

# City of Alexandria, Virginia

## MEMORANDUM

DATE: May 12, 2005

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: COUNCILMAN ROB KRUPICKA  
COUNCILMAN LUDWIG GAINES

SUBJECT: REGULATION OF THE ALEXANDRIA TAXICAB INDUSTRY

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**ISSUE:** City Council consideration of an ordinance revising regulations for the Alexandria taxicab industry.

**RECOMMENDATION:** That City Council:

- (1) Receive this report and the public testimony at the public hearing on May 14 regarding the proposed ordinance revising the City's taxicab regulations;
- (2) Provide direction to staff as to changes to be incorporated in the final draft of this ordinance prior to adoption; and
- (3) Schedule the ordinance for final passage at Council's June 14 legislative meeting.

**BACKGROUND:** On January 25, 2005, Council received a framework proposal for revising Alexandria's taxicab regulations. At that time, Council identified a number of desired changes in the proposed plan, and directed the City Attorney and staff to prepare amendments to the City Code implementing the proposed framework. A draft ordinance implementing the proposed framework was prepared and distributed to the taxicab industry and stakeholder groups for comment, and a revised ordinance was introduced to Council on April 12, 2005. Since that time, Council members and staff have continued working with the taxicab industry and stakeholders to resolve outstanding issues and concerns. This continuing discussion has produced additional comments and recommendations for revision of the proposed ordinance (Attachment 1). Based on these additional comments and recommendations, staff is proposing additional revisions to the draft ordinance as specified in Attachment 2 to this memorandum. On Saturday, May 14, 2005, Council will conduct a public hearing on the proposed ordinance and provide direction to the City Attorney and staff as to changes to be incorporated in the proposed ordinance prior to adoption.

**DISCUSSION:** While continuing discussions with several industry and stakeholder groups has resolved several outstanding issues with the proposed ordinance, complete consensus has not been reached. Several key issues remain for Council consideration and determination, including:

- (1) The percentage of owners (drivers) that may have the authorizations under which they are operating transferred to another company each year;
- (2) The annual process by which owner transfer requests are approved; and
- (3) The inclusion of a dispute resolution process as a regulatory requirement.

### **Transfers of Taxicab Owners (Drivers) and Operating Authorities**

The question of what percentage of owners (drivers) may transfer the authorization under which they operate to another company each year is perhaps the most controversial matter to be determined. Considerations relative to this issue include driver mobility, improved dispatch service, ease of starting new companies and industry stability. It is noted that this annual transfer opportunity is in addition to any transfers that may take place during the year based on the availability of unassigned authorizations. The current process by which owners and drivers may change company affiliation remains in place, accommodating an estimated 12 percent annual transfer rate.

Industry positions on this issue range between two percent (taxicab companies) and 20 or more percent (taxicab owners/drivers).

As proposed, the ordinance limits the net loss of authorizations for any company that may result from driver transfers to 10 percent of its total authorizations at the time (Section 9-12-31(c)(1)). The ordinance further provides that in years when a new company is authorized, this limit is increased by an additional five percent (Section 9-12-31(c)(3)). Based on dispatch service requirements and actual performance, maximum and minimum company sizes are to be established on a company-by-company basis that may reduce the maximum net loss for a company that is providing exemplary dispatch service, thus also reducing the overall industry mobility level to less than 10 percent.

Council direction is needed as to the specific goal(s) of the annual owner/driver transfer process. Staff recommends this be set initially as ten percent mobility industry-wide with an additional five percent in the event a new company has been authorized, combined with City Manager authority to revise this goal after two years experience based on a determination that industry conditions at the time justify such change.

### **The Process by Which Transfers are Approved**

The process for approving owner/driver transfer requests has differing effects on the taxicab industry. The proposed ordinance defines a “min/max” process by which the maximum net loss of authorizations for each company is reduced as it provides increased dispatch service within the City. This process was proposed as a means to encourage companies to improve their dispatch capability and service.

The proposed min/max process and an alternative “across the board” process were illustrated in the April 12 docket memorandum accompanying the proposed ordinance. Council direction is requested as to the preferred process to be included in the final ordinance. As a means to

encourage greater competition and improve dispatch service to the City, staff recommends that the proposed “min/max” process be implemented in combination with an industry-wide driver mobility goal as previously discussed.

### **Dispute Resolution Requirements**

The proposed ordinance requires that companies provide a dispute resolution process to resolve differences with their affiliated drivers (Section 9-12-32(h)) and defines a specific process for industry-wide use (Sections 9-12-141 through 144) based on guidelines of the American Arbitration Association. Considerations relative to this issue include fair resolution of differences between companies and drivers arising from their individual business relationships and reducing the city’s regulatory burden.

Ideally, dispute resolution would be a matter left entirely to the companies and drivers. However, experience indicates that not all companies currently provide a dispute resolution process in their contracts with drivers, and practices vary significantly among those who do. Moreover, many company / driver affiliations are not based on written contracts, thus resulting in even greater disparity in practices.

Council direction is needed as to both the requirement that all companies provide a dispute resolution process and the process defined in the proposed ordinance. Staff recommends that the requirement for a dispute resolution process (Section 9-12-32(h)) be revised to specify guidelines to which the company-provided process must conform and to require that companies provide affiliated owner/drivers with a written statement of the adopted company process and file a copy of their adopted process with the City for informational purposes. Staff further recommends that the dispute resolution process specified in Sections 9-12-141 through 144 be deleted from the ordinance.

### **Other Outstanding Issues**

In addition to the issues discussed above, other concerns may arise during the public hearing and discussion of the proposed ordinance. To the extent staff is aware of these concerns, we believe they are adequately addressed in the ordinance revisions proposed identified in Attachment 2. However, concerns that may be presented to Council include the following:

- (1) Penalties for taxicab code violations and due process related to appeals;
- (2) Confidentiality of information and requests submitted to the City;
- (3) Submission of data and information to the City; and
- (4) Posting and filing of company stand dues and disciplinary rules.

Staff will be available at the public hearing to discuss these and other concerns as they may arise.

