



Legislation Text

File #: 041382, Version: 0

041382
ORIGINAL

ALD. BOHL AND ALD. PUENTE

An ordinance relating to denial and suspension of public passenger vehicle drivers' licenses.

100-54-4-g cr

100-54-6 am

100-54-7 am

100-54-8 am

This ordinance establishes that public passenger vehicle drivers' licenses may be renewed with periods of suspension of not less than 10 days and no longer than 90 days. In addition, this ordinance establishes grounds and hearing procedures relating to the suspension of public passenger vehicle drivers' licenses, and establishes that whenever any applicant for a public passenger vehicle driver's license is denied a license due to an objection filed by the police department, the person denied shall not reapply for a license for a period of 12 months following the date of denial.

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 100-54-4-g of the code is created to read:

100-54. Driver's License.

4. ISSUANCE.

g. Whenever any applicant for a public passenger vehicle driver's license is denied a license due to an objection filed by the police department, the person denied shall not reapply for a license for a period of 12 months following the date of denial.

Part 2. Section 100-54-6 to 8 of the code is amended to read:

6. REVOCATION >>OR SUSPENSION<< OF LICENSES. a. Any license issued under this section may be >>suspended or<< revoked for cause by the common council after notice to the licensee and a hearing.

b. Revocation >>or suspension<< proceedings may be instituted by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police or upon a sworn written complaint filed with the city clerk by any city resident.

c. Whenever either sworn written charges or a sworn written complaint are filed with the city clerk setting forth specific charges against a licensee involving conduct which would violate ordinances that are grounds for revocation >>or suspension<< of a license, the city clerk shall issue a summons, as authorized by Wisconsin statutes, demanding that the licensee appear before the licensing committee, not less than 3 days nor more than 10 days from the date of issuance, to show cause why the license should not be revoked>>or suspended<<. A police officer shall serve the summons upon a licensee in accordance with Wisconsin statutes, and shall also serve a copy of the complaint with a copy of this subsection upon the licensee.

d. Upon receipt of evidence that the summons has been served, the licensing committee shall convene at the date and time designated in the summons for the purpose of taking evidence and making findings of fact and conclusions of law and a recommendation to the common council in connection with the proposed revocation >>or suspension<<.

e. If the licensee appears before the committee at the time designated in the summons and denies the charges contained

in the complaint, an evidentiary hearing in connection with the revocation >>or suspension<< shall be conducted by the committee at that time. If the licensee does not appear, or appears but does not deny the charges contained in the complaint, the complaint shall be taken as true and the committee shall hear the arguments of the complaints and the licensee in connection with the revocation >>or suspension<<.

f. All hearings held and committee recommendations prepared pursuant to this subsection shall be conducted as set forth in sub 7.

7. HEARING PROCEDURE. a. Authority of Licensing Committee. The licensing committee shall conduct hearings with respect to the non-renewal>>, suspension<< or revocation of a license pursuant to this subsection. The chair of the committee shall be the presiding officer.

b. Committee Hearing Procedure. b-1. The chair shall direct that oaths be administered and subpoenas issued upon request of either side.

b-2. The chair shall ensure that an orderly hearing is conducted in accordance with the requirements of this subsection.

b-3. The chair shall rule on objections to the admissibility of evidence. Any ruling of the chair shall be final unless appealed to the committee, and the committee shall reverse such ruling only upon the vote of a majority of its members.

b-4. At all stages of the proceedings before the committee or before the common council, the licensee shall be entitled to appear both in person and by an attorney.

c. Record. A stenographic record shall be made of all proceedings before the committee and before the common council when written exceptions have been filed. Any interested party may at any stage of the proceedings order a copy of the transcript of the record or portions thereof at his or her own expense.

d. Grounds for Non-Renewal>>, Suspension<< or Revocation. The recommendation of the committee regarding the licensee must be based on evidence presented at the hearing. Probative evidence concerning non-renewal>>,
suspension<< or revocation may include evidence of:

d-1. Failure of the licensee to meet the municipal qualifications.

d-2. Pending charges against or the conviction of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the circumstances of the particular licensed activity, by the licensee.

d-3. Any other factor or factors which reasonably relate to the public health, safety and welfare.

e. Committee Report. The committee may make a recommendation immediately following the hearing or at a later date.

The committee may recommend that the license be renewed, not renewed or revoked. >>In addition, if the committee determines that circumstances warrant it, the committee may recommend that the license be renewed conditioned upon a suspension of the license for a defined period of time. When the committee elects to recommend that a license be renewed with a period of suspension, the license may be suspended for not less than 10 days and no longer than 90 days.<<

All non-renewals>>, suspensions<< and revocations shall be effective upon service of notice of the nonrenewal>>,
suspension<< or revocation upon the licensee or person in charge of the premises at the time of service.

f. Council Action. f-1. Within 10 working days after it reaches a decision, the committee shall prepare and serve a report and recommendation on the licensee. The report and recommendations shall include specific findings of fact and conclusions of law made by the committee. The report shall be distributed to each member of the common council.

f-2. If the committee recommends that the license not be renewed [[øf]]>>,
<< be revoked>>or suspended<<, then within 7 days of the receipt of the report and recommendation of the committee, the licensee may file written exceptions to the report and recommendations of the committee.

f-3. Any exceptions filed by the licensee to the report and recommendations of the committee shall be provided to each member of the common council at least 24 hours before any vote on the question is scheduled before the full common council.

f-4. At a meeting of the common council following the receipt of the report and recommendations of the committee, the common council shall consider the report and recommendation. Not less than 5 days prior to the hearing before the common council, the city clerk shall notify the licensee and complainant by certified mail and also notify the city attorney that the common council will convene. Each member of the common council shall be asked to affirm that he or she has read the report and recommendation of the committee. When written exceptions are filed to a committee report and recommendation that the license be >>suspended,<< revoked or not renewed, each member of the common council shall be asked to affirm that he or she has read the exceptions. If members of the council have not read the recommendation and report of the committee and any exceptions that have been filed thereto, the chair shall allocate time for the members to do so. Oral argument in support of the report and recommendation presented by the city attorney, oral argument on behalf of the licensee in opposition to the report and recommendation and oral argument by the complainant objecting to the report and recommendation shall be permitted only at the discretion of the chair. If argument is permitted by the chair, argument shall be limited to 5 minutes and the arguments shall be limited to the subject matter of the report and recommendation and the written exceptions. Licensees shall appear only in person or by counsel. Complainants shall appear only in person or by counsel. Any person making an appearance before the council pursuant to this subsection

and who requires the services of an interpreter shall obtain one at his or her own expense.

f-5. The common council shall determine by a majority vote of those in attendance and voting whether to adopt the recommendation of the committee. The vote shall be a roll call vote. If the common council finds the complaint to be true, or if there is no objection to a report recommending nonrenewal>>, suspension<< or revocation with the committee's report and recommendation, the city clerk shall give notice of each non-renewal>>, suspension<< or revocation to the person whose license is not renewed>>, suspended<< or revoked. If the common council finds the complaint to be untrue, the proceedings shall be dismissed without cost to the accused. If the common council finds the complaint to be malicious and without probable cause, the cost shall be paid by the complainant upon invoice from the city.

8. REQUEST TO SURRENDER A LICENSE. If a licensee wishes to surrender his or her license after receiving a notice for a hearing on non-renewal>>, suspension<< or revocation, the licensee must request, in writing, permission from the licensing committee to do so prior to the commencement of the hearing. The committee may approve the request, or deny the request and proceed with the hearing.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

City Clerk's Office, License Division

LRB05016-1

RGP

1/26/05