

ORDINANCE NO. 418-R
OF THE PORT OF PORTLAND

AN EMERGENCY ORDINANCE TO REGULATE USAGE OF THE COMMERCIAL ROADWAY IN A MANNER THAT BEST SERVES THE NEEDS OF THE TRAVELING PUBLIC AT PORTLAND INTERNATIONAL AIRPORT, AND AMENDING AND RESTATING ORDINANCE NO. 397-R (as amended by Ordinance No. 351 and Ordinance No. 386-R).

WHEREAS Homeland Security Aviation Security Directive 1542-04-08 dated January 31, 2007 is not intended to apply to commercial roadway operations but requires holders of such airport-issued identification to submit to more restrictive eligibility requirements and requires airports to implement such requirements by May 1, 2007; and

WHEREAS this Item is brought before the Commission as an emergency Ordinance to meet the deadline for compliance with the Homeland Security Aviation Security Directive 1542-04-08; and

WHEREAS pursuant to Port Ordinance 397-R (as amended by Ordinance No. 351 and Ordinance No. 386) the Port has required drivers to submit to criminal background and driving record checks in order to receive driver identification badges to ensure the safety of members of the traveling public; and

WHEREAS following enactment of Port Ordinance 397-R in 1999, the City of Portland, the City of Vancouver, the Oregon Department of Transportation and the United States Department of Transportation and service provider companies have implemented programs that duplicate Port driver identification and eligibility requirements; and

WHEREAS, the Port wishes to amend and restate the Commercial Roadway Ordinance to eliminate the driver identification program to timely comply with Homeland Security Aviation Security Directive 1542-04-08 by May 1, 2007, and to eliminate driver background check requirements that are duplicated by other governmental authorities and service provider companies:

BE IT ENACTED AS AN EMERGENCY BY THE PORT OF PORTLAND:

SECTION ONE: Port of Portland Ordinance No. 397-R (as amended by Port of Portland Ordinance No. 351 and Port of Portland Ordinance No. 386-R) is amended and restated in its entirety to read as follows:

SECTION 1. Definitions

As used in this Ordinance:

1.1 "Access Fee" shall mean the fee charged to a Permitted Business each time a Permitted Business' Commercial Ground Transportation Vehicle drives onto the Commercial Roadway.

1.2 "Airport" shall mean Portland International Airport, including all facilities and roads located within the geographical boundaries of Port of Portland land designated as Portland International Airport, which, for purposes of this Ordinance, shall include, but is not limited to, the Airport terminal building, the Airport parking garage, the Commercial Roadway, all Airport parking lots, all waiting and hold areas for Commercial Ground Transportation Vehicles, the airfield, all of Airport Way running from Interstate 205 on the East end and extending West to the Airport terminal building, and all of the frontage roads running parallel to Airport Way.

1.3 "Airport Customer" shall mean any person who arrives at, or departs from, the Airport.

1.4 "Business" shall mean a person, sole proprietorship, association, corporation, partnership, limited liability company, joint venture, or any other business arrangement or organization, who desires to transport Airport Customers in a Commercial Ground Transportation Vehicle. A Business that has obtained a Permit to operate on the Airport's Commercial Roadway is also referred to in this Ordinance as a "Permitted Business."

1.5 "Charter Service" shall mean a Ground Transportation Vehicle hired for a specific, event-generated occasion and for a specific group of travelers.

1.6 "Chauffeured Limousine" shall mean any custom luxury vehicle transporting passengers for hire, as a common carrier, where the driver is uniformed, a partition separates the driver from the passengers, and arrangements for the hire of the vehicle have been made prior to the vehicle arriving at the Airport. Chauffeured Limousines are a type of Reservation Only Vehicle.

1.7 "Commercial Ground Transportation Vehicle" shall mean any form of transportation vehicle traveling on streets, roads, or highways that is owned by, leased by, used by or at the request of, or procured by or at the request of, a Business, its agents, employees, officers, contractors, or subcontractors for the purpose of transporting Airport Customers and/or luggage to or from the Commercial Roadway or to and from the commuter airline security area, whether said transportation is for hire or is provided without charge, provided that a vehicle used solely for the transportation of luggage or other cargo shall not be deemed a Commercial Ground Transportation Vehicle.

1.8 "Commercial Roadway" shall mean that portion of the roadway system or other areas at the Airport designated by the Director, from time to time, as the roadway to be used by those Permitted Businesses operating Commercial Ground Transportation Vehicles.

1.9 "Commercial Roadway Fees" shall mean the fees authorized by this Ordinance to be imposed on Businesses using, or required to make use of, the Commercial Roadway at the Airport.

1.10 "Controlled Substance" shall have the meaning given to that term in Oregon Revised Statutes 167.203 and 475.005.

1.11 "Courtesy Vehicle" shall mean any vehicle utilized by a hotel, motel, car rental company, parking facility, or other business used to transport that business' customers to and from the Airport, without direct or indirect charge to the customer.

1.12 "Director" shall mean the Director of Aviation of the Port of Portland, or the Director's designee.