**Conclusion**

We believe that following receipt of Council direction as requested, the proposed ordinance is ready for final revisions prior to adoption. As directed by Council, staff is prepared to incorporate any necessary revisions and return this ordinance to Council for final adoption.

**FISCAL IMPACT:** The revised regulations will require at least one new Hack Inspector and a clerical employee, as well as automating record keeping in the Hack Inspector's Office, the costs of which are to be offset by industry fees and charges.

**ATTACHMENTS:**

1. Additional Comments and Responses on Proposed Taxicab Ordinance
2. Staff Recommendations Regarding Revisions Based Upon Council and Industry Comments

**STAFF:**

Ignacio Pessoa, City Attorney

Christopher Spera, Assistant City Attorney

Richard J. Baier, P.E., Director, Transportation & Environmental Services

Thomas H. Culpepper, P.E., Deputy Director, Transportation & Environmental Services

**Additional Comments and Responses**  
**on Proposed Taxicab Ordinance**

(Revised Draft Ordinance as Submitted to Council on April 12, 2005)

**Sec. 9-12-1**

**Alexandria Yellow Cab (AYC)**

*Note: AYC distinguished their most significant comments with a double asterisk.*

**\*\* Definitions.** We appreciate the addition of a definition of “dispatch service,” but recommend that it be strengthened as follows:

Dispatch service. The provision of taxicab service in which 1) customer requests are received by a Taxicab Company at a central facility by telephone, in person, or other means, 2) such requests are communicated to drivers by two-way radio, or other data communication service with equivalent functionality, 3) customers are served by that Taxicab Company or some other Taxicab Company within standards set by regulations, and 4) dispatch information is reasonably reliable and verifiable.

I want to reiterate that if there is to be enforcement and integrity in the new system, then the call volume and response times must be supported by accurate, verifiable information capable of being cross-referenced to driver manifest information.

If there is a communication of a customer request, but no drivers actually serves the customer, then you do NOT have a dispatch service. Also, just saying, “I provide dispatch” does NOT mean that you actually have a dispatch service. If good dispatch information is not required, and we recommend making it a part of the definition, then we are likely to end up exactly where we have been for the past 20 years with a number of companies simply being “airport” companies.

Furthermore, the information will have to be actually collected and analyzed by staff on a periodic basis. If it isn't, then the quality of information and the quality of dispatch service will deteriorate if companies and/or drivers do not believe it is being reviewed seriously.

*Response: Performance and data reporting requirements for a taxicab company should be expressly set forth as requirements, not embedded in the definition. Interestingly, AYC does not qualify as a “dispatch company” under AYC’s proposed definition since there are customers who request service but are not picked up.*

**Section 9-12-1(1)**

**Council Member Woodson** (Initial draft - page 1 of 44, line 7; Revised draft - page 1 of 46, line 7)

*Note: Council Member Woodson provided comments based on initial draft ordinance and included page and line references. References have been added based on revised ordinance submitted to Council on April 12, 2005.*

Recommend an ad hoc subcommittee of taxi drivers and company owners.

*Response: It would be difficult to assign regulatory authority to an ad hoc group.*

**Sec. 9-12-1(3)**

**Council Member Woodson** (page 1 of 44, line 12; page 1 of 46, line 12)

Some drivers also hold certificates.

*Response: This is correct, although the number of grandfathered certificates is steadily declining. Appropriate changes will be made to reflect grandfathered certificates.*

**Section 9-12-22(b)(10)**

**Council Member Woodson** (page 6 of 44, line 4; page 6 of 46, line 4)

Should be modified to include any and all ownership interest including management interest, board of directorships, any legal control, even minority interest in another cab company anywhere, not just in Alexandria.

*Response: This is a reasonable suggestion that ownership interests in any taxicab company should be disclosed by all principals of an applicant for a certificate of public convenience and necessity. Appropriate changes will be made to include this disclosure requirement.*

**Section 9-12-22(e)**

**Alexandria Yellow Cab (AYC)**

**\*\* [NEW]** There needs to be a provision grandfathering the existing cab companies so they are not required to file an initial application for a certificate of public convenience.

*Response: Current companies would be subject to the annual review and certificate renewal process but, as they currently have a certificate of public convenience, they are not subject to 9-12-22. For clarity, we have chosen to avoid using the term "grandfather."*

**Section 9-12-25(a)**

**Council Member Woodson** (page 7 of 44, line 5; page 7 of 46, line 5-6)

Everything after company should be stricken or modified by the following: and/or the authorization of additional taxicabs. A new company doesn't necessarily mean more cabs. This change should be made wherever this language appears in the document (at least four on page 7 an one on page 8.)

*Response: An application may include a request for authorization of additional cabs. Language will be clarified to indicate "any additional taxicabs that are requested."*

**Section 9-12-25(b)**

**Alexandria Yellow Cab (AYC)**

(last sentence). "No application shall be considered completed . . ."

*Response: Editorial correction.*

**Section 9-12-25(d)(5)**

**Council Member Woodson** (page 7 of 44, line 29, page 8 of 46, line 1)

The adequacy of existing companies is irrelevant to competition. We should not be in the business of restricting competition, just monopolies.

*Response: Adequacy of existing companies is only one consideration in making the determination regarding a new company's application. This section does not, however, condition approval on a finding that existing companies are not adequate. Virginia Code Section 46.2-2067(B) specifically allows a municipality to limit the number of cabs authorized to operate within its boundaries; in interest of both citizens and drivers to find optimum number to allow quality service and reasonable competition but not over-saturate the market and reduce service and driver's income. Public utilities are classic examples of economies of scale – only one power company, one water company, etc. Taxicab structure is an analogous situation, although more competition is allowed than with a traditional utility. The municipality's duty is to be sure that necessary restrictions on competition are enacted in interests of citizens and applied evenly.*

**Section 9-12-25(d)(6)**

**Council Member Woodson** (page 7 of 44, line 31, page 8 of 46, line 3)

How will the probability of permanence and quality be determined?

