

City of Alexandria, Virginia

MEMORANDUM

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6/10/03 6-14-0

DATE: JUNE 3, 2003

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER *PS*

SUBJECT: AN ORDINANCE TO IMPLEMENT A DISPUTE RESOLUTION
PROCEDURE FOR THE TAXICAB INDUSTRY

ISSUE: Consideration of an ordinance to create a dispute resolution procedure for the taxicab industry (Attachment 1).

RECOMMENDATION: That City Council pass the ordinance on first reading, set it for public hearing on Saturday, June 14, and second reading and final passage on Tuesday, June 24.

DISCUSSION: The Taxicab Task Force, the Traffic and Parking Board and staff all have recommended that Council adopt a dispute resolution process for the taxicab industry in an effort to provide a means for taxicab company owners, management and taxicab drivers to work out disputes that arise between taxicab companies and taxicab drivers. The proposed ordinance establishes such a dispute resolution process. Staff will docket its report on June 24 on other taxicab issues discussed with Council following the report of the Taxicab Task Force.

In the taxicab industry in Alexandria, individual owner-drivers own the substantial majority of the vehicles operated as taxicabs, and operate such vehicles, either directly or through other drivers, under contract with a taxicab company.

The Taxicab Task Force has discussed many of the issues that have arisen between owners and drivers. Issues can arise, for instance, over the termination of contracts, access to a company's dispatch service, the disciplining of drivers and other work-related matters. The Taxicab Task Force unanimously recommended that a dispute resolution procedure be established to provide a mechanism for the discussion and resolution of such disputes.

The proposed ordinance provides an impartial process for the discussion and resolution of disputes between and among taxicab companies, owner-drivers and drivers. The ordinance requires that costs be shared equally by the parties unless they agree otherwise in writing. Disputes arising under the provisions of the ordinance are subject to the following three stage procedure:

1. The first stage is an internal grievance procedure in which an informal hearing is conducted by an impartial representative appointed by the company who receives testimony and evidence related to the dispute. The parties must use best efforts to resolve the dispute but the company representative may not impose a resolution.
2. The second stage is mediation with an impartial mediator who is agreed upon by the parties or, if the parties do not agree, who is chosen by the American Arbitration Association. A hearing is conducted using the American Arbitration Association Rules for Commercial Dispute Resolution Procedures, Commercial Mediation Rules. The mediator may execute a written settlement agreement if agreed upon by both parties, but may not impose a settlement upon the parties.
3. The third stage is arbitration with an impartial arbitrator chosen by the parties or, if they cannot agree, the American Arbitration Association. A hearing is conducted using the American Arbitration Association Rules for Commercial Dispute Resolution Procedures, Commercial Arbitration Rules. The arbitrator must render a written award which is binding on all parties and is enforceable by any court having jurisdiction over the issues.

The contracts between the taxicab companies and vehicle owners and/or drivers typically have no fixed period or expiration date. As a result any party can terminate the contract at will, for any reason or for no reason at all. Obviously, a dispute resolution process is meaningless if one party can, at any time, terminate the party's contract at will. Thus, the ordinance provides that a driver cannot be terminated or suspended from driving his vehicle under the colors of the company or otherwise sanctioned except for good cause. Good cause is defined as any reason which would be grounds for the City to suspend or revoke a driver's permit to operate a cab, (e.g., refusal to transport an orderly passenger or driving under the influence of alcohol) and any material failure by a driver to comply with the company's established rules or practices or to perform under his contract with the company.

FISCAL IMPACT: Since the costs for using the Dispute Resolution Procedure will be shared equally by the parties, unless they agree otherwise in writing, there is no fiscal impact on the City.

