate a vehicle in the city in a manner that provides transportation to persons for a fee unless the vehicle is operated as a vehicle for hire pursuant to this chapter. No person shall operate a vehicle for hire within the city without first complying with the licensing requirements pursuant to this chapter.
- b) Any vehicle operating under the direction of a licensed funeral establishment in the usual course of the funeral profession shall be exempt from the vehicle and driver licensing provisions pursuant to this Chapter.

Sec. 24-3. Licensing authority.

Authority is hereby delegated to the city clerk to issue all licenses under this chapter, subject to the limitations contained herein.

Sec. 24-4. Classes of vehicles.

- a). Class A – Any vehicle for hire that operates as a taxicab.
- b). Class B – Any vehicle for hire operating as a common carrier.
- c). Class C - Any vehicle for hire operating as a livery vehicle.

Sec. 24-5. Investigation.

Before granting any license under this chapter, the city clerk shall be satisfied by investigation through, the police department or by such other means as such clerk deems desirable, that the applicant is legally entitled to exercise the license and is eligible therefore under the provisions of this chapter. Applicant shall provide any information or releases deemed necessary for conducting an appropriate investigation. No application shall be approved and no license shall be granted if applicant refuses or fails to comply with an investigation.

Sec. 24-6. Insurance.

No license for any class of vehicle under this chapter shall be issued by the city clerk until the applicant shall have presented, to be filed with the application, a certificate of an insurance company authorized to transact business in the commonwealth stating that the vehicle to which the license applies is properly insured under the laws of the commonwealth or a certificate of a surety company authorized to transact business in the commonwealth as surety, stating that a motor vehicle liability bond, payable to the commonwealth, which covers such motor vehicle, conforms to the provisions of

M.G.L.A. c. 175, § 113A, and runs for a period at least coterminous with such registration, has been executed by such applicant as principal and by such surety company as surety. Said certificate shall state the name and address of the owner of the vehicle, the name of the company in which the licensee is insured, the amount and character of insurance or bond, and a statement that the insurance policy or bond is applicable to passengers lawfully riding in the vehicle under the provisions of the ordinances of the city. Said insurance or bond shall be to the amount or limit on account of injury to or death of any one person and on account of any one accident resulting in the injury or death of more than one person as provided in Massachusetts General Laws, and further certifying that said policy or bond shall not be cancelled without giving the city clerk five (5) days' notice thereof. When notice of cancellation of an insurance policy or bond is received by the city clerk the licensee shall be notified, and unless the licensee shall, before the expiration of the policy or bond to be cancelled, submit a new certificate of a valid insurance policy or bond, the licensee shall return and surrender the class A public vehicle license. Failure on the part of the licensee to surrender promptly the license shall be reason and cause for suspension or revocation of the license by the city clerk, provided, however, that the license may be returned to the licensee by the city clerk on the presentation for filing of a new certificate of valid insurance or bond complying with this chapter.

II. Class A Vehicles/Taxicabs

24-7. Class A Vehicles/Taxicab - Rules and Regulations

All class A licenses issued and active as of the effective date of this ordinance shall be considered the personal property of those individuals on record with the city clerk as the holder of the license. The license shall have a value for tax or re-issuance purposes of \$5,000. The licenses shall be considered the personal property of the licensee and may be sold or transferred pursuant to this chapter.

Any licenses that expire or that are not renewed will revert to the city and the city clerk shall be authorized to issue the license pursuant to section 24-7 B.

A. Application.

1. Applications for the renewal or initial issuance of Class A vehicle licenses and identification plates shall be made at the office of the city clerk and shall set forth such information as the city clerk may require, in addition to the following information:
 - The full name of the owner of the vehicle for which a license and identification plate is desired;
 - The home address and the business location of the applicant;
 - The make, type and engine number of the vehicle;
 - The current Massachusetts registration number (Massachusetts registration certificate shall be displayed at the city clerk's office);
 - Whether the owner of the class A vehicle is to drive and operate the vehicle under the license, or whether a licensed public vehicle driver, as hereinafter provided, is to be employed, or to act as an independent contractor relative to said license;
 - The passenger seating capacity of the vehicle, exclusive of the driver.
2. A non-refundable application fee of \$25.00 shall be paid at the time of submittal of an application. No application shall be considered for approval until said application fee is paid.