*Response: Based on the previous experience of the applicant, financial viability and other information presented in the application, and the experience of staff and the board. For example, an applicant could offer to provide a level of service that appeared to be high quality on its face, but if the proposed level of service was not sustainable based on projected revenue, this should be considered.*

**Section 9-12-29(a)**

**Council Member Woodson** (Ordinance Table p. 1 of 2, 5<sup>th</sup> box; N/A, N/A)

Note: Council Member Woodson's comments were based on the initial review draft of the ordinance and referenced to page and line number. Page and line references have been added based on the revised ordinance submitted to Council on April 11.

**How can companies merge if certificates are not transferable?**

*Response: Certificates cannot be transferred from one holder directly to another. Certificates being merged would return their individual certificates to the City and a new certificate would be issued to the merged company.*

**Section 9-12-29(b)**

**Council Member Woodson** (page 10 of 44, lines 6-12, page 10 of 46, lines 14-20)

Drivers should have the right to move and not be sold as though they were employees unless their contract with their company of record specifically allows for this transfer of service upon company sale.

*Response: Drivers' ability to transfer is addressed in later provisions of the proposed ordinance. If they desire to change affiliation due to a purchase or merger, those provisions should adequately address their ability to do so. We could add to this section that the limitations on the number of drivers per year that can transfer affiliation set forth in 9-12-30(b)(2) can be waived in the event of a sale or merger, or develop another, more liberal ability to transfer in the event of a sale or merger.*



**Section 9-12-29(b)(2)**

**AUTO/TWSC** (Alexandria United Taxi Operators/Tenant and Workers Support Committee)

Comment: Subsection (b)(2) outlines the factors the city manager will consider in determining whether the merger or transfer is in the public interest. There is no mention of the impact the merger will have on the number of taxicabs.

Recommendation/Question: Language should be added stating that in determining whether or not a merger or transfer is in the public interest, the city manager will investigate the company(s) plans for increasing, reducing or maintaining the number of taxicabs. If the merged or combined company proposes to reduce the number of taxicabs, then the plan must also include the extent to which drivers will transfer affiliation to other companies.

*Response: This is likely to be a very rare situation; however, as part of the merger request review, any proposed reduction in the total number of affiliated cabs will be known. The City can make a determination at that time regarding the disposition of any authorizations that are not to be carried into the merged company. If any such authorizations are not vacant, the owners then operating under those authorizations would be permitted to request a transfer to another company.*

**Section 9-12-29(b)(3)**

**Council Member Woodson** (page 10 of 44, line 21, page 10 of 46, line 29)

Why is the number 40 percent for merger but 50 percent otherwise (see page 14 of 44, line 28.)

*Response: The lower limit (40 percent) applies only at the time of merger and is to provide incentive for growth by attracting additional drivers. Immediately following merger, only the 50 percent limit would be applicable.*

**Section 9-12-30(a)**

**Council Member Woodson** (page 10 of 44, line 28+, page 11 of 46, line 7+)

I recommend that we do away with specific numbers on taxi certificates and allow that any company can grow to either 40 or 50 percent. Any other standard is artificial, subjective and possibly pejorative.

*Response: Section 9-12-30 protects drivers who primarily serve dispatch calls and customers who call for a cab. Drivers are protected from the company accepting a large number of drivers from other companies that their call volumes are diluted and they cannot make a decent living. Customers are protected from a situation arising in which the company they call lacks sufficient cabs to serve dispatch calls. Proposed revisions allow the number of cabs authorized for any company to grow up to the specified limit; however, the rate of growth is limited by the transfer process.*

**Section 9-12-30(a)**

**Council Member Woodson** (page 11 of 44, line 5, page 11 of 46, line 14)

See above.

*Response: This allows an existing certificate holder to request an increase the total number of taxicabs that are authorized, as can be done under an application for a new company.*

**Section 9-12-30(a)(2)**

**Council Member Woodson** (Ordinance Table p. 1 of 2, last box; N/A, N/A)

Does the 10 percent exclude or include the current 12 percent movement?

*Response: The 10 percent is in addition to the normal level of movement within the industry. The existing process by which owners can change companies is unchanged. The additional 10 percent mobility includes reassignment of the authorization under which the owner is operating to the new company.*

**Section 9-12-30(a)(2)**

**Council Member Woodson** (page 11 of 44, line 11, page 11 of 46, line 20)

Again, does this include the 12 percent acknowledged current movement?

*Response: This is in addition to transfers that may be made during the year as currently permitted.*

**Alexandria Yellow Cab (AYC)**

**\*\* We remain opposed to 10% of the drivers from a company being eligible to transfer each year as part of the annual review. Because the certificates will follow the driver in this situation, this high a percentage will create instability for companies, especially the smaller companies; and it will discourage investment in equipment and personnel for dispatch services. While we do not support any number being permitted to move, we believe that much of the adverse impact can be avoided if no more than 2% are permitted to transfer with their certificates each year.**

Although staff has opined that all companies, even the smaller ones, now have the equipment and personnel to provide dispatch, we do not believe that is the case. Without appropriate equipment, there is simply no way to verify whether a company is providing dispatch or not; and dispatch services cannot be managed without a significant increase in personnel, which we have no basis for believing has occurred; and dispatch service cannot be generated without significant advertising or marketing, which we also have no basis for believing has occurred.

There should be an explicit requirement that, for a driver to be eligible for a transfer under this section, the driver must have met the service requirements of 9-12-57(o) and the receiving

company must have met the requirements of 9-12-32(c). As noted in our earlier comment, if a higher percentage (5% or 10%) is eligible to transfer, then you could mitigate the problems discussed above if you increase the number of dispatch trips for each driver and receiving company accordingly. In other words, if 5% are eligible to move, then to be eligible, a driver should be required to have averaged 3 dispatch calls per day; and the new company should be required to have averaged 3 dispatch calls per day per driver. If 10% are eligible to move, then the driver should have to have averaged 5 or 6 calls per day, and the new company should have to have averaged 5 or 6 calls per day per driver.

To repeat what has been said earlier, for any of this to be meaningful, the City will need to consistently obtain and analyze the required data from drivers and companies; and it will have to vigorously enforce the rules.