ATTACHMENTS:

Attachment 1. Proposed Ordinance

Attachment 2. Memorandum to Council dated April 8, 2003

STAFF:

Meg O'Regan, Special Projects Coordinator, City Manager's Office

Richard Baier, Director, T&ES

Tom Culpcooper, Deputy Director, T&ES

ATTACHMENT 1
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|---------------------------------|-----------|
| Introduction and first reading: | 6/10/2002 |
| Public hearing: | 6/14/2003 |
| Second reading and enactment: | 6/24/2003 |

INFORMATION ON PROPOSED ORDINANCE

Title

AN ORDINANCE to amend and reordain Article A (TAXICABS AND FOR-HIRE VEHICLES) of Chapter 12 (TAXICABS AND OTHER VEHICLES FOR HIRE), Title 9 (LICENSING AND REGULATION) of The Code of the City of Alexandria, Virginia, 1981, as amended, by adding thereto a new Division 7 (CONDITIONS OF CERTIFICATES AND PERMITS).

Summary

The proposed ordinance adopts dispute resolution procedures for the taxicab industry to provide a fair and equitable means for taxicab company owners, managers and drivers to work out disputes that arise between companies and drivers. The Taxicab Task Force, the Traffic and Parking Board and City staff have recommended the adoption of such procedures.

Sponsor

Staff

Rich Baier, Director, Transportation and Environmental Services
Meg O'Regan, Special Projects Coordinator, City Manager's Office
Ignacio B. Pessoa, City Attorney

Authority

§ 2.04(d), Alexandria City Charter

Estimated Costs of Implementation

None

Attachments in Addition to Proposed Ordinance

None

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~~6-10-03~~

ORDINANCE NO. _____

AN ORDINANCE to amend and reordain Article A (TAXICABS AND FOR-HIRE VEHICLES) of Chapter 12 (TAXICABS AND OTHER VEHICLES FOR HIRE), Title 9 (LICENSING AND REGULATION) of The Code of the City of Alexandria, Virginia, 1981, as amended, by adding thereto a new Division 7 (CONDITIONS OF CERTIFICATES AND PERMITS).

WHEREAS, the City Council of Alexandria finds and determines that:

1. The public convenience and necessity require the provision of adequate and reliable taxicab service for residents of, and visitors to, the City of Alexandria.
2. Economic stability and investment in the taxicab industry in Alexandria, in the form of appropriate taxi-related investments in dispatch service and other facilities, vehicle acquisition and vehicle maintenance, by taxi companies and taxicab owner/drivers, are required to promote adequate and reliable service.
3. The current regulatory scheme adopted by the City more than 20 years ago, which provides for the award of certificates of public convenience and necessity to taxi cab companies, has resulted in a relatively stable taxicab industry in Alexandria which generally delivers adequate and reliable taxi services to City residents and visitors.
4. The current regulatory system has not, however, resulted in the development a method generally perceived by the interested parties as fairly, efficiently and impartially resolving contract and service related disputes between companies and drivers.
5. Such failure has adversely affected working relations between companies and drivers.
6. Such adverse consequence does not further the provision of adequate and reliable taxicab service to residents of, and visitors to, the City of Alexandria.
7. The provision of reasonable dispute resolution procedures to provide a fair, efficient and impartial mechanism for the discussion and resolution of disputes between taxicab companies and drivers will promote adequate and reliable taxicab service for the residents of, and visitors to, the City of Alexandria by fostering improved working relations between companies and drivers.
8. Based upon the foregoing findings, and upon all other facts and circumstances of which the City Council may take notice in its capacity as the legislative body of the City of Alexandria, Virginia, adoption of this ordinance is necessary and desirable to preserve and protect the public health, safety and general welfare of the residents of the City of Alexandria and others; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. 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 thereto a new Division 7 to read as follows:

[The following is all new language.]

Division 7. Conditions of certificates and permits.

Section 9-12-139 Scope.

The provisions of this division shall apply to every certificate of public convenience and necessity issued under division 2; to every driver's permit issued under division 3, of this article; to every person who operates a vehicle subject to this article, and to every person who suffers, permits or allows the operation under such person's color scheme, insignia or trade name, of a vehicle subject to this article.