B. Issuance of Class A license.

1. Awarding of license.

Whenever the city clerk determines that a class A vehicle license shall be issued, the city clerk shall hold either a public auction or request for closed written bid submittals, at the discretion of the city clerk and the license shall be awarded to the highest bidder for the license provided that the highest bidder meets all other requirements pursuant to this chapter. The minimum acceptable bid shall be \$5,000 and no license shall be issued unless a bidder agrees to pay no less than the minimum bid. No auction shall be held without first advertising the date, time and place of the auction along with a description of the license and the minimum bid required. The advertisement shall appear at least 10 days prior to the date of the auction. No closed written bid submittals will be accepted without first advertising the dates when bids shall be accepted; when bids will be opened; along with a description of the license and the minimum bid required. If the highest bidder does not meet all the requirements of this chapter, the city clerk will issue the license to the second highest bidder for the amount of the second highest bidder's last bid. If the second highest bidder does not meet all the requirements of this chapter or no bid can be qualified pursuant the requirements of this chapter, the license shall not be issued and the city clerk will determine whether or not to hold another auction or request new written bid submittals. The successful bidder shall be required to submit an application pursuant to section 24-7A.

The city clerk shall have the authority to establish rules and procedures for issuing class A licenses not inconsistent with this chapter.

2. Licensing documentation issued to licensee by city clerk.

For purposes of renewing a class A license, a transfer or an initial award of a license, the licensee shall submit an application. Upon approval of the renewal application or application for the initial award of a license, payment of required fees and completion of any other required procedures, the city clerk shall issue to the licensee, the following:-

a) License.

Each vehicle shall have a separate and distinct license. The license shall contain the name of the licensed owner; the owner's address; the class A license number; the make, model, year and vehicle identification number of the licensed vehicle; The city clerk shall replace a lost, damaged or stolen license at a charge of \$10.00.

b) Identification plate.

Each vehicle licensed as a class A vehicle shall obtain from the city clerk an identification plate that the licensee shall securely affix to the trunk on the driver's side of the licensed vehicle. A new identification plate shall be issued each year upon renewal. The city clerk shall replace a lost, damaged or stolen identification plate at a charge of \$100.00.

c) Interior identification card.

Every class A vehicle shall have posted inside the licensed vehicle, a printed card issued by the city clerk bearing the name of the owner, the owner's address and the

class A license number. The city clerk shall replace a lost, damaged or stolen identification card at a charge of \$10.00

C. Number of Class A licenses.

No more than 65 class A public vehicle licenses shall be outstanding and in force at any one time. No person or corporation shall either directly or indirectly own or operate more than 35 class A vehicles at any one time.

The city council may suspend or revoke class A licenses for violation of this section.

D. Transfer of class A licenses.

A class A license may be transferred or assigned to another person, or to another vehicle, by application to the city clerk, subject to the same conditions concerning original applicants. The fee to transfer a class A license to a new owner shall be \$100.00 The fee for registration and issuance of a transfer to another vehicle shall be \$10.00.

E. Term of Class A license.

Each class A license shall be valid from January 1st to December 31st of each year. The licensee shall have the right to renew the license each year pursuant to the provisions of 24-7F.

F. Renewal of Class A license.

Holders of class A licenses shall be entitled to annual renewal of said licenses unless the same have been surrendered or revoked, and provided further that proper renewal application is made subject to the following provisions:-

1. All holders of class A licenses shall submit an application for renewal by September 30th of each year. There shall be no application fee for renewal if submitted on or before September 30th. Renewal application submitted after September 30th but before November 1st shall be accepted upon payment of a fee of \$100. Renewal application submitted after October 31st but before December 1st shall be accepted upon payment of a fee of \$200. Any class A licenses for which no application for renewal has been submitted on or before November 30th shall be deemed expired on December 31st and shall not be renewed.

2. Upon final approval by the city clerk of the renewal application, the city clerk shall issue the renewed class A license on or before December 31st and upon payment of a fee of \$175. No license shall be issued until receipt of payment of the fee. Failure to pay the fee on or before December 31st will result in the expiration of the class A license and the license shall not be renewed.

G. Suspension/Revocation.

The city council may suspend or revoke any class A license for violation of this Chapter.

Whenever the city council seeks to suspend or revoke a class A license, notice shall also be given to the licensee. The Class A license holder may, within 30 days of notice of the disciplinary action, request a hearing before the city council or one of its designated committees. Said hearing shall be held within 60 days from the date of request. Should the city council fail to hold a hearing within 60 days from the date of request, the disciplinary action shall be null and void.