Note that the application date for a transfer should be changed from November 15 to September 1, in order to be considered by the Board in the annual review as provided in Section 9-12-31(a).

*Response: Staff cannot resolve the issue of what percentage of any company's drivers will be allowed to transfer annually. Clearly, no consensus has been reached on this issue. Council must determine the appropriate limit, if any. To support the case that the percentage should be less than 10%, it would be helpful if AYC offered evidence of how the higher number creates instability. In fact, the proposed min/max calculation ensures each company of enough cabs to serve dispatch calls so that transfers of drivers would not affect their ability to service dispatch.*

*Regarding the transfer date change, the Board is not considering individual owner applications to change affiliation, and thus, the transfer request date does not need to be changed.*

### **Section 9-12-30(a)(3)**

**Council Member Woodson** (page 11 of 44, line 16, page 11 of 46, sine 28)

See above: eliminate language regarding the total number of taxicabs among certificate holders.

*Response: This provision, included in the initial draft, has been deleted.*

### **Section 9-12-30(d)**

**Council Member Woodson** (page 11 of 44, line 28+, page 12 of 46, line 10+)

Eliminate sub-paragraph (d)

*Response: Certificates are renewed annually in the proposed process.*

### **Section 9-12-31(b)**

**Alexandria Yellow Cab (AYC)**

\*\* After this subsection, add the following: "(bb) Service information required to be submitted by drivers pursuant to 9-12-57 (o) shall be considered by the Board and the city manager as part

of the review.” Not only is this necessary to balance the required consideration of company performance, but it is also crucial in addressing one of the most basic problems in the industry – getting drivers to do dispatch, especially the short trips.

*Response: Drivers are required to follow company policies regarding dispatch and companies should be enforcing these policies. Companies should be given the latitude to meet dispatch requirements in the way that works best for the company and its drivers. The City should not micromanage. AYC seems to want to make driver compliance with company policies the City’s issue.*

### **Section 9-12-31(c)**

#### **Alexandria Yellow Cab (AYC)**

\*\* The staff needs to give an example using a real company with actual dispatch information to show how the formula will work out in practice.

*Response: Examples previously provided clearly show how the formula will work. What the actual number of vehicles and trips per company will be 18 months hence is not known. The example requested would be speculative.*

### **Section 9-12-31(c)(4)**

**Council Member Woodson** (page 12 of 44, lines 21-23, page 13 of 46, lines 22-23)

This sub paragraph illustrates why movement between companies is necessary. If an annual review indicates that a company is performing poorly, drivers are still limited to a restricted number of transfers by code and forced to remain with a poorly performing company. Notwithstanding the need to eliminate specific numbers of cabs per certificate to anything other than the restriction of 40 or 50 percent, this is still a mobility problem.

*Response: This provision, included in the initial draft, has been deleted and replaced by an alternative process. Unfettered movement would produce potential for monopoly, inconsistency in service, confusion among the public and a difficult regulatory environment for the City. Under the proposed process, poorly performing companies are likely to have their operating authority reduced in the annual review process, while better companies gain increased authority, thus allowing additional driver movement.*

### **Section 9-12-31(d)(3)**

#### **Alexandria Yellow Cab (AYC)**

\*\* We are still concerned about the City giving consideration to the ability of drivers to earn a living wage. You simply cannot consider it without requiring income tax and other financial information from drivers; without such information, all discussions will be anecdotal, speculative, rhetorical and largely meaningless. Furthermore, if you require it of drivers, then

there would be greater inclination, on fairness grounds, to require similar information from companies. We are opposed to the City delving into the income and financial affairs of any party for three reasons: 1) It is very intrusive into the business of the company and the drivers; 2) It will be abused by the parties; and 3) The City cannot do these kinds of reviews without a substantial increase in staff. If you are not going to commit the necessary staff and collect full, complete, verifiable information, then the City will just be dabbling in these issues to distraction. The City should focus its attention and resources on the delivery of services to the public, and not on the business operations and financial affairs of the companies and drivers.

*Response: The draft Code provides for collection of the information needed to evaluate the Living Wage issue. It is worth noting that the living wage comparison is just that - a comparison, not an absolute threshold that must be met.*

**Section 9-12-31(i)(1)**

**Council Member Woodson** (page 13 of 44, line 9, page 15 of 46, line 11)

This is not in our legislative purview and should be eliminated. We should not legislate protective rights to exist; companies will/should exist because they are competitive, efficient, and provide a good service not because we legislate protection for their survival.

*Response: While a monopoly scenario would put service quality/cost at risk, unfettered competition would present similar problems. Limiting the number of companies and drivers is a hybrid approach to balance the efficiencies of economies of scale – like with public utilities - and the efficiencies of an open market. Elements of both are desirable, but neither is a perfect fit.*

**Section 9-12-31(i)(2)**

**Council Member Woodson** (page 13 of 44, line 11, page 15 of 46, line 13)

What does this mean?

*Response: This is to include consideration of drivers' issues, such as probable impact on earnings, not just company issues, in the context of a transfer request*

**Section 9-12-31(i)**

**Alexandria Yellow Cab (AYC)**

\*\* Add a new subparts (4) and (5) as follows:

- (4) Whether and to what extent the driver has met service standards required by 9-12-57(o).
- (5) Whether the driver is requesting transfer to a company that provides greater per-driver, per-day dispatch than the current company.”

*Response: Drivers must comply with 9-12-57(o) in order to retain their licenses. Thus, there is nothing to consider in the review of owner applications for transfer. The proposed subpart (5) would serve only to eliminate any possibility that drivers affiliated with AYC would be permitted to transfer.*

**Section 9-12-31(g)**

**Council Member Woodson** (page 13 of 44, lines 21-29, page 14 of 46, lines 14-24)

What about gas surcharge?

*Response: Fuel surcharge is not part of the base fare structure. This surcharge is included in Division 6, Fares.*

**Section 9-12-32(b).**

**Alexandria Yellow Cab (AYC)**

Delete the word "local."