Section 9-12-140 Required conditions.

Every certificate of public convenience and necessity issued under division 2, and every driver's permit issued under division 3, of this article, and the right to operate a vehicle, or to suffer, permit or allow the operation of a vehicle under a person's color scheme, insignia or trade name, pursuant to this article shall be subject to the following terms and conditions:

- (a) The license or permission held by any person who holds a valid driver's permit under division 3 to operate a vehicle under a taxicab company's color scheme shall not be terminated, suspended or impaired, and such driver's right to enjoy the resources and benefits provided by such company on the same basis as other similarly situated drivers for the company shall not be terminated, suspended or impaired, except where such termination, suspension or impairment is reasonable and for good cause.
- (b) For purposes of this section, "good cause" means one or more of the causes set forth in section 9-12-59 of this code for the temporary suspension of a driver's permit by the chief of police; one or more of the causes set forth in section 9-12-60 of this code for the suspension or revocation of a driver's permit by the traffic and parking board or other agency of the city, or a material failure of a driver to comply with established rules or practices of the company or to perform in accordance with his or her contract with the company, after reasonable notice and an opportunity to comply or perform.
- (c) Nothing in this section shall be deemed to impair the authority of the chief of police, traffic and parking board or other agency of the city under this article.

Section 9-12-141 Dispute resolution procedures.

Disputes arising under the provisions of this division shall be subject to the following procedures:

- (a) Disputes shall first be the subject of an internal grievance procedure which shall be conducted as follows:
 - (1) The aggrieved party shall submit a complaint in writing to the taxicab company containing a written statement of the matter in dispute and the names, addresses and telephone numbers of each party to the dispute.
 - (2) Within two weeks after the submission of the written complaint, the company shall appoint a representative from within the company to hear the dispute. Such representative shall be impartial, and shall have had no direct or indirect involvement in the dispute.
 - (3) Within two weeks after said appointment, the representative shall conduct an informal hearing concerning the dispute.
 - (4) Both parties shall use best efforts to resolve the dispute.
 - (5) Within two weeks after the hearing has been concluded, the company representative shall render a written decision.
- (b) If the dispute is not resolved through the internal grievance procedure, either party may elect to initiate mediation of the dispute which shall be conducted as follows:
 - (1) Within two weeks after the internal grievance procedure has been concluded, any party requesting mediation shall submit a written notice requesting mediation to all parties.
 - (2) Within two weeks after such notice has been submitted, an impartial person shall be agreed upon by the parties to mediate the dispute, or, if the parties do not so agree, the party requesting mediation shall submit a written Request for Mediation to the American Arbitration Association (AAA) and simultaneously mail a copy of the Request for Mediation to every party to the dispute.
 - (3) A Request for Mediation shall contain a brief statement of the dispute, and the names and addresses and telephone numbers of each party to the dispute.
 - (4) The mediator shall notify all parties of the time, date and place of the mediation.

- (5) The costs of the mediation shall be borne equally by the parties unless they agree otherwise in writing.
- (6) The mediation, whether conducted by AAA or another mediator chosen by the parties, shall be in substantial accord with the American Arbitration Association Commercial Mediation Rules, M-1 through M-17. Copies of such rules shall be available at the Alexandria Hack Office.
- (7) The mediator may end the mediation if, in the sole discretion of the mediator, the continuation of the mediation would not be useful.
- (8) The parties in mediation shall use their best efforts to resolve the issues in controversy and the mediator may execute a written settlement agreement if agreed on by the parties but may not impose a settlement on the parties.
- (c) Where neither the internal grievance procedure nor mediation has resolved the issues in dispute, either party may submit the matter to arbitration which shall be binding upon the parties. Such arbitration shall be conducted as follows:
- (1) Within two weeks after the mediation process or the internal grievance procedure has been concluded, the party requesting arbitration shall submit a written notice of intent to arbitrate to all parties.
- (2) Within two weeks after such notice has been submitted, an impartial person to arbitrate the dispute shall be agreed upon by the parties, or, if the parties do not so agree, the party requesting arbitration shall submit a written Request for Arbitration to the American Arbitration Association (AAA) and simultaneously mail a copy of the Request for Arbitration to every party to the dispute.
- (3) A Request for Arbitration shall contain a brief statement of the dispute, and the names and addresses and telephone numbers of each party to the dispute.
- (4) The arbitrator shall notify all parties and their representatives, if any, of the time, date and place of the arbitration.
- (5) The costs of the arbitration shall be borne equally by the parties unless they agree otherwise in writing.
- (6) The arbitration, whether conducted by AAA or another arbitrator chosen by the parties, shall be in substantial accord with the American Arbitration Association Commercial Arbitration Rules, R-1 through R-56. Such rules shall be made available to all parties at the Alexandria Hack Office.