1.13 "Driver" shall mean any person driving a Commercial Ground Transportation Vehicle or in attendance of a parked Commercial Ground Transportation Vehicle at the Airport.

1.14 "Dwell-Time Fee" shall mean the additional fee charged to the account of a Permitted Business when any of its Commercial Ground Transportation Vehicles are parked on the Commercial Roadway for a period of time longer than the time allowed under the Permit.

1.15 "Executive Director" shall mean the Executive Director of the Port of Portland, or the Executive Director's designee.

1.16 "Executive Car" shall mean an On Demand Vehicle which is at least a full size, luxury sedan featuring amenities which include, but are not limited to, air conditioning, leather or a high quality fabric upholstery, a stereo system, and is not more than five (5) years old, which transports passengers for hire as a common carrier.

1.17 "Ground Transportation Office" shall mean an office or offices located at the Airport where Permit applications, Permits, and Roadway Access Devices may be obtained.

1.18 "Ground Transportation Services" shall include Executive Cars, Taxicabs, Reservation Only Vehicles, Scheduled Service Vehicles, Courtesy Vehicles, Charter Services, and any other type of Commercial Ground Transportation Vehicle that picks up passengers on the Commercial Roadway.

1.19 "Hearing Officer" shall mean the person appointed by the Executive Director to hear appeals of suspensions or revocations of a Permit.

1.20 "Immediate Suspension Order" shall mean an order issued by the Senior Aviation Operations Manager which immediately and indefinitely suspends a Permit for certain serious violations of this Ordinance before notice and opportunity to be heard need be given.

1.21 "Notice of Suspension or Revocation" shall mean a written notice sent to a Permitted Business by the Director informing the Permitted Business that its Permit will be suspended or revoked due to violations of this Ordinance.

1.22 "On Demand Vehicle" means any vehicle transporting passengers for hire, as a common service, that does not have a reservation, but waits in line for a fare at the Airport.

1.23 "Oregon Vehicle Code" means the Oregon Revised Statutes Chapters 801 to 826, as it may be amended from time to time.

1.24 "Permit" shall mean the Permit to be issued in accordance with the requirements of this Ordinance, as it may be amended from time to time, which Permit is required to operate a Commercial Ground Transportation Vehicle on the Commercial Roadway.

1.25 "Permit Application Fee" shall mean the fee charged by the Port to process a Permit application and to maintain a file for a Permitted Business.

1.26 "Port Rules and Regulations" shall mean those rules and regulations issued and published by the Director pertaining to, among other things, the use of the Commercial Roadway.

1.27 "Privilege Fee" shall mean the fee paid pursuant to Ordinance No. 349, which is imposed on Rental Car Businesses and Parking Lot Operators, as those terms are defined in Ordinance No. 349, for the privileges granted to said businesses and operators of accessing Airport Customers.

1.28 "The Port of Portland" or "Port" shall mean the port district created by the Oregon Legislature by laws codified in Oregon Revised Statutes, Chapter 778, as amended.

1.29 "Request for Proposal" shall mean a formal written solicitation by the Port for written proposals to provide certain goods or services.

1.30 "Reservation Only Vehicle" shall mean any vehicle transporting passengers for hire, as a common carrier, where the arrangements for the hire of the vehicle have been made prior to the vehicle arriving at the Airport. This definition includes Chauffeured Limousines.

1.31 "Roadway Access Device" shall mean the automated vehicle identification mechanism used to admit Commercial Ground Transportation Vehicles on to the Commercial Roadway.

1.32 "Scheduled Service Vehicle" shall mean any vehicle transporting passengers for hire, as a common carrier, that has a regular published time schedule established for picking up passengers at the Airport.

1.33 "Senior Aviation Operations Manager" shall mean the manager responsible for the airside and landside operations at the Airport for the Port of Portland, or his/her designee.

1.34 "Taxicab" shall mean any motor vehicle which carries passenger for hire where the destination and route traveled may be controlled by a passenger and the fare is calculated on the basis of an initial fee, distance traveled, waiting time, or any combination thereof, and which is duly permitted by the City of Portland under the terms of the City of Portland City Code, Section 16.40.

SECTION 2. Findings and Purpose

2.1 The Port of Portland finds as follows:

2.1.1 That the Port owns and controls a system of airports including that certain airport and air navigation facility located in Multnomah County, State of Oregon, known as the Portland International Airport, which includes the Commercial Roadway, an area used by Commercial Ground Transportation Vehicles for ingress and egress to the Airport terminal loading and unloading area; and

2.1.2 That the Airport, including the Commercial Roadway owned and operated by the Port, contributes to a strong economic base for the community, assists and encourages world trade opportunities, and is of vital importance to the health, safety, and welfare of the public; and

2.1.3 That the Port of Portland has required, and will continue to require, substantial expenditure for capital investment, operation, maintenance, and development of the Commercial Roadway to meet the future demand for air travel; and

2.1.4 That the unregulated use of the Commercial Roadway poses a threat to the peace, health, economic vitality, and safety of persons utilizing the Airport; and