*Response: The word "local" does not appear in this section. Staff believes AYC is requesting this change in order to maintain its current out-of-city dispatch center. In this regard, no change is necessary. The proposed language deals with location of the service that is provided, not the location of the call center.*

**Section 9-12-32(b)(2)**

**Council Member Woodson**

As above references to number of cabs per certificate: language should be changed to eliminate "authorized under the certificate" and replace with "associated or affiliated with certificate holder"

*Response: See previous response.*

**Section 9-12-32(e)**

**Council Member Woodson** (page 14 of 44, line 27, page 16 or 46, line 4)

Ten taxicabs is much too small of a number for efficacy.

*Response: The revised draft increases this to forty (40).*

**Section 9-12-32(h)**

**Alexandria Yellow Cab (AYC)**

**\*\*** Revise to state: ‘Provide an alternative dispute resolution process for disputes between owners and/or drivers of taxicabs and the certificates holders that incorporates, as a minimum, binding arbitration pursuant to the Commercial Arbitration Rules, R-1 through R-56, of the American Arbitration Association.’ In doing this, we recommend deleting Section 9-12-142 et seq. in its entirety, which imposes more process than exist for any other private employer. Staff rejected this recommendation in connection with the previous draft, but we believe our proposed language is more than sufficient to provide some process for resolving disputes. Our concern with the staff language is that the more process there is, the more opportunity there will be to complain of mistakes in process. We understand that staff does not want to mediate individual disputes between drivers and companies, but the way to do that is simply to say, ‘No, you have to go to the other party.’

*Response: This issue cannot be resolved at staff level. While the proposed change may be a reasonable compromise position, it is understood that drivers support inclusion of the more detailed process included in Division 7.*

**Section 9-12-32(i)**

**Council Member Woodson** (page 15 of 44, line 13+, page 16 of 46, line 22+)

Drivers and companies should enter into contracts that would then include, define, and support policies.

*Response: Agreed. This language is intended to require that policies exist and are made known to affiliated owners. It is evident that not all company/owner contracts are written, some are implied.*

**Section 9-12-32(j)**

**Council Member Woodson** (page 15 of 44, line 29, page 16 of 46, line 28)

What does “reasonably withhold” mean? Again, this needs to be included in the contracts between driver and company to be of any value to either.

*Response: Agreed that this would best be included in written contracts. “Unreasonably withhold” means only if a company has good reason for not wanting the new driver to be affiliated with the company. Both the new driver and the company should be agreeable to establishing a business relationship.*

**Alexandria Yellow Cab (AYC)**

\*\* Again, this provision is very important for the rights of owner/drivers to be able to “cash out” their investment in their business (i.e., their vehicles and “book” of personal business) to another owner/driver. This legitimizes the “gray” market that has existed for years. We proposed this provision to staff and fully support it.

*Response: Editorial comment, no response required.*

**Section 9-12-32(k) and (l)**

**Alexandria Yellow Cab (AYC)**

\*\* We do not object to a requirement that owner/drivers be given advance written notice of stand dues changes. We do object to a specified 30-day requirement, as there is absolutely no need for 30 days notice. Any advance notice is sufficient and companies as a matter of course give such notice. If you simply have to legislate the number of days, then make it 5 or 7 days.

We strongly object to the requirement that a reason be stated for increasing the stand dues. There is no legal basis for the City to regulate stand dues and therefore the City should not be starting down that path by requiring that reasons be stated and communicated to the City. A company should not have to have a reason for raising its stand dues. That a company simply wants more money is OK. That is the way a free market works. If a company exceeds what the market will bear, drivers will simply not pay, but will seek to work for another company.

We also object to the requirement that stand dues increases be posted in a conspicuous place in the cab company offices. Our primary objection here is that, within any one cab company, there could be 5 to 10 different rates paid by different drivers depending on various factors (how long driving, how long driving with the company, willingness to pick up the “short trips,” etc.). It would be confusing and create resentment to post each driver’s old and new rate. It also might have the effect of creating stand dues uniformity at the high end, which will adversely affect many drivers. If one driver, for whatever reason, is given a better rate than another driver, there should be no need for the company to publicize it. If drivers want to discuss it with each other, then that is certainly their prerogative.

*Response: Consideration can be given to whether 30 days or a shorter timeframe is appropriate. While staff does not have a strong position on the required posting period, it does believe that drivers are entitled to prior notice of any increases and the reason(s) increases are necessary.*

*The requirement that companies provide a reason for stand due increases will aid the City’s understanding of industry financial condition. AYC does not claim they lack reasons – “making more money” is indeed a reason. It will actually be advantageous to companies to state a reason since in the absence of a reason, drivers and others will inevitably assume that the reason is simply “making more money.”*

*Companies are free to discount the posted stand dues.*



**Section 9-12-32(m)**

**Alexandria Yellow Cab (AYC)**

\*\* We still object to filing the requirements for disciplinary actions against drivers, even for informational purposes. There is no legal basis for intervening in the personnel/worker policies and practices of cab companies. So what is the purpose for requiring the information? Surely, there is enough to do in monitoring the service levels provided by the cab companies and drivers.

*Response: Disciplinary actions have been an issue brought to the City's attention on numerous occasions by drivers. The information is valuable in this context. In addition, although AYC suggests this is simply a mechanism for intervening in the company's policies, this filing requirement was included in the proposed ordinance in part based on AYC's request for assistance in driver discipline. While staff firmly believes this is fundamentally a company responsibility, there are situations in which the City might also need to take disciplinary action. For example, companies should take immediate disciplinary action if a driver were determined to be "quick-flagging" accepted dispatch calls after determining they were "undesirable" fares, such as a DOT or Senior Taxi trip. A documented record of ongoing behavior of this type could be the basis for a suspension or revocation of the driver's hack permit by the City.*

**Section 9-12-32(n)**

**Alexandria Yellow Cab (AYC)**

\*\* The monthly information must be provided monthly and staff must analyze it monthly. If not, the quality of information will deteriorate over time and by the annual review will be worthless, and the City will be back into a situation of non-enforcement.