(7) The arbitrator may conclude the arbitration hearing if in the sole discretion of the arbitrator, continuation of the hearing would not be useful.

(8) Within two weeks after the arbitration hearing has been concluded, the arbitrator shall render an award in writing, which shall be binding upon the parties and which may be enforced by any court having jurisdiction over the parties.

- (d) For purposes of this section, "dispute" means a disagreement between a person who holds a division 3 permit and the company under whose colors he or she drives over whether an action taken by the company to terminate, suspend or impair such person's license or permission to drive under the company's colors, or to terminate, suspend or impair his or her right to enjoy the resources and benefits provided by the company, on the same basis as other similarly situated company drivers, was reasonable and based upon good cause.

Section 9-12-142 Penalties.

A knowing failure to adhere to the dispute resolution procedures established by this division shall constitute a class four civil violation, pursuant to section 1-1-11 of this code, and may, in addition, constitute grounds for suspension or revocation of a certificate of public convenience and necessity issued under division 2, or driver's permit issued under division 3, of this article.

Section 9-12-143 Regulations.

The city manager may promulgate such regulations as deemed advisable for the administration and enforcement of this division 7.

Section 2. That this ordinance shall become effective on the date and at the time of final passage, and shall apply to every certificate of public convenience and necessity issued under Division 2 of Article A, Chapter 12, Title 9 of the Code of the City of Alexandria, 1981, as amended, and to every driver's permit issued under Division 3 of Article A, Chapter 12, Title 9 of the Code of the City of Alexandria, 1981, as amended, which certificate or permit is in force and effect on the effective date or is issued subsequent to the effective date; and to every person who operates, and to every person who suffers, permits or allows the operation under such person's color scheme, insignia or trade name, of a vehicle subject to Article A, Chapter 12, Title 9 of the Code of the City of Alexandria, 1981, as amended, who operates such a vehicle, or who suffers, permits or allows the operation of such a vehicle under such person's color scheme, insignia or trade name, on the effective date or thereafter.

KERRY J. DONLEY
Mayor

Introduction: 6/10/2003
First Reading: 6/10/2003
Publication: 6/12/03
Public Hearing: 6/14/03
Second Reading: 6/14/03
Final Passage:

City of Alexandria, Virginia

MEMORANDUM

DATE: APRIL 8, 2003

TO: HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

THROUGH: PHILIP SUNDERLAND, CITY MANAGER

FROM: RICHARD J. BAIER, P.E., DIRECTOR
TRANSPORTATION AND ENVIRONMENTAL SERVICES

SUBJECT: TAXICAB INDUSTRY REGULATION

During discussion of the Taxicab Task Force Report and related issues at its February 25 meeting, Council requested additional information be provided by staff including:

1. Updated/expanded statistics on the availability of taxicabs in other jurisdictions and how consideration of day vs. resident populations affect these statistics.
2. Additional information on options to implement a dispute resolution process.
3. Strategies to reduce the number of taxicabs in service.
4. Alternatives to increase enforcement and related cost implications.
5. Ways to increase the supply of ADA accessible cabs.
6. Comments on the AUTO proposal.

