

ORDINANCE NO. 3870

AN ORDINANCE to amend and reordain Sections 9-1-11 (EXEMPTIONS), 9-1-20 (PRORATION), 9-1-21 (REFUNDS), 9-1-23 (REGULATORY COMPLIANCE) and 9-1-24 (FLAT TAX OF \$30 ON BUSINESSES WITH GROSS RECEIPTS OF LESS THAN \$50,000), and to add a new Section 9-1-46 (INTEREST ON LATE PAYMENTS AND REFUNDS) of Article A (GENERAL PROVISIONS), and to amend and reordain Sections 9-1-71 (PROFESSIONAL SERVICES), 9-1-71.1 (FINANCIAL SERVICES), 9-1-72 (REPAIR, PERSONAL AND BUSINESS SERVICES), 9-1-75 (RETAIL MERCHANTS), 9-1-78 (WHOLESALE MERCHANTS), 9-1-79 (CONTRACTORS AND CONTRACTING), 9-1-82 (AMUSEMENTS), 9-1-87 (SOLICITING AGENTS FOR SALE OF GOODS, ETC.) and 9-1-88 (RENTING BY OWNERS OF DWELLING UNITS OR COMMERCIAL ESTABLISHMENTS) of Article C (LICENSES BASED ON GROSS RECEIPTS), all of Chapter 1 (BUSINESS LICENSES), Title 9 (LICENSING AND REGULATION) of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Sections 9-1-11, 9-1-20, 9-1-21, 9-1-23 and 9-1-24 of Article A, Chapter 1, Title 9 of The Code of the City of Alexandria, Virginia, 1981, be, and the same hereby are, amended and reordained to read as follows:

Sec. 9-1-11 Exemptions.

(a) Notwithstanding any provision of this chapter to the contrary, the license tax levied in accordance with this chapter shall not be imposed upon the following businesses:

(1) those exempt from the license tax under section 58.1-3703(B) of the Code of Virginia (1950), as amended;

(2) except as otherwise provided in subsection (c) of this section, those owned by charitable nonprofit organizations which, for the purposes of this subsection are organizations qualified by the Internal Revenue Service under Internal Revenue Code §501(c);

(3) those engaged in research and development; and

(4) those with gross receipts totalling less than \$10,000 for the entire tax year.

(b) Any bona fide religious, charitable, benevolent or civic organization, or any group of responsible citizens of the city, desiring to hold a dance where an admission fee is required or where a charge is made for dancing, to hold a breakfast, lunch, dinner or supper for which a charge is made or to hold a rummage sale or bake sale, may through a member representative apply to the director for exemption from taxes under this chapter. After such proof as may be necessary, and upon being satisfied as to the character and nature of the applicant and the event, the director shall exempt the applicant from the license requirement

and license tax otherwise imposed, so long as all of the fees or proceeds from the event are devoted to and used for bona fide religious, charitable or benevolent purposes, or, in the case of a dance, breakfast, lunch, dinner or supper, no profit is expected.

(c) The exemption granted by subsection (a)(2) shall not apply to any business owned or operated by a charitable nonprofit organization, the conduct of which is not substantially related to the exercise or performance of the organization's charitable, educational, or other purpose or function constituting the basis for its exemption. The determination of whether a business is substantially related to the exempt purpose or function of a charitable nonprofit organization shall be based solely on the relationship of the business activities to the exempt purpose or function, and the fact that revenue derived from the business may be used for an exempt purpose shall not be considered.

(d) The director shall determine whether a business is exempt under the provisions of this section and whether any portion of the gross receipts of an otherwise exempt entity is not exempt under subsection (c).

(e) The provisions of this section shall not relieve any person of the duty to comply with section 9-1-5.

#### Sec. 9-1-20 Proration.

(a) Except as otherwise specifically provided, all license taxes imposed under the provisions of this chapter which are not based on gross receipts shall be prorated as follows: on licenses issued between April 1 and June 30 of a year, the amount of tax shall be three-fourths of the annual tax on the licensee; on licenses issued between July 1 and September 30, the amount of tax shall be one-half of the annual tax on the licensee; and on licenses issued on and after October 1, the license tax shall be one-fourth of the annual tax.

(b) There shall be no prorating of any license tax of \$50.00 or less.