2.1.5 That the unregulated use of the Commercial Roadway results in overcrowding, which has a negative impact on the enforcement of the Commercial Roadway regulations and the quality of services provided to the traveling public; and

2.1.6 That the revenues received from users of the Commercial Roadway are vital to the economic well-being of the Airport; and

2.1.7 That users of the Commercial Roadway receive economic benefit from the use thereof; and

2.1.8 That it is essential that the Airport remain financially healthy to perform its economic role in the community and to provide the community with cost-effective aviation facilities which include the Commercial Roadway; and

2.1.9 That, in order to generate revenue for purposes of maintaining, operating, and developing the Commercial Roadway for the convenience of the traveling public; preserving existing revenues; protecting the public; preserving order; providing for the public health, safety and welfare; enhancing the welfare of the Port; and governing use of the Airport property, it is necessary to adopt and implement a revised system of fees to be paid by Permitted Businesses utilizing the Commercial Roadway; and

2.1.10 That Permitted Businesses using the Commercial Roadway should contribute toward the operation, maintenance, and continued development thereof; and

2.1.11 That the fees and regulations adopted herein are reasonable for the affected Permitted Businesses; and

2.1.12 That larger vehicles make greater demands on available space and, therefore, require capital expenditures for additional space; and

2.1.13 That parking and stopping for other than short durations on the Commercial Roadway causes congestion and deprives others of the ability to use the Commercial Roadway, reducing the benefit to the traveling public; and

2.1.14 That, in order to protect the public, to provide for public safety, to preserve the good order and peace of the Port, and to generate revenue for purposes of maintaining and expanding Airport facilities and preserving existing

revenues, it is necessary to designate certain portions of the Airport roadway system for the use of Commercial Ground Transportation Vehicles, and to enact and provide for implementation of reasonable fees, standards, controls, rules, regulations, and procedures for use of the Commercial Roadway.

2.2 The purpose of this Ordinance is to enact regulations consistent with the above findings and this Ordinance and the regulations published pursuant thereto shall be liberally construed to effectuate the purposes expressed herein.

SECTION 3. Permit

3.1 No Business shall operate a Commercial Ground Transportation Vehicle at the Airport without having a valid Permit issued by the Director and without agreeing to the terms and conditions of such Permit. The Permit shall contain, at a minimum, the terms and conditions contained in this Ordinance. A Permit is valid for a period of two (2) years from the date of issuance. Thereafter, a new Permit must be applied for, following the procedure set forth in Section 3.2. Subject to Port reservation of rights, as set forth in Sections 9 and 11, all applicable provisions of law, the Permit and Port Rules and Regulations, Permits already in effect as of the Effective Date of this Ordinance shall be valid for a period of two (2) years from the Effective Date of this Ordinance, but any inconsistency between those Permits and this Ordinance shall be resolved in favor of this Ordinance. At the time the Permit expires, the Roadway Access Devices associated with that Permit will also be terminated.

3.2 To apply for a Permit, a Business must obtain a Permit application form from the Ground Transportation Office, fully and accurately complete the application form, and submit it to the Port, along with all of the following:

3.2.1 A completed insurance certificate, prepared by the insurer or insurance broker of the Business, certifying that the Business has broad form commercial general liability insurance insuring against any liability in any way related to a Permitted Business' operations on the Commercial Roadway, and business automobile liability insurance covering owned, hired, and nonowned vehicles operated by the Permitted Business. The policies providing such coverage shall include premises, operations, independent contractors, personal injury (deleting any exclusions relating to employees), products and contractual liability including, but not limited to, any indemnification obligations assumed by the Permitted Business to the Port pursuant to the Permit entered into by them. Minimum insurance coverage amounts shall be set by the Director, and may be amended from time to time. A schedule of current minimum insurance coverage amounts is available in the Commercial Ground Transportation Office. All such insurance policies shall name the Port as an additional insured. The Permitted Business must have a current, complete and accurate insurance certificate on file

with the Port at all times. Insurance must be provided by a company licensed to write insurance in the State of Oregon. The Port must be notified, in writing, at least ten (10) days in advance of any cancellation of coverage, reduction in coverage, or other significant coverage change. The Permitted Business will be responsible for failure of its insurance carrier to notify the Port and will be in violation of this Ordinance if such notification is not timely provided to the Port. The Permitted Business must also file with the Port a signed policy endorsement, showing that the Port is named as an additional insured on all required insurance policies;

3.2.2 The make, model, license number, vehicle identification number, color, and gross vehicle weight for each Commercial Ground Transportation Vehicle that the Business intends to operate on the Commercial Roadway;

3.2.3 A copy of the title or vehicle registration for each Commercial Ground Transportation Vehicle that the Business intends to operate on the Commercial Roadway which shows that it is owned by the Business, or if the Commercial Ground Transportation Vehicle is being leased, then a copy of the lease and a notarized affidavit from the title holder confirming that the Commercial Ground Transportation Vehicle is being leased by the Business and is in the lawful custody and control of the Business;