The license of any Class A vehicle holder who is convicted of any of the crimes enumerated in section 24-14 of this chapter shall be revoked immediately by the city clerk, provided that the license of Class A vehicle holder who is convicted of violating the controlled substance laws or convicted of any of the crimes enumerated in section 24-14 when such crime involved the use of a class A public vehicle shall be permanently revoked.

The city clerk shall notify the city council of the failure of any class A licensee to cooperate in carrying out any provisions of this chapter, and if in the opinion of the city council the public interest or safety requires the revocation of any class A license, said license may be revoked without a hearing.

Any affirmative action shall be submitted to the mayor for such mayor's approval.

24-8. Taximeters; rates.

- A. No vehicle shall be licensed or operated as a class A vehicle unless and until the same is equipped with a taximeter.
- B. The term "taximeter" shall mean a mechanical instrument or device by which the charge for hire of a class A public vehicle at a predetermined rate or rates is mechanically calculated and registered, either for distance traveled or for waiting time, or both, and upon which such charge shall be indicated by means of figures.
- C. No class A vehicle shall be licensed until the taximeter attached thereto shall have been approved and sealed by the office of the sealer of weights and measures. After sundown, the face of every taximeter shall be illuminated by a suitable light so arranged as to throw a continuous steady light thereon. Upon an order of the chief of police and city clerk a licensee shall have the taximeter re-inspected.
- D. Waiting time shall include all time during which the class A vehicle is not in motion, beginning five (5) minutes after its arrival at the place to which it has been called, or if engaged in the street or at a stand, beginning five (5) minutes after the time of such engagement. A charge as provided in subsection (j) hereof may be made, but no charge shall be made for time lost through the inefficiency of the vehicle or its driver, or for time between premature arrival in respect to a call and the hour for which the vehicle was ordered.
- E. Each taximeter must be furnished with a tamper-proof switch and system of electrical distribution, so that when the taximeter flag is in the vacant or noncarrying position, the vacant sign on the top of the taxicab will be lighted, and when the meter flag is in the earning position, the fare indicator on the taximeter will be lighted.
- F. Such taximeters must register upon visual counters the following items:
 - 1. Total miles.
 - 2. Paid miles.
 - 3. Number of units.
 - 4. Number of trips.
 - 5. Number of extras.
- G. No driver of a taxicab equipped with a taximeter while carrying passengers or under employment shall display the signal affixed to such taximeter in such a position as to denote such vehicle is not employed, or in such position to denote that the vehicle is employed at a rate of fare different from that to which the operator is entitled under the provisions of this chapter. It shall be the duty of the driver to call the attention of

passengers to the amount registered and the taxicab flag shall not be changed to "Vacant" position until after the fare is paid. If demanded by the passenger, the driver in charge of a taxicab shall deliver to the person paying for the hiring of the same at the time of such payment a receipt therefore in legible type or writing containing the name of the owner, the city license number or the driver's city license number, or the taximeter number, and any items for which a charge is made, the total amount paid, and the day and time of payment.

- H. No person shall drive a taxicab to which is attached a taximeter that has not been duly inspected and approved. It shall be unlawful to change the size of the wheels or tires of a taxicab or the gears operating the taximeter or to change a taximeter from one taxicab to another unless the taximeter is retested and approved.
- I. It shall be unlawful for any person owning, operating or driving a taxicab as herein defined to operate or drive such taxicab unless such taximeter is used in determining the fare to be charged and no other or different fare shall be charged to passenger than is recorded on the reading face of said taximeter for a trip, except that the hourly rate may be used at mutual agreement of passenger and owner of the taxicab. No other rates or methods of measuring the distance or time charges shall be allowed except as herein provided.
- J. No taxicab license and no person in charge of or operating a taxicab shall demand, charge, arrange, accept or receive any rate in excess of or below the rates established by this chapter. The price or rates of fare which any person owning, operating or controlling any licensed class A public vehicle within the limits of the city may charge and demand and which shall be determined by a taximeter shall be:
 - 1. When a taxicab is engaged the rate will be\$2.00.
 - 2. For each succeeding 1/10 mile or fraction thereof0.35.
 - 3. For each 41 seconds of waiting time or fraction thereof0.35.

In addition to the foregoing, such class A public vehicles may install, but shall not be required to install, a metering system which measures according to "traffic/delay-dollar/hours" method, measuring for either time or distance in the event such vehicles are delayed in traffic for unusually long periods of time.

