

Date January 24, 2011

An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Section 126-186 and adding and enacting a new Section 126-186.01, relating to issuance of probationary certificate of public convenience and necessity for vehicles for hire",

presented.

Moved by \_\_\_\_\_ that this ordinance be considered and given first vote for passage.

FORM APPROVED:



Lawrence R. McDowell  
Deputy City Attorney

(First of three required readings)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

MOTION CARRIED

APPROVED

\_\_\_\_\_ Mayor

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_ City Clerk

**CITY ATTORNEY**

Bruce E. Bergman

**DEPUTY CITY ATTORNEYS**

Mark Godwin  
Lawrence R. McDowell  
Kathleen Vanderpool

**ASSISTANT CITY ATTORNEYS**

Angela T. Althoff  
Roger K. Brown  
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Vicky L. Long Hill  
Steven C. Lussier  
Katharine J. Massier  
Carol J. Moser  
Douglas P. Philip



January 24, 2011

HONORABLE MAYOR AND MEMBER  
OF THE DES MOINES CITY COUNCIL

RE: Ordinance Amendment Providing for Probationary  
Taxicab Certificate of Public Convenience and Necessity

At the January 10, 2011 City Council meeting, the City Council directed the City Manager and Legal Department to prepare an ordinance that allows for the issuance of a probationary taxicab certificate of public convenience and necessity. In response, a proposed ordinance has been placed on the agenda which amends the procedures for issuance of taxicab operator certificates to allow for the potential issuance of a probationary certificate.

The ordinance includes a new section 126-186.01 providing for the potential issuance of a probationary certificate of public convenience and necessity by the City Council. If the City Council determines that there is a public need for further taxicab service but the Council is unable to fully ascertain the fitness, willingness or ability of the applicant to provide taxicab service in accordance with City ordinance requirements, the City Council may direct the issuance of a probationary certificate.

During the one-year probationary certificate period, the City Traffic Engineer will notify the City Council if he determines that the probationary certificate holder has violated an ordinance regulating taxicab service, has violated any other law relating to public transportation safety or has operated in a manner indicating an inability to provide reliable taxicab service. Following notification from the Traffic Engineer, the City Council may act to revoke a probationary certificate following a public hearing. Note that City Council may consider suspension of a regularly issued certificate only after at least three court convictions in an 18-month period and the City Council may consider revocation of a regularly issued certificate only after at least five court convictions within an 18-month period.

If the probationary certificate has not been revoked or there is no pending revocation at the end of the one-year probationary period, the probationary certificate shall become a regular certificate.

Respectfully submitted

Lawrence R. McDowell  
Deputy City Attorney

## ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Section 126-186 and adding and enacting a new Section 126-186.01, relating to issuance of probationary certificate of public convenience and necessity for vehicles for hire.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, is hereby amended by amending Section 126-186 and adding and enacting a new Section 126-186.01, relating to issuance of probationary certificate of public convenience and necessity for vehicles for hire, as follows:

**Sec. 126-186. Issuance of certificate of public convenience and necessity.**

- (a) The city council shall determine whether a certificate of public convenience and necessity shall be issued to an applicant under this division. In making that determination the council shall consider the information in the application, the results of the investigation and the following factors:
- (1) The age of the applicant. No certificate shall be granted to any person under the age of 18 years.
  - (2) The character, business and financial responsibility of the applicant.
  - (3) Experience of the applicant.
  - (4) The expectation that if the applicant is granted a certificate, the applicant will operate the taxicabs in accordance with this article.
  - (5) The number of vehicles the applicant owns or controls.
  - (6) The condition of each vehicle owned or controlled by the applicant including:
    - a. Age.
    - b. Type.
    - c. Whether and where the vehicles have passed recent safety inspections.
    - d. General appearance, including cleanliness.
    - e. Fitness for patronage.

- (7) Whether the applicant can provide 24-hour taxicab service.
- (8) Whether the applicant is able to operate a dispatch service.
- (b) If the city council finds that further taxicab service in the city is required by the public convenience and necessity and that the applicant is fit, willing, and able to perform such public transportation and to conform to the provisions of this article, then the city council shall direct the traffic engineer to issue a certificate stating the name and address of the applicant, the number of vehicles authorized under said certificate and the date of issuance; otherwise, unless a probationary certificate is issued in accordance with section 126-186.01, the application shall be denied.
- (c) A person lawfully possessing a certificate shall not be required to renew the certificate unless it has been revoked or voluntarily surrendered or all of the licenses herein required are not renewed within 30 days after the expiration thereof. Renewal of the certificate shall be pursuant to the same procedure as for the original issuance thereof. In the event the application is denied, the city council shall specify the grounds for such denial and the facts upon which such denial is based.

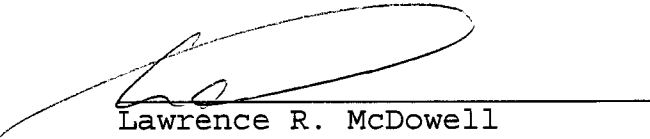
Sec. 126-186.01. Probationary certificate of public convenience and necessity.

- (a) If the city council finds, after consideration of the information in the application, the results of the investigation and the factors set forth in subsection 126-186, further taxicab service in the city is required by the public convenience and necessary but the city council cannot fully ascertain that the applicant is fit, willing and able to perform such public transportation and to conform to the provisions of this article, then the city council may direct the traffic engineer to issue a probationary certificate stating the name and address of the applicant, the number of vehicles authorized under said certificate and the date of issuance.
- (b) A probationary certificate shall be in effect for a period of one year. The traffic engineer shall promptly notify the city council if the traffic engineer determines during the effective period of the probationary certificate that the holder has violated any provision of this article, has violated any provision of this Code or ordinance of the city or any law of the United States or the state relating to public transportation safety, or has operated in a manner indicating that the holder is unfit or unable to provide reliable public transportation service.

- (c) Following the notification from the traffic engineer, the probationary certificate may be revoked by the city council. Prior to revocation as provided in this section, the holder shall be given three days written notice by the city clerk of the proposed action to be taken and shall be afforded an opportunity to appear before the city council and be heard.
- (d) Provided the probationary certificate has not been revoked or there is no pending revocation action before the city council, the certificate shall at the end of the probationary period become a regular certificate subject to the terms and conditions of this article.

Section 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:



Lawrence R. McDowell  
Deputy City Attorney