3.2.4 Proof that each Commercial Ground Transportation Vehicle has passed a mechanical inspection, conducted some time during the three (3) months immediately prior to the date that the Permit application is submitted, by a certified National Institute for Automotive Service of Excellence (ASE) mechanic experienced in performing inspections of commercial vehicles. The inspection must meet the minimum requirements for vehicle inspection established by the Director. A copy of the current requirements for vehicle inspection is available in the Ground Transportation Office;

3.2.5 The current street address, mailing address (if different than street address), and telephone number for the Business;

3.2.6 Unless exempt, proof of a valid City of Portland business license. Upon request by the Port, the Business shall provide proof of any other business or motor vehicle permits or licenses, as the Business may be required by law to have;

3.2.7 Proof of form of business entity: For corporations, a copy of the current Articles of Incorporation and a Certificate of Existence issued by the State of Oregon within thirty (30) days of the date the Permit application is submitted; for a limited liability company, a copy of the Articles of Organization and a copy

of the Certificate of Existence, as above described; for a partnership, a copy of the fully executed partnership agreement; for a sole proprietorship, a signed and notarized statement by the owner of the Business stating that the Business is a sole proprietorship; and,

3.2.8 If applicable, a statement by the Business disclosing any contractual arrangements, whether written or verbal, to provide ground transportation for rental car or parking lot companies who provide rental cars and/or parking space to Airport Customers.

3.3 A Permit will not be issued unless the Permit application is complete and all of the above information has been submitted and meets the requirements of this Ordinance. Upon issuance of the Permit, the Permitted Business shall also be issued one or more Roadway Access Devices, subject to the requirements of Section 4. Any Business obtaining a Permit must keep the Business street address, mailing address (if different than the street address), and telephone number current with the Ground Transportation Office at all times the Permit is in effect.

SECTION 4. Roadway Access Devices

4.1 In addition to the Permit, each Permitted Business must obtain a non-transferable Roadway Access Device for each Commercial Ground Transportation Vehicle that the Permitted Business intends to operate on the Commercial Roadway. When a new Commercial Ground Transportation Vehicle is obtained and is to be substituted for a Commercial Ground Transportation Vehicle that has already been issued a Roadway Access Device, a new Roadway Access Device must be obtained for the new Commercial Ground Transportation Vehicle, and the Roadway Access Device for the retiring Commercial Ground Transportation Vehicle must be turned back in to the Ground Transportation Office. No Commercial Ground Transportation Vehicle may be admitted on to the Commercial Roadway without a valid Roadway Access Device issued specifically for that Commercial Ground Transportation Vehicle.

4.2 Before a Roadway Access Device will be issued to a Commercial Ground Transportation Vehicle, that Commercial Ground Transportation Vehicle must be inspected for cleanliness and body condition, meeting the requirements as set forth in Section 5, and photographed by the Ground Transportation Office staff.

SECTION 5. Vehicle Condition/Identification

5.1 All Commercial Ground Transportation Vehicles shall be neat and clean, free of body damage, and well painted.

5.2 Commercial Ground Transportation Vehicles, except for Chauffeured Limousines, shall be clearly marked to show the name and telephone number of the

company operating the Commercial Ground Transportation Vehicle. All marking required herein shall be painted professionally, neatly, and plainly on both the driver's door and the front passenger door, or otherwise attached by permanent decal, approved, in writing, by the Director, to the same locations.

5.3 Any Commercial Ground Transportation Vehicle not meeting cleanliness requirements while operating on the Commercial Roadway will be given a twenty-four (24) hour warning and will be required to clean the Commercial Ground Transportation Vehicle within the following twenty-four (24) hours or the Roadway Access Device may be deactivated by the Port until the Commercial Ground Transportation Vehicle has been properly cleaned to the Port's satisfaction. Any Ground Transportation Vehicle operating on the Commercial Roadway with body damage that is not a safety hazard will be issued a written warning requiring that the body damage be repaired within thirty (30) days or the Roadway Access Device will be deactivated until the body damage is repaired to the Port's satisfaction. A Permitted Business may request an extension of time for repair from the Director, if good cause for an extension can be shown. Any Commercial Ground Transportation Vehicle that appears unsafe to be used for transportation of passengers will be required to leave the Commercial Roadway immediately and its Roadway Access Device will be deactivated until the unsafe condition has been repaired.

SECTION 6. Use of Commercial Roadway and Compliance With Laws

All Permitted Businesses operating a Commercial Ground Transportation Vehicle, or Vehicles, at the Airport shall load or unload Airport Customers in an area on the Airport designated by the Director. Use of the Commercial Roadway or any of the facilities by an operator of a Commercial Ground Transportation Vehicle shall be deemed acceptance of the Permit for purposes of this Ordinance. All who use the Commercial Roadway must do so in compliance with all laws applicable to use of the Commercial Roadway, including all provisions of this Ordinance.