#### Sec. 9-1-21 Proration of tax where there is a cessation of business.

(a) Any person who has paid a license tax to the city but has permanently ceased to conduct the business to which such tax relates may apply to the director for a proration of such tax. The director shall prorate, on a monthly basis, the license for those months during which the person conducted the business in question, and remit to the person the difference between the tax paid and the prorated amount, unless the tax paid was based on estimated gross receipts and the business' actual gross receipts prior to its cessation were in excess of the estimate, in which

case the director shall assess the licensee in accordance with section 9-1-18. Such proration will be done only for taxes based on gross receipts.

(b) In no event shall the license tax levied on a person who has permanently ceased to conduct business in the city, for the year in which the person has ceased conducting the business, be less than the minimum tax of \$50 prescribed by section 9-1-24.

(c) Application for a refund must be made within three years from the last day of the license year in which the licensee permanently ceased to conduct a business in the city.

(d) Following receipt of an application for a refund, the director shall remit to the licensee any refund which is due, less any other taxes then due and owing to the city by the licensee.

Sec. 9-1-23 Regulatory compliance.

The director shall not issue an initial license for any business at a particular location until necessary certifications from relevant city regulatory authorities are received, including, but not limited to, a certification from the fire chief that the building in which the business is to locate is in compliance with all applicable building code regulations, a certification from the director of planning and zoning that the activity to be licensed is permitted by the City of Alexandria Zoning Ordinance to occur at the place where the business is to locate, and, in the case of persons intending to operate as pawnbrokers or antiques dealers, a certification from the chief of police that all licenses and permits required by this code have been obtained.

Sec. 9-1-24 Flat tax of \$50 on businesses with gross receipts of less than \$100,000.

A license tax of \$50 shall be levied on any business identified in article C of this chapter whose annual gross receipts with situs in the city, under section 9-1-7, are less than \$100,000, unless the business is exempt from any license tax pursuant to this chapter. The \$50 tax shall be levied without regard to the license tax as measured by the licensee's gross receipts.

Section 2. That Article A of Chapter 1, Title 9 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended to add thereto a new section 9-1-46 to read as follows:

Sec. 9-1-46 Interest on late payments and refunds.

(a) Interest shall be charged at the rate of 10 percent per year on late payments of the license tax from the thirty-first day following the date payment was due until the date payment is made without regard to fault or other reason for the lateness of the payment.

(b) Whenever an assessment of additional or omitted tax by the director is found to be erroneous, all interest and penalty charged and collected on the amount of the assessment found to be erroneous shall be refunded.

(c) Interest shall be paid at the rate of 10 percent per year on the refund of any license tax, whether attributable to an amended return or other reason. Interest on refunds shall not begin to accrue until thirty days have passed from the date of payment or the due date, whichever is later.

Section 3. That Sections 9-1-71, 9-1-71.1, 9-1-72, 9-1-75, 9-1-78, 9-1-79, 9-1-82, 9-1-87 and 9-1-88 of Article C, Chapter 1, Title 9 of The Code of the City of Alexandria, Virginia, 1981, be, and the same hereby are, amended and reordained to read as follows:

Sec. 9-1-71 Professional services.

Every person who conducts or operates a business that provides professional services in, and who maintains a definite place of business in, the city shall pay for the privilege of doing so an annual license tax of \$50 or, if the business' annual gross receipts with situs in the city equal or exceed \$100,000, \$0.58 per \$100 of all the business' gross receipts with such situs.

Sec. 9-1-71.1 Financial services.

Every person conducting or operating a business that provides financial services in, and who maintains a definite place of business in, the city shall pay for the privilege of doing so an annual license tax of \$50 or, if the business' annual gross receipts with situs in the city equal or exceed \$100,000, \$0.35 per \$100 of all the business' gross receipts with such situs.

Sec. 9-1-72 Repair, personal and business services.

(a) Every person who conducts or operates a business that provides repair, personal and business services in, and who maintains a definite place of business in, the city shall pay for the privilege of doing so an annual license tax of \$50 or, if the business' annual gross receipts with situs in the city equal or exceed \$100,000, \$0.35 per \$100 of all the business' gross receipts with such situs.

Sec. 9-1-75 Retail merchants.

(a) Every person who engages in or conducts the business of a retail merchant in, and who maintains a definite place of business in, the city shall pay for the privilege of doing so an annual license tax of \$50 or, if the business' annual gross receipts with situs in the city equal or exceed \$100,000, \$0.20 per \$100 of all the business' gross receipts with such situs.

(b) The license tax provided for in this section shall be in addition to the alcoholic beverage license tax required under any other sections of this chapter.