*Response: Editorial comment, no response required.*

**Section 9-12-32(n) and (o), Section 9-12-33(b)(7)**

**Council Member Woodson (Ordinance Table p. 2 of 2, last box; N/A, N/A)**

What happens to drivers if certificate holder (company) does not comply and does not have the certificate renewed?

*Response: This would depend on specific circumstances. If review finds driver actions did not cause failure to report, they would be permitted to request a transfer of authorization to another company. If driver actions did cause failure to report, they would not be permitted to transfer their authorizations.*

**Section 9-12-32(o).**

**Alexandria Yellow Cab (AYC)**

\*\* We still strongly object to the requirement that companies provide financial statements and tax returns to the City. What is the purpose? The City has no authority to regulate stand dues or the profits of companies, anymore than it can regulate the gross income of a driver. The City can regulate the fares, but not the tips and not the overall gross income of a driver. There is no requirement that owner/drivers provide their financial statements and tax returns. Staff has indicated that this requirement is necessary to regulate fares. We respectfully disagree. The only information needed to evaluate fares is the public's ability and willingness to pay a fare as well as comparative fare information from neighboring jurisdictions.

*Response: Under state code, the City can collect this kind of financial data from any regulated entity. The privacy concern is recognized as legitimate and bears further discussion. Under the Virginia Freedom of Information Act, only certain types of information can be protected from disclosure. Staff proposes to specify by regulation the financial information that is to be filed, limiting this to information directly relevant to its oversight and fare-setting responsibilities.*

**Section 9-12-32(q)**

**AUTO/TWSC**

Comment: Subsection (q) maintains the privacy of financial data submitted by companies to the city manager "shall be kept confidential to the extent possible under the Code of Virginia".

Recommendation/Question: Privacy protections should be given to drivers too; specifically, when drivers apply to transfer and the city thereby has a list of drivers who are interested in transferring, only the names of those who were allowed to transfer should become public. Releasing the names of those who are interested in transferring would open the door to retaliation by present/current employer.

*Response: The City will hold this information confidential to the maximum possible extent; however, it is noted that its ability to do so is limited under the Virginia Freedom of Information Act. The submission deadline for driver transfer requests has been changed from August 1 to November 15 to minimize the time between submission of and action on the transfer requests.*

**Section 9-12-33**

**Alexandria Yellow Cab (AYC)**

\*\* This section, involving revocation or suspension of certificates, still needs to be revised significantly. Most of the "offenses" relate to matters entirely within the control of owner/drivers, but it is companies that will be penalized. See subsections (b)(1-6), all of which relate to owner/drivers. The staff added language about a company's failure to "manage and operate the company" so as to avoid some driver problem. We are concerned that, at some point,

all this additional “management” is going to cause drivers to be more like “employees,” not independent contractors.

*Response: A city ordinance cannot turn an independent contractor into an employee. At the end of the day, the City is entitled to look to the taxicab companies to be responsible for their drivers, regardless of how they are characterized.*

**Section 9-12-33(b)**

**Council Member Woodson** (page 17 of 44, line 10, page 18 of 46, lines 22-28)

**Is the numbering correct here? We already have an item (b) for Sec 9-12-33.**

*Response: This numbering will be corrected.*

**Section 9-12-33(g)**

**Council Member Woodson** (page 17 of 44, line 25+, page 19 of 46, lines 7-11)

**We need a hold harmless clause to protect drivers. The drivers should not bear the burden of waiting for disposition following their company’s certificate revocation.**

*Response: The draft ordinance has been revised to address this issue. A decision will be made as to the disposition of the company’s authorizations at least 21 days before revocation.*

**Sec 9-12-34**

**Council Member Woodson** (page 18 of 44, line 12, page 19 of 46, line 29)

We need a process for extended leaves of absence to avoid automatic revocation.

*Response: An owner needing an extended leave of absence should arrange, with company concurrence, for a substitute operator. Otherwise, the taxicab is not providing the public service for which it was authorized, as is the case with a vacant authorization. These arrangements should be made advance of the extended leave; however, as a practical matter can be made anytime during the initial 90 days.*

**Section 9-12-34(a)**

**Alexandria Yellow Cab (AYC)**

\*\* This section, regarding the effect of not operating authorized vehicles still needs to be revised. First, there should be no “automatic” termination. There will be factual questions and a hearing should be afforded.

Second, companies can be expected to fill vacancies with drivers, but as long as the owner/driver is paying stand dues, the companies do not and (because of independent contractor rules) cannot

tell owner/drivers when or whether they must drive. This section should be revised in that companies should be given one year (as in the current ordinance) or at least 6 months to ensure that vacant certificates are filled. The reason for one year or 6 months, instead of 3 months, as proposed, is that there can be many reasons for unfilled vacancies – labor shortage, inability of prospective drivers to take tests to qualify as drivers, vacation by drivers who often leave the country for months at a time, etc.

*Response: The City authorizes a limited number of taxicabs; those vehicles should be “in use” or the authorization should lapse. Non-use for 90 days is a substantial length of time during which the public convenience and necessity is being served.*

**Sec 9-12-35**

**Council Member Woodson** (page 18 of 44, line 21, page 20 of 46, line 7)

What if the grandfathered certificate holder is buying a cab company?

*Response: A “special case” situation that would be treated as a merger of certificates, in which the grandfathered certificate authorizes operation of a single taxicab.*

**Section 9-12-45**

**Council Member Woodson** (page 21 of 44, line 28, page 22 of 46, line 19)

How would the Chief of Police determine “character”? This seems subjective and capricious to me.

*Response: No standard of what can be reviewed – local records, state records, maybe records from other jurisdictions - is set forth in ordinance to avoid inconsistent assessment. Would “qualifications” be a more neutral term?*

**Section 9-12-51(d)**

**Council Member Woodson** (page 23 of 44, line 25, page 24 of 46, line 29)

Typo: End of first sentence seems to be missing the remainder of the sentence.

*Response: Correct. This refers to the Chief of Police decision in 9-12-50.*

**Section 9-12-51(d)**

**Council Member Woodson** (page 23 of 44, line 28, page 23 of 46, line 2)

Final denial should not rest on a decision by a citizen-empowered board. This strikes me as unconstitutional.

