

**AN ORDINANCE AMENDING CHAPTER 237 OF THE CODE OF
THE CITY OF MOUNT VERNON, ENTITLED "TAXICABS," TO
CONFORM TAXICAB DRIVER AND TAXICAB LICENSING
REQUIREMENTS WITH NEW YORK CORRECTION LAW
ARTICLE 23-A AND CRIMINAL PROCEDURE LAW § 160.57, AND
TO ESTABLISH AN ADMINISTRATIVE APPEALS PROCESS FOR
LICENSE DETERMINATIONS.**

Whereas, the City Council finds that New York Correction Law Article 23-A establishes the public policy of the State of New York to encourage the licensure and employment of persons previously convicted of criminal offenses while protecting the public health, safety and welfare.

Whereas, the City Council further finds that Criminal Procedure Law § 160.57 limits the consideration and use of sealed criminal history information and that local licensing regulations should be administered in a manner consistent with state law.

Whereas, the purpose of this Ordinance is to ensure that taxicab driver and taxicab licensing determinations are made in accordance with Article 23-A of the Correction Law, Criminal Procedure Law § 160.57, and principles of due process.

The City of Mount Vernon, in City Council convened, does hereby ordain and enact:

Section 1. Removal of § 237-3(A)(6). Section 237-3(A)(6) of the Code of the City of Mount Vernon is hereby removed:

~~[Not have been convicted of a felony nor any crime involving violence, dishonesty, deceit, indecency, degeneracy or moral turpitude.]~~

Section 2. Amendment of § 237-16(F). The final sentence of § 237-16(F), is hereby repealed and replaced with the following:

~~["No application for a taxicab license shall be approved nor any license issued under the provisions of this chapter until after the commanding officer of the Bureau of Criminal Identification in the Department of Public Safety has reviewed and examined the criminal history record information disseminated by the Division of Criminal Justice~~

~~Services. No license shall be granted to any applicant who has been convicted of any felony or any misdemeanor involving violence, dishonesty or deceit.”]~~

"Criminal history information obtained through the Division of Criminal Justice Services or other authorized source shall be reviewed only to the extent permitted by law.

No application shall be denied solely because of a prior criminal conviction except in accordance with Article 23-A of the New York Correction Law.

Any determination based in whole or in part upon criminal conviction history shall include written findings identifying the factors considered pursuant to Section 753 of the New York Correction Law and the basis for the determination."

Section 3. Amendment of § 237-21(C). Section 237-21(C) is hereby repealed and replaced with the following:

~~["The applicant or any officer, director, stockholder, partner, employee or any other person directly or indirectly interested in the application has been convicted of a felony or any crime involving violence, dishonesty, deceit, indecency, degeneracy or moral turpitude”]~~

"C. The Commissioner of Public Safety may deny an application based upon criminal conviction history only after conducting the analysis required by Article 23-A of the New York Correction Law and determining that:

(1) A direct relationship exists between the criminal offense and the license sought; or

(2) Issuance of the license would create an unreasonable risk to property or to the safety or welfare of specific individuals or the general public."

Section 4. New Subsection § 237-21(F). Section 237-21 is hereby amended to read as follows:

“(F) The Commissioner of Public Safety or their designee must provide written notice whenever a license is denied based upon criminal history, including:

1. Identification of the conviction(s) relied upon.

2. Findings regarding each applicable Article 23-A factor.
3. The basis for concluding that either:
 - o a direct relationship exists, or
 - o an unreasonable risk exists.
4. Notice of appeal rights.

Section 5. New Section § 237-21.1 – Consideration of Criminal History

Records. A new Section 237-21.1 is hereby added to read as follows:

"§ 237-21.1 Consideration of Criminal History Records.

A. The Commissioner of Public Safety and all City personnel involved in the licensing process shall comply with Criminal Procedure Law § 160.57 and all other applicable laws governing the use, dissemination, and consideration of criminal history information.

B. Criminal history information that is sealed or otherwise unavailable for consideration under New York law shall not be considered in determining eligibility for any license issued pursuant to this Chapter.

C. Nothing contained herein shall be construed to authorize access to, disclosure of, or consideration of criminal history information beyond that permitted by state law."

Section 5. New Section § 237-21.3 – Appeals. A new Section 237-21.2 is hereby added to read as follows:

"§ 237-21.2 Appeals.

A. Any applicant aggrieved by the denial, suspension, revocation, or non-renewal of a taxicab driver's license or taxicab license may file a written appeal with the Mount Vernon Taxicab Commission within ten (10) business days after service of written notice of the determination from the Commissioner of Public Safety or their designee.

B. Upon receipt of a timely appeal, the Taxicab Commission shall schedule a hearing to be held within thirty (30) calendar days, unless adjourned for good cause shown. The Commission - with the assistance of the Law Department - shall determine whether the denial, suspension, revocation, or nonrenewal was supported by substantial evidence and was made in accordance with applicable law.

C. The appellant shall have the right to:

(1) Appear personally;

(2) Be represented by counsel;

(3) Present documentary evidence;

(4) Present witnesses; and

(5) Submit written materials relevant to the appeal.

D. The Taxicab Commission shall consider the evidence presented and shall issue a written recommendation to the Commissioner of Public Safety within thirty (30) calendar days following the conclusion of the hearing.

E. The Commissioner of Public Safety shall review the recommendation of the Taxicab Commission and shall issue a final written determination within fifteen (15) business days after receipt of the recommendation.

G. The final determination shall state the reasons for the decision and shall advise the applicant of any right to seek judicial review pursuant to Article 78 of the Civil Practice Law and Rules."

Section 6. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

Section 8. Effective Date. This Ordinance shall take effect immediately upon adoption by the City Council and filing as required by law.

deleted matter

new matter