(c) Any person or organization who sponsors a show or sale of goods, wares and merchandise at retail and not for resale shall obtain a license under this section for such show or sale, and shall pay for the privilege of conducting the show or sale a license tax of \$50 and, upon the termination of the show or sale, \$0.20 per \$100 of the gross receipts of the show or sale in excess of \$15,000; provided, that no license shall be issued for a period longer than one year.

Sec. 9-1-78 Wholesale merchants.

Every person who engages in or conducts the business of a wholesale merchant in, and who maintains a definite place of business in, the city shall pay for the privilege of doing so an annual license tax of \$50 or, if the business' annual gross receipts with situs in the city equal or exceed \$100,000, \$0.05 for each \$100 of all the business' gross receipts with such situs, whichever amount is greater.

Sec. 9-1-79 Contractors and contracting.

(a) Every person who maintains a definite place of business in the city and engages in the business of a contractor shall pay for the privilege of doing so an annual license tax of \$50 or, if the business' annual gross receipts with situs in the city equal or exceed \$100,000, \$0.16 for each \$100 of all the business' gross receipts with such situs.

(b) Notwithstanding any contrary provision of this chapter, (i) every person who engages in the business of a contractor in the city, who maintains a definite place of business in the state, but not in the city, shall not be liable for any license tax under this section, unless the gross receipts received in any year by such person from the business conducted in the city exceed \$25,000, in which event the person shall pay the city a license tax of \$0.16 for each \$100 of such gross receipts; and (ii) every person who engages in the business of a contractor in the city, and who does not maintain a definite place of business in the state, shall pay for the privilege of conducting such business or occupation in the city an annual license tax of \$50

or \$0.16 for each \$100 of gross receipts from business conducted in the city, whichever amount is greater.

(c) Orders and contracts covering more than one calendar year may be prorated to allow the gross amount or any portion thereof of any such order or contract to be used only once as a basis for determining the amount of the annual license tax to be paid pursuant to this section.

(d) The provisions of this section shall not relieve a person who engages in the business of a contractor in the city of any duty to register as a contractor with the city or the state before engaging in such business in the city, as may be required by other law.

Sec. 9-1-82 Amusements.

Every person who conducts or operates a business that provides amusements in, and who maintains a definite place of business in, the city shall pay for the privilege of doing so an annual license tax of \$50 or, if the business' annual gross receipts with situs in the city equal or exceed \$100,000, \$0.36 per \$100 of all the business' gross receipts with such situs.

Sec. 9-1-87 Soliciting agents for sale of goods, etc.

(a) Every person who engages in or conducts business in the city as a soliciting agent or solicits orders in the city for goods, wares and merchandise, services, business services, repair services and the like, and who is not otherwise in this chapter taxed, shall pay for the privilege of doing so an annual license tax of \$50 or, if the annual gross receipts derived from such activities equal or exceed \$100,000, \$0.20 per \$100 of all the gross receipts from such activities.

(b) Any person engaged solely in the manufacture and sale of his own manufactured goods, wares and merchandise, and who maintains no place of business in the city other than for the solicitation of orders for his manufactured products, and who sells only to licensed jobbers and not to retailers or consumers, and who makes delivery to jobbers from his manufactured goods, wares and merchandise that are regularly stored in the city, shall be licensed and pay a tax under the provisions of this section.

Sec. 9-1-88 Renting by owners of dwelling units or commercial establishments.

(a) Except as provided in subsection (b), every person who, as principal, engages in or conducts the business of renting one or more dwelling units, including houses and apartments, located within the city shall pay for the privilege of doing so an annual license tax of \$50 or, if the annual gross receipts derived from

such activities equal or exceed \$100,000, \$0.50 of each \$100 of all the gross receipts from such activities.

(b) Persons engaged in the business of renting dwelling units shall not come within the provisions of this section and the tax levied, unless they are engaged in the business of renting more than four separate dwelling units.

(c) The term "business of renting houses and apartments," as used in this section, means the rental of dwelling units, whether located in a single-family, two-family, multifamily, condominium or other residential building, but shall not include the rental of living units in hotels, motels, tourist homes or boarding and rooming houses.

(d) The term "dwelling unit," for the purpose of this section, means one or more rooms designed for or intended for the occupancy of one family for living purposes and having cooking facilities.

(e) Every person who, as principal, engages in or conducts the business of renting commercial property located within the city shall pay for the privilege of doing so an annual license tax of \$50 or, if the annual gross receipts derived from such activities equal or exceed \$100,000, \$0.35 for each \$100 of all the gross receipts from such activities.

Section 4. That this ordinance shall become effective on January 1, 1997.

KERRY J. DONLEY  
Mayor

Final Passage: June 15, 1996