*Response: This could be revised to have the board hear the appeal and make a recommendation to the City Manager. This would avoid whatever constitutional concern there might be.*

**Section 9-12-56(b)**

**Alexandria Yellow Cab (AYC)**

**\*\*** If a living wage is going to be considered, see Section 9-12-31(d)(3)(and we do not think it should be), then there must be information about tips as well as fares.

With the manifest, drivers should also be required to offer a completed receipt to every customer. See Section 9-12-136, which will need to be amended accordingly. The duplicate receipts should be submitted to the City along with the manifests for purposes of cross checking or verification. Receipt information if prepared and offered (and even if not accepted by the customer) will provide contemporaneous information against which to compare the manifest or else will ensure that manifests are also completed contemporaneously.

Furthermore, manifests and duplicate receipts must be provided to the City monthly, just as companies should be required to provide monthly information about service levels (dispatch numbers and call response). Again, it will be imperative that the information be analyzed monthly. If not, the quality of information will deteriorate over time and by the annual review will be worthless, and the City will be back into a situation of non-enforcement.

*Response: Manifests will be available for City inspection. Tips should be included on the manifests. Requiring drivers to prepare a receipt for each passenger is burdensome, particularly since many passengers refuse receipts if offered. Staff has no need or interest in duplicate receipt books.*

**Section 9-12-57(a)**

**Alexandria Yellow Cab (AYC)**

Technical amendment to “all passengers” not “both passengers.”

*Response: Correction accepted.*

**Section 9-12-57(g)**

**Alexandria Yellow Cab (AYC)**

Amend the first sentence to state: “Drivers shall take the shortest or fastest route to the destination, or the route approved by the passenger.”

*Response: The shortest route is not necessarily the fastest route (depending on traffic) but is virtually always the cheapest route. A faster but longer (and more expensive) route should be taken only at the passenger’s request or with the passenger’s approval.*

**Section 9-12-57(j)**

**Council Member Woodson** (page 26 of 44, lines 12-13, page 27 of 46, lines 18-19)

This is borderline racist and blatantly unconstitutional (remember right to assembly, freedom of speech, etc). What were you thinking here?

*Response: This applies only to cabs waiting at one of the city's 19 taxicab stands. It is intended to ensure drivers are on-duty, prepared to provide service and readily identifiable to customers while parked at a taxi stand. Drivers should remain reasonably close to cabs to ensure non-interference with nearby businesses and proper service to cab customers. This provision is being revised to reflect the existing code requirement that drivers remain within 20 feet of their vehicle while in a taxi stand.*

**Section 9-12-57(k)**

**Alexandria Yellow Cab (AYC)**

Recommend deleting as totally unmanageable, especially the notice and public hearing aspects.

*Response: No response required.*

**Section 9-12-57(l)**

**Alexandria Yellow Cab (AYC)**

\*\* Add the following sentence: "No driver, who bids on a call, shall refuse service to that call."

*Response: Drivers are required to serve calls in the order accepted. The City should not micromanage how each company ensures good dispatch service. The ordinance requires that drivers follow company service standards. AYC can set the standard advocated here, but other companies may choose a different procedure. The City's concern is the result (specified in service standards for the companies) not the method.*

**Section 9-12-57(o)**

**Alexandria Yellow Cab (AYC)**

\*\* Amend as follows: "All drivers shall comply with customer service related provisions and shall provide information necessary to determine compliance, all as prescribed by regulation." We understand that "by regulation" initially all drivers will be expected to average "x" dispatch calls per day. We suggest that there also be a requirement that 51% of all trips by any driver shall either originate or terminate in the City. If these two requirements are enforced, and if "x" is gradually increased to a significant number, like 5 or 6 calls per day per driver, then you will surely have a taxi system in which dispatch service is provided to the City.

*Response: 9-12-56(b) already requires the drivers to provide the manifests in the manner prescribed by regulation. This proposed edit does not add anything. The 51% requirement is a current regulation that has been found to be unenforceable.*

**Sec 9-12-59**

**Council Member Woodson** (page 27 of 44, line 14, page 28 of 46, line 20)

Final denial should not rest on a decision by a citizen-empanelled board. This strikes me as unconstitutional.

*Response: See previous response.*

**Section 9-12-60(a)(1)**

**Council Member Woodson** (page 27 of 44, line 27, page 29 of 46, line 4)

What are crimes of moral turpitude? Further, one could be accused of violating a crime of moral turpitude (whatever that is) and not be convicted of it.) This is clause is questionable, and at least needs rewriting for greater explanation and at worst is unconstitutional.

*Response: Crime of moral turpitude involves a morally bad act – fraud, deception, embezzlement are typical examples. Violation would, of course, include a conviction, not just an accusation.*

**Section 9-12-60(a)(8)**

**Council Member Woodson** (page 28 of 44, line 5, page 29 of 46, line 13)

What does this mean exactly? Too vague.

*Response: This might include a number of possible actions, including some that cannot be defined at this point, but allows some enforcement discretion in dealing with inadequate service. These could be service that is consistently slow, cabs that are consistently in a substandard state of cleanliness or repair, or even refusing to provide service to customers with disabilities as evidenced by a record of “quick-flagging” those dispatch calls. This provision allows adjudication factors to include public/consumer experience with a particular company or driver.*

**Section 9-12-60(g)**

**Council Member Woodson** (page 28 of 44, line 26, page 30 of 46, line 6)

Item (g) on the next page it goes on to say that a court may reverse or support a board decision. Why then does it say earlier on that the finding of the board is final?

*Response: Final decision by board is the end of administrative review; administrative review must be complete before court intervention takes place.*

**Section 9-12-81(n)**

**Council Member Woodson** (page 34 of 44, line 9, page 35 of 46, line 20)

Remember the constitution???? This is a matter best left up to companies and drivers to negotiate, contractually, since the drivers own their car but are sporting the colors of the company. Otherwise we appear to be legislating the denial the driver's constitutional right to free speech. Bumper stickers do not interfere with a drivers ability to do their job.