SECTION 7. Prohibited Activities

In providing ground transportation services at the Airport:

7.1 No Driver or Permitted Business shall, at any time while at the Airport, by words, gesture or otherwise interfere with any Airport Customer's choice of Ground Transportation Services, or interfere with any other Driver with whom any Airport Customer is negotiating for ground transportation services. No Driver shall solicit, persuade, or urge, or attempt to solicit, persuade or urge any Airport Customer to hire any Commercial Ground Transportation Vehicle or dissuade any Airport Customer from using any other Commercial Ground Transportation Vehicle. Drivers shall not attempt to pick up those Airport Customers already waiting for another Commercial Ground Transportation Vehicle. No Driver or Permitted Business shall provide or offer any

payment to any skycap, Port representative or employee, starter, or any other person at the Airport in return for the referral of passengers or preferential treatment. Drivers may offer their services to Airport Customers if the Driver is approached by the Airport Customer.

7.2 Unless the Permitted Business' Permit expressly provides otherwise due to the nature of the service being provided by the Permitted Business, no Driver waiting on the Commercial Roadway shall leave the Commercial Ground Transportation Vehicle unattended, except in the event of an emergency or personal necessity. Drivers not waiting inside the vehicle may stand outside the vehicle, immediately adjacent to the vehicle door or rear panel, on the driver's side of the vehicle only.

7.3 No Driver shall become involved in any verbal or physical altercation at the Airport. This prohibition shall include the use of profane or threatening language or gesture directed at, or in front of, any passengers, other drivers, or Port representatives or employees.

7.4 No Driver shall possess, consume or be under the influence of alcohol or a Controlled Substance while on duty at the Airport.

7.5 No Driver or Permitted Business shall operate a Commercial Ground Transportation Vehicle on the Commercial Roadway that has nonfunctioning headlight(s), taillight(s), a cracked windshield, or otherwise is in violation of the Oregon Vehicle Code, particularly the vehicle equipment requirements of ORS Chapters 815 and 816.

7.6 No Driver or Permitted Business shall operate out of the Airport parking garage or any other area that is not specifically designated as being part of the Commercial Roadway, unless the Permitted Business has been given written permission to do so by the Port, which permission must be conspicuously displayed in the vehicle any time the Driver is operating anywhere other than on the Commercial Roadway.

7.7 No Driver or Permitted Business shall use the Roadway Access Device assigned to a particular Commercial Ground Transportation Vehicle to admit any other vehicle to the Commercial Roadway. Any Roadway Access Device found on or in any vehicle or being used to admit any vehicle other than the Commercial Ground Transportation Vehicle that it was assigned to will be immediately deactivated.

7.8 No Driver or Permitted Business shall conduct any illegal activity on the Airport or Commercial Roadway.

7.9 No Driver or Permitted Business shall remove or deface any roadway signs or other Airport property.

7.10 No Permitted Business shall give the Port inaccurate, incomplete or deceptive information in order to obtain a Permit or Roadway Access Device. Discovery by the Port of any such inaccurate, incomplete or deceptive information shall be grounds for revocation of the Permit.

7.11 A Permitted Business shall be held fully accountable for the actions of its Drivers. Any violation of this Ordinance by a Permitted Business' Driver shall be deemed a violation by the Permitted Business and shall subject the Permit to suspension or revocation, in accordance with Section 11 of this Ordinance.

SECTION 8. Commercial Roadway Fees and Deposits

8.1 A Permitted Business shall timely pay all "Commercial Roadway Fees," as established by the Executive Director, which fees consist of a Permit Application Fee, an Access Fee and a Dwell-Time Fee:

8.1.1 Permit Application Fee: Any Business applying for a Permit shall pay to the Port a Permit Application Fee in an amount established by the Director. Fifty percent (50%) of this fee is nonrefundable, whether or not a Permit is issued. Fifty percent (50%) of this fee will be promptly refunded to the Business if the Permit application is denied. The amount of the Permit Application Fee may be adjusted by the Director on or before July 1 of each year. The cost of one Driver criminal background check is included in the Permit Application Fee. The Permitted Business must pay the Port's cost of each additional Driver criminal background check for all other Drivers operating under that Permitted Business' Permit. The current Permit Application Fee schedule is available in the Ground Transportation Office.

8.1.2 Access Fee: All Permitted Businesses shall pay an Access Fee as established by the Director from time to time, said fee to be for each entry of a Commercial Ground Transportation Vehicle to and from the Commercial Roadway or other designated Airport ground transportation infrastructure. Said Access Fee, except in the cases of (1) Taxicabs and (2) Commercial Ground Transportation Vehicles operating under contracts awarded by the Port (other than by Permits), shall be based on Gross Vehicle Weight (GVW), as rated by the vehicle manufacturer. The Taxicab fee shall be a flat rate fee per entry and/or exit of the Commercial Roadway. The fee for Ground Transportation Vehicles operating under a contract with the Port (other than by Permit) shall be that fee established by the contract. The Access Fee amount may be adjusted by the Director from time to time, provided the fee for Commercial Ground Transportation Vehicles operating under a contract with the Port (other than by Permit) may be adjusted by the Director only to the extent adjustment is allowed

by the terms of the contract. The current Access Fee schedule is available in the Ground Transportation Office.