This memorandum responds to items two through six. Item one was addressed in a previous memorandum.

Dispute Resolution Process

The Taxicab Task Force, the Traffic and Parking Board and staff have recommended establishing an alternative dispute resolution (ADR) process in the local taxicab industry. The purpose of an ADR process would be to provide a fair and impartial mechanism for settling certain disputes between drivers and the companies. The taxicab industry is somewhat unique in that the majority of its workers, the drivers, act as independent contractors. As a result, they have little leverage with the companies when it comes to the termination of contracts, the charging of stand dues or their disciplining of drivers. Although there were no specific cases cited at the Task Force meetings, general issues were raised and some drivers do complain about arbitrary company action.

Staff has recommended that in order for the dispute resolution process to be fair and impartial, the City should be further removed from the process. If the City were involved, it could be

perceived as being biased. The executive branch of government typically is not involved in contractual disputes between contractors and contracting agencies in other regulated industries such as cable TV or electric utilities. Contractual disputes are private matters and beyond the role of executive government. In addition, staff does not have the expertise or resources to mediate disputes.

Staff suggests the dispute resolution process be established in the City Code, as the City Attorney has advised is permitted. All companies holding a certificate of public convenience and necessity and all drivers holding a taxicab driver's permit would be obligated to participate in the ADR process.

The ADR process should include three steps. The first would be an internal grievance process, and the second and third would define the type of dispute that is subject to its provisions, and should be administered by an impartial third party.

The first step of the process would require the driver to submit a complaint in writing to the company. The company would then appoint a member of its management, who has not been involved in the particular dispute, to conduct an informal hearing and render a written decision. If the matter is not resolved to the satisfaction of the driver, the driver could elect to move to the second step.

The second step of the process would have the dispute heard by an impartial third party mediator. Here, the parties would try to settle the dispute through mediation before resorting to the third step. Unless the parties agreed otherwise, the mediation would be administered by the American Arbitration Association under its Commercial Mediation Rules. If the dispute is not resolved through mediation and settlement, then the matter could proceed to arbitration or litigation.

As to the expenses of mediation, the American Arbitration Association Commercial Mediation Rules state the following:

"The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the mediation, including required traveling and other expenses of the mediator and representatives of the AAA, and the expenses of any witness and the cost of any proofs or expert advice produced at the direct request of the mediator, shall be borne equally by both parties unless they agree otherwise."

The third step of the process would have the dispute heard by an impartial third party arbitrator whose decision, following a hearing, would be binding on the parties.

The necessary changes to the Code implementing this ADR process would need to be written in such a way to afford the same protection to taxicab owner/drivers and drivers who lease a cab from an individual. In Alexandria there are individuals who own a single cab or a small fleet of taxicabs that operate under the colors of an established cab company. These cab owners then lease their cabs to other drivers. The Code would need to be modified in such a way to accommodate disputes between cab owners and drivers leasing their cabs.

As discussed at the Task Force meeting in January and February, 2002, dispute resolution is not new to the Alexandria taxicab industry. Several companies already have language in their contracts with drivers to provide this process. For example, Diamond Cab's Independent Contractor Agreement has the following clause:

"MEDIATION AND ARBITRATION. *Any dispute, controversy or claim arising out of or relating to this contract, or breach thereof, as well as non-contractual claims will be submitted to mediation administered by the American Arbitration Association under its Commercial Mediation Rules, if both parties mutually agree. If, and to the extent that, any such dispute controversy or claim has not been settled through mediation, it will, upon the filing of a Request for Arbitration by either party, be referred to and finally determined by arbitration from the American Arbitration Association under its Commercial Arbitration Rules. The dispute, controversy or claim referred to arbitration will be decided in accordance with the laws of the Commonwealth of Virginia. The arbitrator's decision will be final and binding and judgment may be entered thereon. In the event a party fails to proceed with arbitration, unsuccessfully challenges the arbitrator's award, or fails to comply with the arbitrator's award, the other party is entitled to the costs of the suite including a reasonable attorney's fee for having to compel arbitration or defend or enforce the award."*

