

ORDINANCE NO. 2748

AN ORDINANCE to amend Section 9-12-1, Division 1, by adding new subsections numbered 15, 16 and 17; to repeal Division 2, and to add a new division numbered 2.1; all of Article A, Chapter 12, Title 9 of The Code of the City of Alexandria, Virginia, 1981, as amended; which Title 9 relates to LICENSING AND REGULATION, which Chapter 12 relates to TAXICABS AND OTHER VEHICLES FOR HIRE, which Article A relates to TAXICABS AND FOR-HIRE VEHICLES, which Division 1 relates to GENERALLY, which Section 9-12-1 relates to DEFINITIONS, which Division 2 relates to CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY and which new Division 2.1 relates to CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 9-12-1, Division 1, Article A, Chapter 12, Title 9 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended by adding new subsections numbered 15, 16 and 17 to read as follows:

(15) Taxicab company. A business entity which (a) has as its principal function the provision of taxi services to and from points in the City of Alexandria; (b) has a minimum of 10 taxicab vehicles of a common color scheme; (c) provides a 24-hour radio-dispatch service within the city; and (d) maintains its principal place of business within the city. A taxicab company may be organized as sole proprietorship, a partnership or a corporation.

(16) Certificate card. A card issued in a form prescribed by the city manager to be carried in each taxicab covered by a certificate which is to be displayed in a conspicuous place in each such cab.

(17) Certificate holder. Any individual, association, partnership, company, corporation or other organization that has been granted a certificate of public convenience and necessity as provided in this chapter.

Section 2. That Division 2, Article A, Chapter 12, Title 9 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is repealed.

Section 3. That Article A, Chapter 12, Title 9 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended by adding a new division numbered 2.1 to read as follows:

DIVISION 2.1

Certificate of Public Convenience and Necessity.

Sec. 9-12-21.1. Required.

It shall be unlawful for a taxicab company to engage in the taxicab business unless a certificate of public convenience and necessity specifically prescribing all vehicles covered by that certificate shall have been issued by the city manager. It shall be unlawful to operate or cause to be operated any such vehicle under an expired, suspended or revoked certificate.

Sec. 9-12-22.1. Application for certificate.

(a) Application for a certificate shall be made to the hack inspector by the prospective certificate holder or his authorized agent in writing, under oath, on a form provided by the city. All applications for certificates must be filed in the hack inspector's office between May 1 and May 10 of each year. Such forms shall include a statement that "It is unlawful for any person to make a false or misleading statement and the making of any false or misleading statement shall be grounds for denial of the application or subsequent revocation of a certificate." All applications must be signed (1) by the president if a corporation or (2) by all individuals making up the business entity if other than a corporation or its agent and must be notarized. The city manager shall qualify and designate the hack inspector or some other person to notarize applications without cost to the applicant.

(b) In addition to such pertinent information that the city manager may require, the applicant shall provide the following:

(1) The full name and business address of the applicant and, if the applicant is a corporation, a certified copy of the articles of incorporation.

(2) The full name and address of the registered agent or other person or persons upon whom legal process may be served and upon whom all notices or other matters relating to the administration and enforcement of this chapter should be made.

(3) The trade name and the telephone numbers under which the applicant does or proposes to do business.

(4) The financial status and responsibility of the applicant, including evidence of his ability to acquire and maintain the vehicles for which authority is sought.

(5) The number and ownership of vehicles to be operated, seating capacity, design and color scheme of each vehicle.

(6) The character and location of the stands.

(7) A description of the communications system to be used with specific reference as to the applicant's plan to provide 24-hour dispatch service to the public. If such dispatch service is not to be furnished specifically by the applicant, the name and address of the provider and the manner of providing such service shall be provided.

(8) A description of the service to be provided, including color scheme, insignia and cruising light design which shall conform to regulations issued by the city manager.

(9) Satisfactory evidence of insurance or other financial responsibility for accident or other casualty which shall be no less than that required by section 9-12-6.

(10) Any conviction, plea of guilty or nolo contendere of the applicant arising out of any violation of a federal, state or municipal law, or if the applicant is a corporation, each of the officers of the corporation.

(11) The specific experience of the applicant in the transportation of passengers for hire.

(12) All facts or circumstances upon which the applicant bases his belief that public convenience and necessity require the granting of his application.

(13) Each applicant shall be fingerprinted, which fingerprints shall constitute part of the application.