8.1.3 Dwell-Time Fee: A Permitted Business shall pay a Dwell-Time Fee at the rate or rates established from time to time by the Director, as needed, in order to ensure that the Commercial Roadway operates free of congestion. The current Dwell-Time Fee schedule is available in the Ground Transportation Office.

8.2 In the event the Permitted Business is subject to a Privilege Fee pursuant to Ordinance No. 349, the Permitted Business shall be entitled to a monthly credit against the current monthly Privilege Fee required to be paid pursuant to Port Ordinance No. 349, said credit to be applied against the Privilege Fee in the amount of the Access Fee paid pursuant to this Ordinance, provided that any excess credit shall not be carried over from month to month.

8.3 A Permitted Business must also pay the Port a refundable cash security deposit at the time the Permit is issued, in order to help ensure compliance with the Permit. The amount of the security deposit will be set by the Director based on the type of use and anticipated amount of use of the Commercial Roadway.

8.4 Any Permitted Business having a direct real property lease with the Port shall be exempt from the payment of the Permit Application Fee, Access Fee and the Dwell-Time Fee only for Courtesy Vehicles operated directly in conjunction with the operations being conducted on the leased property. Any Permitted Business which is exempt from payment of fees under this Section must pay the Port's cost for the criminal background check for all Drivers who operate under the Permit of such Permitted Business.

SECTION 9. Port Reservation Of Rights

9.1 The Director is authorized to designate any portion of the roadway system at the Airport as being part of the Commercial Roadway, to relocate the Commercial Roadway, or to establish additional Commercial Roadways as may be necessary for the efficient management of ground transportation at the Airport.

9.2 The Director is authorized to issue and publish additional Port Rules and Regulations to implement this Ordinance, and to include additional terms and conditions in the Permit to implement this Ordinance, as is deemed necessary by the Director. Should this Ordinance conflict with the Port Rules and Regulations, this Ordinance shall prevail, but the Port Rules and Regulations must be applied to the fullest extent that they do not conflict.

9.3 The Director is authorized, at any time and from time to time, as the Director deems necessary, to limit the number of Permits and/or Roadway Access Devices issued in order to manage and prevent overcrowding on the Commercial Roadway.

9.4 The Director is authorized, in lieu of issuing Permits to all applicants who would otherwise qualify for a Permit, to instead establish a Request for Proposal ("RFP") process for any category of Ground Transportation Services and to award an exclusive contract, or a limited number of contracts, for that category of Commercial Ground Transportation Vehicle service provider. In the event a contract, or contracts, for a particular category of Commercial Ground Transportation Vehicle service is awarded through an RFP process, the Port reserves the right to terminate any existing Permits in that category, upon giving at least ninety (90) days written notice to the affected Permitted Businesses in that category, in accordance with the notice requirements set forth in the Permits being terminated.

9.5 The Director is authorized to revoke or suspend any Permit for violation of this Ordinance, the Permit, Port Rules and Regulations pertaining to the Commercial Roadway, or violations of law pertaining to operations on the Commercial Roadway.

SECTION 10. Tri Met Exemption

Tri County Metropolitan Transportation District of Oregon ("Tri Met") shall be exempt from the provisions of this Ordinance.

SECTION 11. Suspensions and Revocation of Permit

11.1 In the event that a Permitted Business or Driver violates any provision of this Ordinance, the Permit, Port Rules and Regulations pertaining to the Commercial Roadway, or any law pertaining to operations on the Commercial Roadway, the Port may, in addition to any other rights or remedies allowed by this Ordinance, at law or in equity, suspend or revoke the rights granted pursuant to the Permit as follows:

11.1.1 Except as set forth in Sections 11.1.2, 11.1.3, and 11.1.4, suspensions and revocations of a Permit shall be subject to reasonable prior notice and hearing, if requested, in accordance with the procedures set forth in Sections 12 and 13 of this Ordinance. Suspensions may be for a specific period of time or the Director may elect to revoke the Permit. The decision whether to suspend or revoke a Permit and the duration of any suspension will depend on the severity of the violation(s) and/or the number of prior violation(s) and/or suspensions. The Director shall have the authority to issue a Notice of Suspension or a Notice of Revocation. If the Director determines that a Permit should be suspended or revoked, the Permitted Business will receive seven (7) days notice of the suspension or revocation and within that period may request a hearing, in

accordance with the requirements set forth in Section 13. If no hearing is requested within the time frame allowed and in accordance with the requirements for requesting a hearing, as set forth in Section 13, the Permitted Business will be deemed to have waived the hearing right and the suspension or revocation shall immediately take effect. If a hearing is requested, the hearing will be scheduled as soon as practical and the Director shall notify the Permitted Business of the time and place of the hearing not less than seven (7) days before hearing date.