Reducing the Number of Taxicabs

Today, up to 645 taxicabs are permitted to operate in the City of Alexandria. These operate under the combined authority of 38 Certificates of Public Convenience and Necessity (certificates). Six of these certificates, each permitting operation of a specified maximum number of taxicabs, are issued to the six companies currently operating in the City. The City issues an individual "certificate card" for each taxicab that is authorized by these six certificates. In addition, there are 32 certificates issued to individual taxicab owners. These certificates were grandfathered in 1982 when the City began issuing certificates to the taxicab companies rather than individual taxicab owners. Under the current Code, grandfathered certificates are required to be affiliated with an authorized taxicab company and, generally, must be returned to the City if the holder transfers to another company or leaves the Alexandria taxicab industry. The 645 taxicabs currently authorized to operate in Alexandria are distributed as follows:

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|---------------------|-----|
| Yellow Cab | 212 |
| Diamond Cab | 156 |
| White Top Cab | 116 |
| VIP Cab | 58 |
| King Cab | 57 |
| Columbus Cab | 46 |

Available information indicates that Alexandria has an excess supply of taxicabs currently in operation. (See March 31, 2003, memorandum regarding availability of taxicabs in other jurisdictions.) Strategies that could be used individually or in combination to reduce the number of taxicabs in service include:

1. Across-the-board reduction in the number of authorized taxicabs;
2. Adjustment of the authorized number of taxicabs during the annual survey of economic conditions of the taxicab industry; and
3. Partial suspension of certificate card transfers to replacement taxicab vehicles.

The first two of these alternatives were presented in the December 23, 2003, Taxicab Task Force Report and the January 24, 2003, staff report to Council, and are not further addressed in this memorandum.

An additional strategy to reduce the number of taxicabs in service is to suspend, for some period of time, the transfer of certificate cards to replacement vehicles as taxicabs are retired from service. Annual turnover due to vehicle replacement is estimated to be 10 to 12 percent of the current taxicab fleet. A certificate card transfer policy permitting reassignment only to replacement vehicles in excess of a five to ten percent annual reduction target would reduce the operating taxicab fleet by 25 percent (approximately 160 vehicles) over a period of three to six years. This approach to reducing the operating taxicab fleet could be modified to encourage acquisition of ADA accessible vehicles by permitting a higher replacement rate if the replacement units meet ADA accessibility criteria. Fixed vehicle age and mileage service limits (discussed below) should be established if this taxicab reduction strategy is adopted in order to avoid overextension of vehicle service lives.

Regulation and Enforcement

City code currently contains a range of regulations that form a basis for enforcement of taxicab operations. Primary among these are:

1. Provision of Taxicab Service
 - a. Certificate of Public Convenience and Necessity
 - b. Hack License
2. Passenger Fares and Charges
3. Driver Manifests
4. Adequate Public Service
 - a. 24-hour service
 - b. Radio dispatch
 - c. Local business office
 - d. Minimum fleet of 10 taxicabs
5. Vehicle Equipment and Condition

Code regulations pertaining to the provision of service and passenger fares (Nos. 1 and 2) are being closely enforced. One aspect of these regulations that could be more effectively applied is the annual survey of economic conditions in the taxicab industry, and the related opportunity to adjust the number of authorized taxicabs operating in the City. Due to a lack of detailed information on the local industry's operations and performance, it has been necessary to base decisions on the number of taxicabs on more generalized information sources. With renewed enforcement of the requirement to maintain driver manifests (discussed below), this information deficit can be readily eliminated.