Sec. 9-12-23.1. Charges for certificate of public convenience and necessity.

(a) The following charge shall be paid to the director of finance before any initial application for a certificate of public convenience and necessity under this article will be considered for any application, granted or not: \$10.00.

(b) The following charge shall be paid to the director of finance for the first certificate of public convenience and necessity issued: \$50.00.

(c) For an application for an addition of vehicles to an authorized certificate the fee shall be \$30.00 for each additional vehicle authorization.

(d) The following charge shall be paid to the director of finance for the annual renewal of a certificate of public convenience and necessity: \$15.00.

(e) For each vehicle authorization covered by a certificate of public convenience and necessity, there shall be an annual renewal fee of \$10.00 paid to the director of finance.

(f) The following charge shall be paid to the director of finance for any duplicate certificate or certificate card: \$5.00.

(g) The following charge shall be paid to the director of finance before any transfer of certificate will be allowed: \$25.00.

(h) The following charge shall be paid to the hack inspector for laminating each initial, renewal or duplicate certificate or certificate card: \$2.00.

Sec. 9-12-24.1. Investigation of applicant.

Upon the filing of any application for a certificate of public convenience and necessity, the chief of police shall be notified and he shall make or cause to be made a thorough investigation of the character of and traffic and criminal records of the applicant. The results of this investigation shall be submitted to the city manager on or before the public hearing held under section 9-12-25.1.

Sec. 9-12-25.1. Determination of public convenience and necessity; issuance of certificates.

(a) The applicant shall have the burden of establishing whether public convenience and necessity require the operation of the taxicabs designated in the application.

(b) The city manager shall determine whether public convenience and necessity require the operation of the taxicabs designated in the application. In making this determination, the city manager shall consider the representations of the applicant as set forth in its application, the results of the investigation made under section 9-12-24.1 and any information presented at the public hearing held pursuant to paragraph (c) of this section. The city manager shall also consider the information as contained in his report on the economic conditions of the taxi industry required by section 9-12-28.1. In making this determination, the city manager shall consider at least the following:

(1) The adequacy of existing taxicab service and other forms of transportation for passengers already in existence.

(2) The probable permanence and quality of the service offered by the applicant.

(3) The financial status, character and responsibility of the applicant as demonstrated by the applicant's ability to provide, maintain and operate the number of vehicles proposed to be operated in accordance with the character of service proposed in the application, the applicant's criminal and traffic record and the applicant's credit record, if any.

(4) The experience of the applicant in taxicab operations as an owner or manager or as a taxicab driver.

(c) The city manager shall, prior to making his determination, hold a public hearing to assist in making a finding as to whether public convenience and necessity require the operation of the taxicabs for which an application has been filed. The city manager, prior to holding a public hearing and upon receipt of an application for a certificate, shall provide the general public and each certificate holder with an opportunity to be heard concerning the application. He shall notify the certificate holders by publication in a newspaper of general circulation published within the city that an application for a certificate has been filed. The certificate holder may submit his opinion in writing within 30 days of the date of request.

(d) After consideration of the factors prescribed in this division, the city manager may grant a certificate for the number of vehicles applied for or for a lesser number than that requested, or the city manager may refuse to issue the certificate. If the application is for a lesser number than sought or is refused, the city manager shall notify the unsuccessful applicant by certified mail. The applicant or his agent may not reapply for a certificate for 365 days from the date of refusal.

Sec. 9-12-26.1. Certificate generally; form, term transferability, transfer of control.

(a) The certificate of public convenience and necessity shall state the following:

(1) The name, home and business address of the certificate holder and registered agent or other person to whom legal process may be served or notice given.

(2) The number, kind and class of vehicles, the seating capacity of each, the equipment of each vehicle and the lettering, marks and color scheme to be used on each vehicle.

(3) The date of issuance.

(4) The fact that the certificate is being issued subject to the provisions of this division and all other laws and ordinances governing the operation of public vehicles, taxicabs and for-hire vehicles in the city.

(b) Every certificate of public convenience and necessity issued shall be valid from the date of issuance until the last day of the birth month next after issuance of the individual certificate holder. Except that certificates of public convenience and necessity issued on vehicles owned by entities other than individuals shall expire on June 30 next after issuance. Before expiration, each certificate holder shall file a renewal application with the hack inspector. When an individual certificate holder leaves a company, association or firm, his certificate shall be returned to the city manager unless the city manager has approved a transfer of the certificate.

