

Date April 21, 2014

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, is hereby amended by amending Section 126-65, relating to probationary Certificate of Public Convenience and Necessity",

presented. **(Council Communication No. 14-178)**

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

FORM APPROVED:

(First of three required readings)

K. Massier
 Katharine Massier
 Assistant City Attorney

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|----------|--------|
| COWNIE | | | | |
| COLEMAN | | | | |
| GATTO | | | | |
| GRAY | | | | |
| HENSLEY | | | | |
| MAHAFFEY | | | | |
| 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

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, is hereby amended by amending Section 126-65, relating to probationary Certificate of Public Convenience and Necessity.

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 126-65, relating to probationary Certificate of Public Convenience and Necessity, 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.

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- (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.
- (e) An applicant who is disqualified by a reason of Section 126, Article III, may be issued a probationary Certificate of Public Convenience and Necessity so long as the applicant is otherwise qualified and have not previously been issued a probationary Certificate of Public Convenience and Necessity. The probationary Certificate of Public Convenience and Necessity period shall extend one year, and can be revoked for any cause determined justified by the City Council. If the probationary Certificate holder completes the one year probation without being revoked or being charged with any violation of law or ordinance, then the probationary Certificate holder will be eligible for a regular Certificate of Public Convenience and Necessity under this chapter. However, if a Certificate holder is charged with any violation of law or ordinance within the one year probationary period, the probationary Certificate of Public Convenience and Necessity will be immediately and automatically revoked, without notice or hearing. The City Traffic Engineer shall make quarterly review of such provisional license to assure that there have been no further charges of traffic violations or criminal offenses entered against the probationary Certificate holder during such quarter. The probationary Certificate holder must adhere to all the other requirements for limousine service outlined in Section 126, Article III.
- (f) A probationary Certificate holder is responsible for ensuring that it has no open suspensions, fines or liens before requesting to convert a probationary Certificate of Public Convenience and Necessity to a regular Certificate of Public Convenience and Necessity. Failure to so ensure shall result in automatic denial of the regular Certificate of Public Convenience and Necessity and the termination of the probationary Certificate of Public Convenience and Necessity.
- (g) Upon completion of the probationary year, the probationary Certificate holder must submit an annual report per Section 126-82(c) of this Code along with the original application for regular Certificate of Public Convenience and Necessity. Traffic and Transportation will then review the application and supporting documents probationary Certificate holder submits as well as the probationary Certificate holder's record in the probationary year. The City Traffic Engineer will submit these documents to council for council to decide whether or not to grant a regular Certificate of Public Convenience and Necessity.

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

FORM APPROVED:

K. Massier
Katharine Massier
Assistant City Attorney