24-9. General Rules for class A vehicles/taxicabs.

- A. Class A vehicles shall not establish and maintain therefore any route between fixed terminals.
- B. Class A vehicles shall at all times be kept clean and fit for occupancy and in safe operating condition as required by law.
- C. Class A vehicle shall not carry more passengers than the number designated licensed seating capacity.
- D. No livery vehicle shall be used as a class A vehicle. Any such violation of this paragraph shall be deemed a violation of this chapter and may result in suspension or revocation of the livery vehicle's city registration or immediate suspension or revocation of all livery vehicles registered with the city under the same owner.
- E. All licensed class A vehicles shall have on said vehicle, so as to be visible from the rear, in contrasting colors, the class A license number issued by the city clerk. A class A licensee shall completely obliterate the foregoing lettering whenever such person disposes of the licensed vehicle. Advertising displays which do not screen the foregoing or hide the same from clear view may be carried on class A vehicles.

- F. Whenever, in the discretion of the chief of police, any holder of a Class A license or employee or agent of any holder of a Class A license operates in such a fashion or assists in any manner, a holder of a license as a class B, C or any other type of vehicle that requested a taxicab or were engaged in such a manner that is regularly and commonly reserved for or used in engaging a taxicab, the chief of police shall send notice to the holder of said Class A license which provides the basis for the findings of the chief of police and notify the mayor and city council.

III. Class B Vehicles/Common Carriers

24-10. Class B Vehicles/Common Carrier – Rules and Regulations.

A. Application

1. Applications for Class B vehicle licenses shall be made at the office of the city clerk and shall set forth such information as the city clerk may require, in addition to the following information:
 - The full name of the owner of the vehicle for which a license is desired;
 - The home address and the business location of the applicant;
 - The make, type and engine number of the vehicle;
 - The current Massachusetts registration number;
 - Whether the owner of the class B vehicle is to drive and operate the vehicle under the license, or whether a licensed public vehicle driver, as hereinafter provided, is to be employed, or to act as an independent contractor relative to said license;
 - The passenger seating capacity of the vehicle, exclusive of the driver.
 - Specific route upon which the class B vehicle will receive and discharge passengers.
2. A non-refundable application fee of \$30.00 shall be paid at the time of submittal of an application. No application shall be considered complete for approval until said application fee is paid.
3. The city clerk shall promptly submit all completed applications to the city council for approval after completion. Said final approval by the city council is subject to all rules, procedures, schedules and requirements of the city council but shall, in any event, be acted upon within 60 days of completion of application. No class B license shall be issued until final approval by the city council is validly voted upon and considered final pursuant to city council rules.

B. Issuance of class B vehicle license

1. Upon final approval by the city council and mayor, the city clerk shall issue the class B license within 5 business days without the requirement of a fee.
2. If any application for a license under this section is not favorably acted upon by the city council within a period of 60 days after the filing thereof, the applicant may appeal to the department of telecommunications and energy within 5 days following the expiration of said period or, if notice of unfavorable action is sooner given, within 5 days of said notice, upon a petition in writing setting forth all the material facts in the case.

3. Every license for the operation of a class B vehicle shall have the route specifically detailed on the license provided, that in the event of the closing of the whole or a portion of such a route by public authority or of interference with operation thereon by street repairs, fire, accident, unusual and severe traffic congestion or other emergency, a licensee may temporarily operate such vehicles by a reasonably direct and convenient detour.

C. Number of licenses.

There shall be no limit on the number of Class B licenses that may be issued pursuant to this chapter.

D. Transfer.

1. A class B license assigned to a vehicle may only be transferred to another vehicle that is registered to the same owner as the licensed vehicle. The owner seeking the transfer shall submit any and all information required by the city clerk reasonably required to complete the transfer and payment of a transfer fee of \$10.

2. Any transfer of ownership of the licensed vehicle shall automatically terminate the class B license assigned to the vehicle and the vehicle shall be considered unlicensed to operate as a class B vehicle. The new owner of the vehicle may submit an application for a license pursuant to the provisions of this chapter.

E. Term of license

Any class B license issued shall be valid for a period of 3 years from the date of issuance. Date of issuance shall be as of the date license is approved by the mayor.

F. Renewal

Holders of class B licenses shall be required to submit a timely application pursuant to section 24-10 prior to the expiration date in order to maintain a continuous active license.