A significant shortcoming in current enforcement concerns the requirement that drivers maintain and submit daily service manifests to the taxicab owners. For a number of reasons, enforcement of this code provision has substantially ceased. These manifests, if available, would provide a range of information and data that would allow the City to more closely monitor the operation and economic condition of the local taxicab industry. Resuming enforcement of this requirement to obtain meaningful information would necessitate increased field enforcement to ensure manifests are properly and accurately maintained, and additional staff effort to extract and analyze the pertinent economic data and performance statistics. With some support from the Police Department's Traffic Unit, the Hack Office feels adequate field enforcement can initially be provided with no increase in personnel. However, the effort required to manage and analyze information provided by the daily manifests will require additional staff resources; enforcement staffing may require adjustment in the longer term. With the information that can be obtained from accurately maintained manifests, the City will be better equipped to understand and effectively regulate the local taxicab industry, and to determine the proper number of taxicabs that should be operating in the City.

The adoption of age and mileage limits for taxicab vehicles could improve public service and better utilize available enforcement resources. Currently, the City Code does not limit the maximum age or mileage of taxicab vehicles, relying on the findings of semi-annual inspections by City staff and annual state inspections to determine when a taxicab vehicle must be replaced. In contrast, many jurisdictions have imposed age and mileage limits on taxicab vehicles. In Montgomery County, taxicab vehicles must be retired after six model years or 200,000 miles of service, whichever comes first (one additional year of service can be administratively permitted). In Arlington County, any taxicab seven model years old or with 350,000 miles must be retired. A similar limit in Alexandria would permit inspections by City staff to be conducted on an annual, rather than semi-annual basis, which would allow staff time to be redirected to other enforcement activities each year. In addition, age and mileage limits would help facilitate development of an ADA accessible fleet and/or provide for an orderly reduction in the number of authorized taxicabs, as noted elsewhere in this memorandum.

ADA Accessible Taxicabs

Several communities in the Metropolitan Washington area that are served by taxicabs that are accessible to the disabled. It is worthwhile to note how these vehicles came into service in these communities. The experiences of Arlington and Montgomery Counties are instructive.

In Arlington County, the taxicab industry consists of 655 taxicabs operated by five companies. The companies hold all taxicab certificates, and it is estimated that companies own 80% to 90% of the taxicab vehicles. A few years ago, taxicab operators asked the County to issue more certificates. The County recognized that there was a demand for accessible vehicles, both by those using the County's STAR system for people with disabilities and by others. The County decided to issue additional certificates with the requirement that some of the new cabs were accessible. As a consequence, two operators added accessible taxicabs to their fleets, with 20 being operated by one operator and five by another. The vehicles initially employed were used minivans converted to taxicab service. These converted vehicles have not proven to be reliable in service.¹

In Montgomery County, the taxicab industry consists of 580 taxicabs operated by four companies, with all licenses held by the companies. The companies own approximately 75% of the cabs and 25% are owned by drivers. In 1989, the County was asked to issue additional licenses to cab operators. In doing so, the County instituted a policy requiring that 20% of any new cab licenses granted by the County had to be for accessible vehicles. While a few operators had accessible vehicles when this was instituted, this policy has been largely responsible for the 66 accessible taxicabs now operating in Montgomery County.

Alexandria's DOT program provided over 13,000 trips on accessible vehicles between March 2002 and February 2003. Clearly, therefore, there is a demand for accessible for-hire vehicle service. This is especially the case for travel on short notice when 24-hour advance reservation as required by DOT is not possible and during periods when DOT service may be unavailable.

If the City wishes to encourage Alexandria-based cab companies to provide ADA accessible vehicles, it should consider several issues. The City has a large number of taxicabs, which are almost entirely owned by individual owner/drivers. Also, the City does not limit the age or mileage of taxicab vehicles. As the City considers reducing the number of taxicabs in service, it could allow a smaller reduction if the non-retired vehicles were ADA accessible.

