



Roll Call Number

Agenda Item Number

32F

Date September 10, 2012

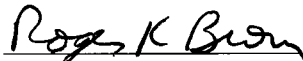
An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Sections 126-70.4, 126-70.9, 126-220 and 126-225 regarding the issuance and revocation of taxicab and limousine driver's licenses and appeals therefrom",

presented.

MOVED by _____ that this ordinance be considered and given first vote for passage.

FORM APPROVED:

(First of three required readings)



Roger K. Brown
Assistant City Attorney

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

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.

MOTION CARRIED

APPROVED

Mayor

City Clerk

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 Sections 126-70.4, 126-70.9, 126-220 and 126-225, regarding the issuance and revocation of taxicab and limousine driver's licenses and appeals therefrom.

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, be and is hereby amended by amending Sections 126-70.4, 126-70.9, 126-220 and 126-225, regarding the issuance and revocation of taxi and limousine driver's licenses, as follows:

Chapter 126 Vehicles for Hire
Article III. Limousines

Sec. 126-70.4. Approval of application.

- (a) If the traffic engineer determines, with or without a hearing, that the applicant meets the requirements for issuance of a limousine driver's license he or she shall issue a license. If the traffic engineer is unable to make a determination that the applicant meets the requirements based on the contents of the application and a report on the applicant's criminal background provided by the police department, the traffic engineer shall schedule the application for further consideration at a hearing. Unless the date and time of the hearing is scheduled by agreement with the applicant, notice of the date, time and place of the hearing shall be sent by regular mail to the applicant at the address shown on the application at least 10 days before the date of hearing.
- (b) If at the conclusion of the hearing the traffic engineer determines the applicant does not meet the requirements, he or she shall deny the license. However, the traffic engineer may issue a license if any conviction resulting in probationary limousine driver's license for up to one year if: i) the applicant can demonstrate that a holder of a certificate of public convenience and necessity to conduct a limousine service has offered to employ the applicant upon obtaining a limousine driver's license; and, ii) the requirements are not satisfied only because of minor misdemeanor offenses, or suspension of an operator's license under I.C. ch. 321, 321A or 321J or any other suspension of an operator's or chauffeur's license which did not involve driving behavior which is indicative of a disregard for public safety. Any probationary license issued under this subsection shall be subject to immediate revocation by the traffic engineer in the event the applicant is shown to have engaged in any criminal offense or traffic violation that would disqualify the applicant from satisfying the requirements in section 126-70.2. The traffic engineer shall make a quarterly review of all such provisional licenses to assure there have been no further charges convictions of traffic violations or criminal offenses entered against the applicant during such quarter.

- (c) Any applicant who is denied a license by the traffic engineer may appeal the determination pursuant to the administrative appeal process set forth in chapter 3 of this Code. In order to appeal such determination, written notice of appeal must be filed with the city clerk within ten business days of the traffic engineer's decision. ~~request a hearing before the city council by filing a written appeal with the city clerk within ten days of the final action. Such appeal shall be heard by the city council within 25 days of the date the notice of appeal is filed with the city clerk. The sole issue before the city council on such appeal shall be whether the traffic engineer has abused his or her discretion in denying the license. No additional evidence may be presented in the appeal.~~

Sec. 126-70.9. Suspension, revocation or denial of license.

- (a) If any person who has a current limousine driver's license has his or her state driver's license suspended or revoked, or is convicted of, pleads guilty to, or stipulates to the facts of any criminal offense during the license period, he or she shall immediately notify the traffic engineer.
- (b) Any limousine driver license may be suspended, revoked, or denied renewal for (1) violations of this article, or (2) acts demonstrating lack or absence of good moral character, or (3) providing false information on the license application or renewal.
- (c) No license shall be suspended, revoked or denied renewal except after a hearing of the matter before the traffic engineer. The traffic engineer, upon being informed of grounds for suspension, revocation or denial of renewal, shall schedule a hearing of said matter and shall cause notice of said hearing to be delivered to the licensee or applicant by mailing notice in the regular mail at least ten days before the date of hearing to the licensee's or applicant's address as shown on the most recent application.
- (d) If, after such hearing, the traffic engineer determines (1) that a violation of this article did in fact take place, (2) that the person committed acts demonstrating lack of good moral character, or (3) that the person falsified an application for a license or a renewal, the traffic engineer may, depending on the number or severity of the acts, suspend a license for up to 30 days, revoke a license, or deny an application for a license renewal.
- (e) Any licensee or applicant may appeal such decision pursuant to the administrative appeal process set forth in chapter 3 of this Code. In order to appeal such determination, written notice of appeal must be filed with the city clerk ~~to the city council by notifying the city clerk in writing of the appeal~~ within ten business days of the date of the traffic engineer's decision. ~~Such appeal shall be heard by the city council within 25 days of the date the notice of appeal is filed with the city clerk. The sole issue before the city council on such appeal shall be whether the traffic engineer abused his or her discretion in denying the license. No additional evidence may be presented in the appeal.~~
- (f) A licensee whose license has been revoked shall immediately surrender his or her license to the traffic engineer and shall not be eligible to apply for another such license for a period of 180 days after such revocation. A person whose application has been denied shall not be eligible to reapply for a period of 180 days after such denial. The 180-day period shall commence on the day final city action is taken by either the traffic engineer or, if appealed, the administrative hearing officer. ~~city council.~~

Article IV. Taxicabs

Sec. 126-220. Approval of original application.

- (a) If the traffic engineer determines, with or without a hearing, that the applicant meets the requirements for issuance of a taxicab driver's license, he or she shall issue a license. If the traffic engineer is unable to make a determination that the applicant meets the requirements based on the contents of the application and a report on the applicant's criminal background provided by the police department, the traffic engineer shall schedule the application for further consideration at a hearing. Unless the date and time of the hearing is scheduled by agreement with the applicant, notice of the date, time and place of the hearing shall be sent by regular mail to the applicant at the address shown on the application at least 10 days before the date of hearing.
- (b) If at the conclusion of the hearing the traffic engineer determines the applicant does not meet the requirements, he or she shall deny the license. ~~;~~ However, the traffic engineer may issue a probationary taxicab driver's license for up to one year if: any conviction resulting in i) the applicant can demonstrate that a holder of a certificate of public convenience and necessity to conduct a taxicab service has offered to employ the applicant upon obtaining a taxicab driver's license; and, ii) the requirements are not satisfied only because of minor misdemeanor offenses, or suspension of an operator's license under I.C. ch. 321, 321A or 321J or any other suspension of an operator's or chauffeur's license did not involve driving behavior which is indicative of a disregard for public safety. Any probationary license issued under this subsection shall be subject to immediate revocation by the traffic engineer in the event the applicant is shown to have engaged in any criminal offense or traffic violation that would disqualify the applicant from satisfying the requirements in section 126-218. The traffic engineer shall make a quarterly review of all such provisional licenses to assure there have been no further charges convictions of traffic violations or criminal offenses entered against the applicant during such quarter.
- (c) Any applicant who is denied a license by the traffic engineer may appeal the determination pursuant to the administrative appeal process set forth in chapter 3 of this Code. In order to appeal such determination, written notice of appeal must be filed with the city clerk within ten business days of the traffic engineer's decision. request a hearing before the city council by filing a written appeal with the city clerk within ten days of the final action. Such appeal shall be heard by the city council within 25 days of the date the notice of appeal is filed with the city clerk. The sole issue before the city council on such appeal shall be whether the traffic engineer has abused his or her discretion in denying the license. No additional evidence may be presented in the appeal.

Sec. 126-225. Suspension, revocation or denial.

- (a) If any person who has a current taxicab driver's license has his or her state driver's license suspended or revoked, or is convicted of, pleads guilty to, or stipulates to the facts of any criminal offense during the license period, he or she shall immediately notify the traffic engineer.
- (b) Any taxicab driver's license may be suspended, revoked, or denied renewal for (1) violations of this article, or (2) acts demonstrating lack or absence of good moral character, or (3) providing false information on the license application or renewal.

- (c) No license shall be suspended, revoked or denied renewal except after a hearing of the matter before the traffic engineer. The traffic engineer, upon being informed of grounds for suspension, revocation or denial of renewal, shall schedule a hearing of said matter and shall cause notice of said hearing to be delivered to the licensee or applicant by mailing notice in the regular mail at least ten days before the date of hearing to the licensee's or applicant's address as shown on the most recent application.
- (d) If, after such hearing, the traffic engineer determines (1) that a violation of this article did in fact take place, (2) that the person committed acts demonstrating lack of good moral character, or (3) that the person falsified an application for a license or a renewal, the traffic engineer may, depending on the number or severity of the acts, suspend a license for up to 30 days, revoke a license, or deny an application for a license renewal.
- (e) Any licensee or applicant may appeal such decision pursuant to the administrative appeal process set forth in chapter 3 of this Code. In order to appeal such determination, written notice of appeal must be filed with the city clerk within ten business days of the traffic engineer's decision. ~~to the city council by notifying the city clerk in writing of the appeal within ten days of the date of the traffic engineer's decision. Such appeal shall be heard by the city council within 25 days of the date the notice of appeal is filed with the city clerk. The sole issue before the city council on such appeal shall be whether the traffic engineer abused his or her discretion in denying the license. No additional evidence may be presented in the appeal.~~
- (f) A licensee whose license has been revoked shall immediately surrender his or her taxicab badge to the traffic engineer and shall not be eligible to apply for another such license for a period of 180 days after such revocation. A person whose application has been denied shall not be eligible to reapply for a period of 180 days after such denial. The 180-day period shall commence on the day final city action is taken by either the traffic engineer or, if appealed, the administrative hearing officer. ~~city council.~~

Sec. 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law. However, any administrative appeal for which the initial notice of appeal was received by the City Clerk prior to the date of such publication shall continue to be governed by the procedural rules in effect at the time such appeal was so received.

FORM APPROVED:

Roger K. Brown
Assistant City Attorney