G. General rules for class B vehicle.

1. In addition to the provisions of this chapter, class B vehicles shall be subject to the provisions of Chapter 159A of the General Laws of the Commonwealth of Massachusetts.

2. Any change in the route on which the vehicle is operated or may be running must be registered with the city clerk and the license amended to reflect the changes to the route. Fee for each change in route shall be \$5.00.

IV. Class C Vehicles/Livery Vehicle

24-11. Class C Vehicles/Livery Vehicle - Rules and Regulations.

A. Application

1. Applications for Class C vehicle licenses shall be made at the office of the city clerk and shall set forth such information as the city clerk may require, in addition to the following information:

- The full name of the owner of the vehicle for which a license is desired;
- The home address and the business location of the applicant;

- The make, type and engine number of the vehicle;
 - The current Massachusetts registration number (Massachusetts registration certificate shall be displayed at the city clerk's office);
 - Whether the owner of the class C vehicle is to drive and operate the vehicle under the license, or whether a licensed public vehicle driver, as hereinafter provided, is to be employed, or to act as an independent contractor relative to said license;
 - The passenger seating capacity of the vehicle, exclusive of the driver.
 - Any and all means of communication by which transportation by the vehicle will be arranged and any specific telephone numbers, email addresses, etc. that will be used to arrange transportation.
 - *Each Class C vehicle shall be applied for as a separate and distinct license. The City Clerk shall not license owners of a vehicle or vehicles, whether a company or individual, as a Class C, but shall license each vehicle as a Class C vehicle.*
2. A non-refundable application fee of \$50.00 shall be paid at the time of submittal of an application. No application shall be considered for approval until said application fee is paid.
 3. The city clerk shall submit all completed applications to the city council for approval within 30 days of completion. Said final approval by the city council is subject to all rules, procedures, schedules and requirements of the city council. No class C license shall be issued until final approval by the city council is validly voted upon and considered final pursuant to city council rules.

B. Issuance of Class C License.

Upon final approval by the city council, the city clerk shall issue the class C license within 15 business days and upon payment of a fee of \$100. No license shall be issued until receipt of payment of the fee. Any license issued after December 31st of a given year shall be issued upon payment of a prorated fee as follows:-

1. Issuance between January 1 and January 31 - \$75
2. Issuance between February 1 and February 29 - \$60
3. Issuance between March 1 and March 31 - \$45
4. Issuance between April 1 and June 30 - \$30

C. Number of Licenses.

There shall be no limit on the number of class C licenses that may be issued pursuant to this chapter.

D. Transfer.

1. A class C license assigned to a vehicle may only be transferred to another vehicle that is registered to the same owner as the licensed vehicle. The owner seeking the transfer shall submit any and all information required by the city clerk reasonably required to complete the transfer and payment of a transfer fee of \$10.
2. Any transfer of ownership of the licensed vehicle shall automatically terminate the class C license assigned to the vehicle and the vehicle shall be considered unlicensed to operate as

a class C vehicle or livery vehicle. The new owner of the vehicle may submit an application for a license pursuant to the provisions of this chapter.

E. Term of License.

Any class C license that is renewed shall be valid from July 1st to June 30th of the following year. Any new class C license issued shall be valid from the date of issuance to the ensuing June 30th.

F. Renewal.

1. All holders of class C licenses shall submit an application for renewal by March 31st of each year. There shall be no application fee for renewal if submitted on or before March 31st. Any application for renewal submitted after March 31st and on or before April 30th shall pay a fee of \$25. No renewal application shall be accepted after April 30th. A class C license holder will be required to file an application pursuant to Section 24-11A (1) through (3) if the license holder fails to meet the renewal deadlines.

2. Renewal applications shall be submitted to the city council without undue delay and shall be subject to the usual and ordinary rules, procedures schedules and requirements of the city council.

3. Upon final approval by the city council of the renewal application, the city clerk shall issue the renewed class C license within 15 business days and upon payment of a fee of \$75. No license shall be issued until receipt of payment of the fee.

4. For purposes of this paragraph, the term "late year new license" shall mean any new license first issued on or after March 1st and before June 30th of a given year. A late year new license holder shall apply for the first renewal at the time of receipt of the late year new license. No application fee shall be charged in such an instance. Should the city council fail to approve or deny the renewal prior to the expiration of the late year new license, the new licensee shall be allowed to continuously operate pursuant to the valid new license until such time as the city council acts upon the renewal. Thereafter, the licensee shall be subject to renewal procedures in paragraphs 1 through 3.