Possibly the largest impediment to implementing accessible taxicab requirements is the cost differential between Alexandria's existing taxicabs, which can be around \$5,000 for a used taxicab, and accessible units, which are almost \$38,000 for a new minivan. Some type of financial incentive is probably necessary to encourage this additional investment, either offered

¹ Shortly after minivans became popular highway vehicles, it was discovered that they were ideal vehicles for conversion into accessible taxicabs. These vehicles could be modified to provide handicap access from either the back or the side of the vehicle, and could simultaneously transport both people in wheelchairs and other customers, thus permitting mixed-use service. These accessible vehicles can carry three to four ambulatory customers and one to two people in wheelchairs. The cost of these vehicles varies considerably, with new units costing approximately \$38,000, and units built on a used chassis costing approximately \$25,000. The service record with used converted vehicles has not been particularly good.

by the taxicab companies in order to increase fleet size, or the City in order to encourage the acquisition of accessible minivans for taxi service.

Staff recommends that Council endorse the concept of providing a reasonable level of ADA accessible vehicles in the City-wide taxicab fleet and instruct staff to submit a specific implementation plan that is consistent with the disposition of currently pending regulatory changes.

AUTO Proposal

The Alexandria United Taxi-drivers Organization (AUTO) submitted a position paper to Council responding to the options for changes in taxicab industry regulations that were developed by Taxicab Task Force and offering an alternative proposal for owner-operator control of the certificates issued by the City. The number of drivers represented by AUTO is not specified in this document, nor has any information on the size or composition of this group been received by staff. However, the position paper notes that it was "written collectively by twenty-five leaders chosen by the drivers."

AUTO proposes that (1) certificates be issued to individual taxicab owner-operators, (2) some companies be permitted to operate without dispatch service, (3) a two-tier system not be instituted, and (4) a certificate recall not be undertaken. With the exception of the first of these four items, no discussion or supporting arguments are offered. Therefore, no staff comments can be provided beyond those previously submitted to Council.

AUTO proposes that certificates remain the property of the City, but be assigned to individual owner-operators as follows:

Certificates remain the property of the City, but every certificate currently in use be assigned to the owner-operator of the cab to which it is currently assigned.

- A. *Going forward, control of the certificate will be assigned to the owner-operator of the cab.*
- B. *The owner-operator of the cab must affiliate with a company or coop. If the owner-operator changes his/her affiliation to a different company, the owner-operator takes the certificate with him/her.*
- C. *In order to obtain the certificate, the owner-operator must show (in his/her name), the following: (1) Hack license; (2) Cab registration and Virginia Authority Insurance Registration Card; and (3) Evidence of driving (manifests).*
- D. *One certificate per person. Those who currently own more than one cab will be grandfathered. For those who currently own more than one cab, as each of the additional cabs is sold, the certificate will be assigned to the new owner-operator, one per owner-operator.*
- E. *The certificate can be transferred with the cab when the cab is sold, and to the new cab when a cab is replaced.*
- F. *The number of certificates will be limited to 647.*

With regard to this proposal, staff offers the following comments:

1. AUTO offers no indication of the public interest benefits that would result from adoption of this regulatory change. Lacking reasonable expectation that the public would be better served under this proposal, staff cannot support it.
2. The proposal offers no mechanism to ensure a reasonable level of industry stability, which is a matter of public interest. The proposal permits "at will" transfer of drivers among companies and/or coops which could lead to service disruptions; indeed, it could result in a cab company, at one time, losing all its drivers and its ability to replace those drivers (since it would no longer have any certificates). Staff believes the public interest would not be served by the frequent changes in certificate-holding drivers' affiliations with taxi companies.
3. The proposal provides for automatic transfer of certificates when taxicabs are sold or replaced. This would move the City into a medallion system since certificates would be bought and sold on a "certificate market." Staff opposes this.
4. A fixed number of certificates are established by the proposal. With this, the City would lose the ability to periodically review and adjust the number of authorized taxicabs. Maintaining reasonable balance between service demand and taxicab supply is clearly in the public interest.

The preceding comments are based on AUTO's proposal as submitted to Council in February, 2003. Staff understands that AUTO's proposal may be modified. However, no additional information has been received.

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