11.1.2 The Port may immediately suspend a Permit and/or its related Roadway Access Devices without prior notice or hearing for failure to maintain insurance coverage as required by this Ordinance, or for any violations where the failure to immediately suspend would jeopardize the health, safety or welfare of the public, other Drivers, or Port representatives or employees. Upon finding cause for immediate suspension, the Senior Aviation Operations Manager shall issue a written Immediate Suspension Order. The Immediate Suspension Order shall state the grounds for the Immediate Suspension Order and inform the Permitted Business that it may contest the Immediate Suspension Order by presenting additional information to the Director and requesting the Director to vacate the Immediate Suspension Order. If such a request is presented to the Director, the Director shall promptly consider the information and either affirm, vacate, or modify the Immediate Suspension Order accordingly and shall issue a confirming Notice of Suspension, a modified Notice of Suspension, or the Director may elect to vacate the Notice of Suspension. If the Immediate Suspension Order is upheld, in whole or in part, the Permitted Business shall be entitled to a hearing, and may request one as provided in Section 13.

11.1.3 Any Driver who receives citations for three (3) or more violations of this Ordinance within any calendar year (January 1 through December 31) and the citations are upheld by the court or bail is forfeited due to failure to appear, shall be automatically banned from driving on the Commercial Roadway for a period of two (2) years from the date of the third conviction or bail forfeiture, without further notice or hearing.

11.1.4 Any Permitted Business operating a Commercial Ground Transportation Vehicle fleet of one (1) to fifteen (15) vehicles who receives, or whose Drivers, in total, receive five (5) or more citations for violations of this Ordinance within any calendar year (January 1 through December 31) that are upheld by the court or where bail is forfeited due to failure to appear, shall automatically have its Permit revoked for a period of two (2) years from the date of the fifth conviction or bail forfeiture, without further notice or a hearing. Any Permitted Business operating a Commercial Ground Transportation Vehicle fleet of sixteen(16) to thirty (30) vehicles who receives, or whose Drivers, in total, receive eight (8) or more citations for violations of this Ordinance within any

calendar year that are upheld by the court or where bail is forfeited due to failure to appear, shall automatically have its Permit revoked for a period of two (2) years from the date of the eighth conviction or bail forfeiture, without further notice or a hearing. Any Permitted Business operating a Commercial Ground Transportation Vehicle fleet of thirty-one (31) or more vehicles who receives, or whose Drivers, in total, receive ten (10) or more citations for violations of this Ordinance within any calendar year that are upheld by the court or where bail is forfeited due to failure to appear, shall automatically have its Permit revoked for a period of two (2) years from the date of the tenth conviction or bail forfeiture, without further notice or a hearing. An election to forfeit bail, rather than appear in court, shall also be deemed a conviction for purposes of this Section 12.1.4. The Director, in his or her sole discretion, may consider a lesser sanction of suspension if extraordinary circumstances are present. Such presentation shall be made by certified letter, addressed to the Director within seven (7) days of the Notice of Revocation. Nothing contained herein shall be construed to limit the Port's ability to impose suspensions or revocation of the Permit for fewer citations, as provided in Section 11.1.1.

11.2 This Section 11 shall not apply to any Permitted Business operating on the Commercial Roadway who was selected through an RFP process and has entered into a contract with the Port. In that case, unless otherwise stated in the contract, the specific provisions contained in the contract pertaining to breach of the contract, remedies for breach of contract and termination of the contract shall instead apply.

SECTION 12. Notice of Suspension or Revocation

12.1 The Director shall have the authority to issue a Notice of Suspension. The Notice of Suspension shall set forth:

12.1.1 The nature of the violation(s) which is the reason for the suspension or revocation;

12.1.2 The date of the violation(s);

12.1.3 The length of the suspension or notice that the Permit is being revoked;

12.1.4 The date on which the suspension or revocation shall commence;

12.1.5 The date of the Notice of Suspension or Revocation; and

12.1.6 The right to request a hearing.

12.2 The Director shall review any report brought to the Director's attention and may conduct additional investigation into such facts as deemed necessary, in order to determine whether there are grounds for issuance of a Notice of Suspension or a Notice of Revocation. A suspension or revocation shall commence not earlier than seven (7) days from the issuance of a Notice of Suspension or Revocation or, where a hearing is requested, the day immediately following the date of the decision of the Hearing Officer sustaining the suspension or revocation.

12.3 Notice as required by this Section 12, or any other notice required by this Ordinance to be given to a Permitted Business or Driver, is sufficient if delivered in person or sent by certified U.S. mail, return receipt requested, to the last address on file in the Ground Transportation Office. Notice shall be deemed issued when the notice is hand-delivered or deposited in the U.S. mail.

12.4 This Section 12 shall not apply to any Permitted Business operating on the Commercial Roadway who was selected through an RFP process and has entered into a contract with the Port. In that case, unless otherwise stated in the contract, the specific provisions contained in the contract pertaining to notice of suspension or revocation shall instead apply.

SECTION 13. Hearing Procedure

13.1 These hearing procedures shall apply to a Permitted Business receiving a Notice of Suspension or Notice of Revocation. A Permitted Business receiving an Order of Immediate Suspension may also follow this procedure after following the procedure set forth in Section 11.1.2, but such Permit shall remain suspended throughout the hearings procedure.