(c) Certificates of public convenience and necessity may be transferred upon approval by the city manager subject to the following conditions and procedures:

A certificate holder desiring to transfer his certificate must first notify the city manager of his intention to transfer same. Only those certificate holders who are leaving the Alexandria taxicab industry may apply to transfer a certificate. Certificates may only be transferred to the taxicab company with which that certificate holder is presently affiliated.

(d) In cases of death, sickness or unusual circumstances, the city manager may authorize the continued operation of an existing certificate until the following September 1.

(e) Transfer of control of a corporation, partnership or individual holding a certificate, either de facto or de jure is prohibited without a prior finding by the city manager that such control is in the public interest. To effect transfer of such control, the prospective controlling party shall notify the city manager in writing of his intention to acquire control, submitting all relevant information as to the method by which control is to be achieved and indicating whether control will be de facto or de jure.

(1) The person requesting the transfer of control shall have the burden of establishing the desirability in the public interest of the control sought, and shall promptly respond to any requests for additional information or proof by the city manager or his designee.

(2) The city manager shall cause the financial status, character and responsibility of the applicant to be investigated.

(3) The experience of the applicant in the taxicab business shall be investigated by the city manager or his designee.

(4) The city manager may approve or deny the request for transfer of control. Before granting a request or application for control, the city manager shall make an affirmative finding that the proposed control is in the public interest. Absent such finding, the city manager shall notify the applicant that the request has been denied.

Sec. 9-12-27.1. Amendment to certificate authorization.

(a) The city manager shall have the authority to grant additional vehicle authorizations to certificate holders based on the same factors as prescribed in section 9-12-25.1.

(b) The city manager shall have the authority to amend a certificate to reduce the number of authorized vehicles either at the request of the certificate holder or upon a determination that the public convenience and necessity requires such reduction. Any such reduction shall be made after consideration of the factors prescribed in section 9-12-25.1.

(c) Upon amendment as to the number of vehicles and upon the surrender of the existing certificate, the city manager shall issue a new certificate to the certificate holder.

Sec. 19-12-28.1. Annual survey of economic conditions of taxi industry.

(a) Not sooner than May 15, nor later than July 15 of each year, the traffic and parking board shall conduct a public hearing to which all applicants, existing certificate holders and the public shall be invited. The hack inspector or a police department representative shall be present. The purpose of the hearing shall be to solicit taxicab industry views and those of the public, and to receive evidence as to the economic condition of the taxicab industry. Applicants for changes in authorization shall be required to submit justification for the changes they recommend.

(b) Giving consideration to the evidence received at the meeting, but not being limited to such evidence, the traffic and parking board shall forward its conclusions as to the status of the industry, and its recommendation as to an appropriate level of taxicab certificates for the city to the city manager. It shall also forward its recommendation as to an appropriate allocation of the recommended number of certificates. It shall also forward the findings of fact upon which its recommendations are based. In making its recommendations as to allocation, the traffic and parking board shall give consideration to such

factors as bear on public convenience and necessity, including, but not limited to:

- (1) The relative age of the certificate holders' vehicles.
- (2) The extent and character of the service offered by the several applicants.
- (3) The maintenance and condition of the vehicles.
- (4) The demonstrated or prospective responsibility of certificate holders in regard to taxicab regulations.
- (5) The utilization of existing vehicles, particularly with reference to the existing and prospective ability of the applicants to utilize the applied for, or authorized, numbers of taxicabs to the benefit of the taxicab-riding public.

The traffic and parking board's conclusions and recommendations shall be transmitted to the city manager no later than July 31.

(c) Not later than September 1, the city manager shall issue an order giving his statement of the economic condition of the taxicab industry and allocating any increases or decreases in the authorized number of taxicabs. In issuing his order, the city manager shall presume that the factual findings of the traffic and parking board are prima facie correct. If he disagrees with the recommendations of the traffic and parking board, either as to the level of certificates or as to the allocation of certificates, he shall with the issuance of his order, enumerate his reasons for not accepting the traffic and parking board's recommendations.

(d) The findings and recommendations of the report of the city manager may be used by him as part of any determination of the public convenience and necessity which he is authorized to make under the provisions of this chapter.

Sec. 9-12-29.1. Revocation or suspension of certificates.