G. Suspension and Revocation.

The city council may suspend or revoke any class C license for violation of this Chapter without hearing.

H. General Rules.

1. No livery vehicle shall be used as a class A vehicle. Any violation of this paragraph may result in not only suspension or revocation pursuant to 24-11G. but may also result in suspension of any number of livery vehicles registered with the city under the same owner.

V. Public Vehicle Driver

24-12. License required.

a) No vehicle for hire shall be operated by any person who has not obtained a public vehicle driver license pursuant to this chapter. No person shall act as a public vehicle driver without first obtaining a license from the city clerk.

b) Any licensed class A, B. or C vehicle that is found to be operated as such a vehicle for hire by a person who is not licensed as a public vehicle driver shall be subject to the respective revocation and suspension Sections of this chapter and the owner of the licensed vehicle shall be subject to a fine of \$300.00 for each day such violation is found to occur.

24-13. Application for Public Vehicle Driver license.

Application to be licensed as a public vehicle driver shall be made at the office of the city clerk. A non-refundable application fee of \$15.00 shall be paid at the time of submittal of an application. No application shall be considered for approval until said application fee is paid.

Applications shall set forth, under the penalties of perjury, such information as the city clerk may require, in addition to the following information:

- Name of applicant,
- The number of applicant's license to operate motor vehicles in the commonwealth, and
- The date of the expiration of said license, which state license shall be displayed at the time of making application;
- Name of the person by which applicant is to be employed, and if not employed, from whom applicant is leasing or renting a vehicle.

The applicant shall, at applicant's own expense, furnish the city clerk with 2 two-inch by two-inch photographs of applicant before the license is issued, one of which shall be affixed to the license, and the other used in connection with the office record. In case of renewals, the applicant shall not be required to provide new photographs, providing those in existence are in good condition, but applicant must surrender the old license.

24-14. Qualifications for approval.

Public vehicle driver licenses may be granted to suitable persons of good character, 18 years of age or over, otherwise qualified to operate vehicles, provided they can read, write, speak, understand or can otherwise communicate in the English language, and they have not been convicted, within 5 years of the date of application, or larceny; illegal gaming, illegal keeping, transporting or sale of liquor, drugs or controlled substances; immoral conduct; driving under the influence of intoxicating liquor or drugs; leaving the scene of a motor vehicle accident after causing injury or damage to a person or property; driving so as to endanger life or property; any felony or the violation of any of the terms of this chapter. Notwithstanding the preceding, no public vehicle driver license shall ever be issued to any person who is registered or is required to register as a sex offender in any jurisdiction; nor shall a public vehicle driver license ever be issued to any person who has been convicted of violating the controlled substance laws or convicted of any of the above when such crime involved the use of a public vehicle.

In the event that the individual is duly qualified for public vehicle driver license and is unable to speak as a result of physical disability or impairment, the above requirement that the individual speak the English language will be waived.

24-15. License form and expiration

The license shall contain a description of the person licensed, together with a photograph of the licensee as abovementioned, and such other data as the city clerk may deem advisable. Said license

shall expire 2 years from the date of issuance thereof. The suspension of the license to operate motor vehicles in the commonwealth shall automatically suspend the public vehicle license.

24-16. Issuance of Public Driver License and badge.

The city clerk shall issue the public vehicle license within 45 business days of the completed application submittal and upon payment of a fee of \$50. No license shall be issued until receipt of payment of the fee. If after good faith attempt to complete an investigation, the city clerk is unable to complete such investigation into the background of the applicant, the city clerk shall promptly notify the applicant in writing that the investigation has not been completed and shall be completed within 60 business days after the 45 business days. Any investigation that remains incomplete after the passage of 105 business days after the submittal of a completed application that is not related to any delay caused by the applicant shall entitle the applicant to the issuance of the public driver license and badge.

Upon issuance of a public driver license, the city clerk shall additionally supply a badge to the licensee. At all times that the licensed driver is in control of the vehicle the badge shall be prominently posted in the vehicle in plain view of any passenger s except when providing service for a wedding or funeral. The badge shall bear the words "New Bedford Public Vehicle Driver" and badges shall be numbered serially. The number of the badge issued to a licensee shall be noted on the license. Said badge shall be kept in repair by the licensee and shall remain the property of the city, to be returned to the city clerk's office should the license be revoked or suspended, or should licensee cease to be employed or working as a public vehicle driver. A driver or operator renewing a license may retain a badge previously issued if it is displayed at the time of issuance of a new license. If a badge is lost, the licensee shall immediately report the fact to the city clerk who shall issue another badge to the licensee on payment of the charge of \$5.00, and the new badge number and date of issue shall be noted on the license.