13.2 Any Permitted Business receiving a Notice of Suspension or Revocation may request a hearing before a Hearing Officer. Such request must be made, in writing, and received by the Director within seven (7) days after the Suspension or Revocation has been post-marked or hand-delivered. In the case of an appeal for an Immediate Suspension, such request must be made within seven (7) days after the Director has confirmed the Notice of Suspension or modified the Notice of Suspension. All Notices of appeal shall be hand-delivered or sent by U.S. certified mail, return receipt requested, to the Director of Aviation of the Port of Portland, 7000 NE Airport Way, Portland, OR 97218. The notice of appeal shall be deemed given when it is hand-delivered or deposited in the U.S. mail.

13.3 If the Permitted Business requests a hearing, the Director shall so advise the Executive Director, who shall appoint a Hearing Officer to conduct the hearing. The Hearing Officer shall set a time for such hearing to be held, which time shall be as soon

as practical. The Director shall notify the Permitted Business of the time and place of the hearing not less than seven (7) days before the time set for hearing.

13.4 The hearing shall be conducted by the Hearing Officer, shall be recorded by electrical or mechanical recorder or by a qualified reporter, and shall proceed as follows:

13.4.1 The Director may appear in person or may be represented by counsel, shall present any relevant evidence which supports the facts constituting grounds for the suspension or revocation, and may cross examine any witnesses presented by the Permitted Business;

13.4.2 The Permitted Business requesting the hearing may appear in person or may be represented by counsel, may present any relevant evidence which the Permitted Business has relating to the facts constituting grounds for the requested suspension or revocation, and may cross examine any witness presented by the Director;

13.4.3 The evidence at the hearing shall be limited to that which is relevant to the facts constituting grounds for the requested suspension or revocation;

13.4.4 All testimony shall be taken under oath, but both the Director and the Permitted Business requesting the hearing may introduce testimony under oath in the form of sworn statements, if witnesses are unavailable or refuse to appear in person;

13.4.5 The Hearing Officer shall hear the evidence and shall issue findings concerning the facts and shall determine whether to uphold, modify, or vacate the penalty imposed by the Director, relevant to the violation(s) set forth in the Notice of Suspension or Notice of Revocation. The Hearing Officer shall make no findings concerning any substantive issue other than the facts underlying the Notice of Suspension or Notice of Revocation; and

13.4.6 The Hearing Officer shall issue a decision, in writing, stating the Hearing Officer's findings as soon as practical following the hearing.

13.5 The Hearing Officer's decision shall be the final action of the Port. Any appeal of the Hearing Officer's decision by the Director or the Permitted Business shall be by Writ of Review, pursuant to ORS. 34.010 to 34.102.

13.6 This Section 13 shall not apply to any Permitted Business operating on the Commercial Roadway who was selected through an RFP process and has entered into a contract with the Port. In that case, unless otherwise stated in the contract, the specific

provisions contained in the contract pertaining to breach of the contract, remedies for breach of contract and termination of the contract shall instead apply.

SECTION 14. Civil Penalties

Pursuant to ORS 836.210(2), the Port shall be entitled to impose civil penalties for the violations of this Ordinance pertaining to charges and fees imposed by this Ordinance for use of the Commercial Roadway. Such penalty shall be equal to twenty five percent (25%) of the charge or fee involved. Where the Permitted Business is required to pay a fee, charge, or toll to the Port, each calendar day the fee, charge, or toll is past due shall be considered a separate violation.

SECTION 15. Criminal Sanctions

Any person violating this Ordinance shall, upon conviction, be punished by a fine not to exceed the maximum penalty set forth in ORS 778.990. Where the violation is continuing, each calendar day the violation continues shall be considered a separate violation.

SECTION 16. Remedies Non-exclusive

All of the rights and remedies set forth herein, as well as all other rights and remedies available at law or in equity for violations of this Ordinance, shall be non-exclusive and the Port shall be entitled to pursue one or more of them simultaneously for each violation of this Ordinance.

SECTION 17. Time Periods

Time periods set forth in this Ordinance shall be based on calendar days, unless otherwise specified. In the event the final day for action falls on a Saturday, Sunday, or legal holiday observed by the Port, then the period shall extend to the next day that the Port is open for business.

SECTION TWO: This Ordinance shall be effective March 14, 2007.

SECTION THREE: In the event any phrase, clause, sentence, paragraph, or paragraphs of this Ordinance is declared invalid for any reason, the remainder of the sentence, paragraph, or paragraphs of this Ordinance shall not be thereby invalidated, but shall remain in full force and effect, all parts being hereby declared separable and independent of all others. In the event that a judgment is entered, and all appeals exhausted, which judgment finds, concludes or declares that this Ordinance is unconstitutional or is otherwise invalid, the Permitted Business shall pay Commercial Roadway Fees established by regulations issued by the Executive Director pursuant to this Ordinance.

ADOPTED THIS 14TH day of March, 2007, being effective immediately upon passage by the Board of Commissioners of the Port of Portland.

THE PORT OF PORTLAND

By: _____
Jay Waldron, Commission President

By: _____
Pam Thompson, Assistant Secretary

APPROVED AS TO LEGAL SUFFICIENCY

By: _____
Counsel for Port of Portland