(a) Certificates of public convenience and necessity may be suspended for a period of 30 to 120 days or revoked by the city manager or his designee for any of the following:

- (1) Failure to operate the authorized taxicabs in such a manner as to serve the public adequately.
- (2) Failure to maintain taxicabs in good order and repair.

(3) Failure to maintain insurance as required by this chapter.

(4) Repeated and persistent violations by the certificate holder or his drivers of the Alexandria City Code or the motor vehicle laws of Virginia.

(5) Failure to report any accident as required by this chapter.

(6) Failure to pay any fees lawfully assessed upon the ownership or operation of any vehicle licensed under this chapter.

(b) If the city manager revokes a certificate of public convenience and necessity, and notifies the holder by certified mail directed to the address shown on the application for the certificate, the holder of the revoked certificate, or his agent, may not reapply for a certificate for 365 days from the date of revocation.

(c) The party shall have the right to present his case in person or be represented by counsel licensed to practice law in the Commonwealth of Virginia. No certificate shall be revoked or suspended by the city manager unless the certificate holder has at least 10 days' notice by personal service, or by certified mail, to the address shown on the certificate of the grounds for revocation or suspension and the time and place of the hearing thereon. A hearing shall be held by the city manager.

(d) The city manager may revoke a certificate for such a period of time in excess of 120 days as he may, in his discretion, see fit; provided, however, that whenever a certificate has been revoked, the city manager or other agency shall not issue a new certificate to the same person or company for at least a period of one (1) year after revocation.

(e) The chief of police shall have the power to suspend certificate cards and the privileges thereby entailed for a period not to exceed five (5) days for one (1) of the following causes:

(1) Failure to maintain taxicabs in good order and repair.

(2) Failure to maintain insurance as required by this chapter.

Sec. 9-12-30.1. Revision of certificate of public convenience and necessity.

(a) At the same time as he issues his statement of the economic condition of the taxicab industry, the city manager may indicate his findings as to whether the for-hire vehicles authorized or any portion of them were not operated for the 365 days preceding his finding. In this event, the certificate shall be surrendered by the certificate holder and the city manager shall issue a new certificate for a lesser number, which shall not be less than the number derived by dividing the maximum number operated by 0.80 with the result rounded to the nearest higher whole number. This section shall not be construed as to increase the number of taxicabs certified, nor shall it require the surrender of a certificate of public convenience and necessity when the maximum number of taxicabs operated during a 365-day period exceeds 80 percent of the authorized number of vehicles covered by the certificate.

(b) The provisions of (a) above shall not be applicable to that portion of an increase in taxicab certificates granted under the provisions of section 9-12-27.1 for a period of 365 days after an increase in certificates is authorized.

Sec. 9-12-31.1. Individual taxicab certificate card; substitution of vehicles.

(a) For each taxicab covered by a certificate, a certificate card shall be issued in a form prescribed by the city manager. This certificate card is the property of the city, is not transferable, and must be returned to the city immediately upon final removal of the taxicab from service.

(b) It shall be unlawful to operate a taxicab without a certificate card conspicuously displayed in a manner prescribed by the city manager.

Sec. 9-12-32.1. Authority of city manager.

(a) The city manager may designate a person or persons to administer some or all of the provisions of this chapter.

(b) The city manager is authorized to make such reasonable rules and regulations as may be necessary to administer the provisions of this chapter.

Sec. 9-12-33.1. Grandfather clause--Applications on file as of October 16, 1982.

All applications for certificates on file with the hack inspector as of October 16, 1982, will be processed by February 15, 1983. Applications received after October 16, 1982, will be

processed pursuant to section 9-12-22.1. All certificates of public convenience and necessity which have been issued prior to the effective date of this ordinance shall continue in force and effect and be subject to the provisions of section 9-12-26.1(b).

Section 4. That the title of and an informal memorandum explaining this ordinance shall be published in a newspaper of general circulation published in the city not later than five days following its introduction together with a notice containing the time and place for a public hearing. The city clerk shall have the full text of this ordinance printed in sufficient numbers to supply copies to meet request. The city clerk shall note the date of introduction and first reading, the date of publication, the date of the public hearing, and the date of the second reading and final passage in the minutes of the meeting. This ordinance shall become effective February 15, 1983.

CHARLES E. BEATLEY, JR.  
Mayor

Final Passage: December 14, 1982