24-17. Suspension and revocation.

To the extent permitted by law, a public vehicle driver's license may be suspended or revoked by the mayor and city council without a hearing, for good reason.

The license of any Public Vehicle Driver who is convicted of any of the crimes enumerated in section 24-14 of this chapter shall be revoked immediately by the city clerk, provided that the license of any Public Vehicle Driver who is convicted of violating the controlled substance laws or convicted of any of the crimes enumerated in section 24-14 when such crime involved the use of a class A, B or C public vehicle shall be permanently revoked.

The city clerk shall notify the city council of the failure of any Pubic Vehicle Driver to cooperate in carrying out any provisions of this chapter, and if in the opinion of the city council the public interest or safety requires the revocation of any Public Vehicle Driver license, said license may be revoked without a hearing.

Any affirmative action shall be submitted to the mayor for such mayor's approval.

VI. Pedicabs.

24-50. Pedicab requirements.

- a) A pedicab as used in this chapter shall mean the following:-

Pedicab - a bicycle or any device upon which a person may ride, having 3 wheels or more, which is propelled by human power through a system of belts, chains, or gears, that transports or is capable of transporting passengers on seats attached to the bicycle or device, that is operated by an individual, and that is used for transporting passengers for hire.

- b) No person shall operate a pedicab unless the pedicab is licensed with the city clerk for an annual fee of \$25.00.
- c) No person may a license a pedicab or renew such a license without first providing the city clerk with a certificate of liability insurance with a minimum of \$20,000.00 / \$40,000.00 of coverage.
- d) No person shall operate a pedicab unless the operator has acquired a public vehicle driver license pursuant to and subject to the provisions of 24-12 through 24-17.
- e) The provisions of sections 24-7G; 24-9 A through C; and 24-9 E, as applied to class A vehicles, shall apply to pedicabs.

Section 2.

This ordinance shall take effect in accordance with the provisions of Chapter 43 of the General Laws.



Item Title:

WRITTEN MOTION re Snow and Ice Removal

Item Detail:

3. WRITTEN MOTION, Council President Morad, requesting that the Committee on Ordinances review the City Code, specifically Section 22-15; Snow and Ice - Removal From Sidewalks; Required, in an effort to determine if changes should be made to said Code Section as currently written. (To be Referred to the Committee on Ordinances.) (Ref'd 4/12/18) (5/15/18-tabled 60 days)

Additional Information:

ATTACHMENTS:

Description	Type
3. WRITTEM MOTION re Snow and Ice Removal	Cover Memo

Sec. 22-15. - Snow and ice—Removal from sidewalks; required.

Every owner or occupant of a building or lot of land abutting upon a sidewalk in any street or public place in the city shall cause the snow to be removed from such sidewalk within a reasonable time after such snow has ceased to fall; except that under unusual or extraordinary circumstances a reasonable time shall be held to be as follows: If snow falls in the day time, it shall be removed from the sidewalk within four (4) hours from time it shall have ceased falling; if in the night time, it shall be removed on or before 11:00 in the forenoon next succeeding. The provisions of this section shall apply to snow falling from any building or accumulating upon such sidewalk from any other cause.

No person shall remove snow or ice from any sidewalk, street or private property and cause it to be placed onto a sidewalk, which abuts another property or onto another person's property without the express permission of the respective property owner.

Any violation of this section shall result in a fine of fifty dollars (\$50.00).

The primary enforcement of this section regarding snow placed on private property shall be with the department of inspectional services and primary enforcement of this section regarding snow placed on public property shall be with the department of public infrastructure. Both departments however are authorized to enforce all provisions of this section.

(Ord. of 7-21-03, § 1; Ord. of 4-19-06, § 1)



Item Title:
Accessibility Statement

Item Detail:

In accordance with the Americans with Disabilities Act (ADA), if any accommodations are needed, please contact the Clerk of Committees Office at 508-979-1482. Requests should be made as soon as possible but at least 48 hours prior to the scheduled meeting.

Additional Information: