

★ **Roll Call Number**

Agenda Item Number

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Date January 28, 2013

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 126-65 and 126-186, relating to restrictions on reapplication after denial of a certificate of public convenience and necessity to conduct a taxicab service or limousine service",

which was considered and voted upon for the first time under Roll Call No. 12- 1959 of December 17, 2012, and considered and voted upon for the second time under Roll Call No. 13- 0053 of January 14, 2013, again presented.

Moved by \_\_\_\_\_ that this ordinance do now pass.

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

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
<b>TOTAL</b>				
<b>MOTION CARRIED</b>			<b>APPROVED</b>	
_____ 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

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 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date:</b> December 17, 2012
	<b>Agenda Item No.</b> 43 <b>Roll Call No.</b> [12-1959] <b>Communication No.</b> 12-621 <b>Submitted by:</b> Jeb E. Brewer, P.E. City Engineer

**AGENDA HEADING:**

Amending Chapter 126 of the Municipal Code to add restrictions on reapplication after denial of a certificate of public convenience and necessity to conduct a taxicab service or limousine service.

**SYNOPSIS:**

Recommend approval of an Ordinance adding a one-year prohibition on reapplication for a certificate of public convenience and necessity to conduct a taxicab service or limousine service following the City Council's denial of the respective application. The proposed Ordinance allows an applicant to avoid this one-year prohibition on reapplication if the applicant demonstrates to the City Traffic Engineer with strong evidence under oath that circumstances since the previous application by the applicant have changed in a substantial and material way.

**FISCAL IMPACT:**

Amount: The Ordinance continues to allow for annual license fees of \$250 per company and \$75 per vehicle.

Funding Source: Revenue to 2012-2013 Operating Budget, Page 82 Engineering Department, Ordinance Accident Investigation, ENG100419.

**ADDITIONAL INFORMATION:**

Chapter 126 of the Municipal Code requires the following information to be included in the application for a Certificate of Public Convenience and Necessity:

1. The name, address, and age of the applicant.
2. The financial status of the applicant, including the amounts of all unpaid judgments against the applicant and the nature of the transaction or acts giving rise to the judgments.
3. The experience of the applicant in the transportation of passengers, including a statement of any state or municipality where the applicant has ever been licensed to operate a limousine or limousine service, whether such license was ever suspended or revoked and the reasons for suspension or revocation, and whether an application for a license or a renewal of a license was denied and the reasons for denial.
4. Any facts that the applicant believes tend to prove that public convenience and necessity requires the granting of a certificate.

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5. The number of vehicles to be operated or controlled by the applicant.
6. The location of proposed vehicle storage.
7. A statement of the condition of the vehicles to be operated, including the age and type of each vehicle, and the date on which the vehicle passed its most recent safety inspection, if any.
8. A statement as to whether the applicant has, within the ten years immediately preceding the date of application, been convicted of, pled guilty to or stipulated to the facts of violating any criminal statute or Ordinance, including traffic laws and municipal ordinances. If the applicant has been convicted, a statement as to the date and place of conviction, the nature of the offense and the punishment imposed.
9. The number of vehicle proposed for operation during periods of maximum demand and during periods of least demand.
10. Where the applicant will operate its central place of business.
11. The color scheme or insignia, if used, to designate the vehicles of the applicant.
12. Such further information as the traffic engineer may require of each applicant.

If the Council finds at the conclusion of the public hearing that further service in the City of Des Moines, or between any point or points in the City and elsewhere, is required by the public convenience and necessity and the applicant is fit, willing, and able to perform such public transportation and to conform to the provisions of the subchapter, then the Council shall direct the City 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 the section provides the application shall be denied. This amendment to the Ordinance does not change any of the criteria for evaluation; however, it will add a one-year period between reapplication if the applicant is denied by Council unless substantial changes have occurred.

**PREVIOUS COUNCIL ACTION(S):**

Date: December 3, 2012

Roll Call Number: 12-1871

Action: On Application of Certificate of Public Convenience and Necessity by Crown Cab Co., Magarsa Jana, to operate a taxicab service with five vehicles. (Council Communication No. 12-593). Moved by Hensley that the application for a certificate of public convenience and necessity to operate a taxicab service be hereby denied it being the finding of this City Council of the City of Des Moines that such service is not required by the public convenience and necessity, and/or that the applicant is unfit to perform such public transportation and unable to conform to the provisions of the subchapter, all as shown by the evidence brought forth at the public hearing. Motion Carried 7-0.

**BOARD/COMMISSION ACTION(S): NONE**

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**

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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 126-65 and 126-186, relating to restrictions on reapplication after denial of a certificate of public convenience and necessity to conduct a taxicab service or limousine service.

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 Sections 126-65 and 126-186, relating to restrictions on reapplication after denial of a certificate of public convenience and necessity to conduct a taxicab service or limousine service, as follows:

**Sec. 126-65. Issuance of certificate of public convenience and necessity.**

- (a) If the city council finds that further limousine service in the city, or between any point or points in the city and elsewhere, 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 the application shall be denied.
- (b) In making the findings of subsection (a) of this section, the city council shall take into consideration the information in the application, the results of the investigation and the following factors:
  - (1) Age of applicant. No certificate shall be granted to any person under the age of 18 years.
  - (2) The expectation that if the applicant is granted a certificate, the applicant will operate the limousine(s) in accordance with the provisions of this article.
  - (3) Number of vehicles the applicant owns or controls.
  - (4) The condition of each vehicle owned or controlled by the applicant including:
    - a. Age.
    - b. Type.
    - c. Whether and where vehicles have passed recent safety inspections.

- d. General appearance, including cleanliness.
  - e. Fitness for patronage.
  - (5) The number of limousines already in operation.
  - (6) Whether existing transportation is adequate to meet the public need.
  - (7) The probable effect of increased service on local traffic conditions, and the character, experience, and responsibility of the applicant.
- (c) A person lawfully possessing a certificate shall not be required to renew the certificate unless it has been revoked or voluntarily surrendered or 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.
- (d) Whenever any application for a certificate shall have been denied by the city council, no new application covering the same applicant or any principal, member, partner, or shareholder of the same or similar applicant, if not an individual, shall be filed with the traffic engineer or considered by the city council until one year shall have elapsed from the date of filing the previous application. Provided, however, that this prohibition on filing and consideration shall not extend to an applicant who can demonstrate to the traffic engineer through clear and convincing evidence verified under oath that there has been a substantial, material change in circumstances since the previous application.

**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.

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- 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 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.
- (d) Whenever any application for a certificate shall have been denied by the city council, no new application covering the same applicant or any principal, member, partner, or shareholder of the same or similar applicant, if not an individual, shall be filed with the traffic engineer or considered by the city council until one year shall have elapsed from the date of filing the previous application. Provided, however, that this prohibition on filing and consideration shall not extend to an applicant who can demonstrate to the traffic engineer through clear and convincing evidence verified under oath that there has been a substantial, material change in circumstances since the previous application.

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

FORM APPROVED:

  
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Steven C. Lussier  
Assistant City Attorney