*Response: The intent is not to restrict free speech, only the number of bumper stickers that may be displayed on a taxicab. Part of regulating the appearance of cabs. Staff is not aware that a content-neutral restriction of the number of bumper stickers is considered a violation of First Amendment rights.*

**Section 9-12-132**

**Alexandria Yellow Cab (AYC)**

**\*\* Please don't wait until the annual review. Increase the initial drop from \$2.25 to \$3.00. Increase the fare for additional passengers from \$1.25 to \$2.00. For additional one-fourth miles, increase the fare from \$0.40 to \$0.50. Increase the wait time for one hour from \$18.00 to \$20.00. Delete subsections (a)(5), (6), (7), (8) and (11), which are taken care of by the other increases and by tips from passengers.**

*Response: The basis for the proposed fare increases is not known. However, a fare review will be completed in the near future and this proposal can be appropriately considered at that time. The current fare structure was last reviewed and modified in 2002, and a fuel surcharge is currently in effect that offsets increased service delivery costs due to recent fuel price increases.*

**Section 9-12-136.**

**Alexandria Yellow Cab (AYC)**

If the City is going to consider a living wage, which we oppose, then require drivers to OFFER a completed receipt to every passenger, as opposed to providing them only upon request. This contemporaneously required document will be used to verify the manifest information, which is often filled out long after the fact.

*Response: Since receipt is at passenger's option, will not be generated in every instance and therefore this proposed change is of limited utility. Drivers are required to offer receipts as suggested.*



**Section 9-12-142**

**Council Member Woodson** (page 42 of 44, entire section, page 43 of 46, entire section)

If a company has a problem with a driver, the company can terminate the driver. If a driver has a problem with a company, the driver cannot simply leave that company and move to another company (i.e. fire the company) the driver must go through mediation or arbitration. While I support the idea, it doesn't seem equitable to me. The entire process seems slanted to subtly benefit the company, and would only be fair if companies had to use similar procedures before terminating drivers.

*Response:* Drivers are not required to go through mediation or arbitration in order to transfer to another company and there was no intent to slant this in either party's favor. At Council's discretion, this division can be eliminated and the matter of dispute resolution left to the company/owner contract or agreement.

**Alexandria Yellow Cab (AYC)**

\*\* Although AYC does not terminate drivers without good cause, requiring it of all companies as a matter of public policy is highly intrusive into the "business" of business. Such a requirement radically changes the "at will" nature of the relationship between drivers and companies. The City regulates the activities of other businesses (restaurants, service stations, utilities), but does not interfere with their personnel policies. The City ought not get involved in doing so here.

*Response:* This is a council issue. Alexandria drivers have limited ability to move, so legislating the terms of when and how they can be terminated is not outside the scope of the City's interest. (Although there are good reasons to stay out of it as well.) Moreover, it is not clear whether the "at will" nature of the company/driver relationship is one of mutual choice or one that is unilaterally imposed.

**Section 9-12-142 (second so numbered) (a)(2)**

**Council Member Woodson** (page 42 of 44, line 11+, page 43 of 46, line 10+)

After I stopped laughing at the improbability of impartiality, I concluded dispute resolution needed to be worked out between company and driver in their contract. We should legislate the need for dispute resolution, not micromanage it.

*Response:* Section 9-12-32 requires that companies provide an alternative dispute resolution process. Based on staff understanding that drivers desired a more specific, uniform process, Division 7 was included in the draft ordinance. Designation of an internal ombudsman to be the first level of dispute resolution is fairly common, particularly in organized labor settings.

**Section 9-12-142 (Second so numbered), 9-12-143 and 9-12-144**

**Alexandria Yellow Cab (AYC)**

**\*\* Delete all three sections in their entirety for the reasons discussed with regard to Section 9-12-32(h) above.**

*Response: See related responses. This is an issue for Council determination.*

**9-12-500 (Proposed new section)**

**Alexandria Yellow Cab (AYC)**

**\*\* Add a new provision expressly prohibiting and providing criminal penalties for pick up of Alexandria residents or workers by taxicabs from other jurisdictions. Red Top is notorious for creaming the Alexandria taxi business; and they provide no service for the short, difficult trips, especially the elderly and disabled. Such a provision will substantially increase the dispatch business available for all Alexandria cab companies and will benefit the drivers. Although T&ES staff responded that they are willing to enforce the inter-jurisdictional agreement, we have complained numerous times over the past year or so about this problem to no avail. Also, we think that by adding this provision, the hack office should be able to enforce the requirements, thus relieving T&ES of this responsibility.**

*Response: This is included in the proposed ordinance at 9-12-2. Previous discussions of enforcing this matter have identified the need for active company participation in this effort. To date, this has not been provided.*

City of Alexandria  
Proposed Taxicab Ordinance

**Staff Recommendations Regarding Revisions  
Based upon Council and Industry Comments**

Staff recommends that the following sections of the proposed taxicab ordinance be revised in order to address some of the comments received from interested parties, as set forth more fully below:

Section of Proposed Code	Staff's Recommended Revision
Section 9-12-1(3) – Definition of Certificate Holder	Appropriate changes should be made to reflect that some individual drivers hold grandfathered certificates.
Section 9-12-6(a) – Required Insurance	Section should be revised to leave insurance requirements at level set forth in current code (\$100k per single injury, \$300k aggregate injury per incident, \$50k property damage).
Section 9-12-22(b)(10) – Experience in industry of applicant for certificate	Section should be revised to provide disclosure of interest in any taxicab company, not just another Alexandria company.
Section 9-12-29(b) – Circumstances regarding sales/mergers of taxicab companies	Section should be revised to give City Manager or designee some discretion to waive/modify driver transfer limits in the event of a sale or merger of taxicab companies.
Section 9-12-33(b)	Lettering in Section needs to be corrected; there are 2 sections designated as “(b)”.

City of Alexandria  
Proposed Taxicab Ordinance

Staff Recommendations Regarding Revisions  
Based upon Council and Industry Comments

Page 2 of 2

<p>Section 9-12-33(g) – Disposition of vehicle authorizations from a company which has its certificate revoked</p>	<p>Section should be revised to reflect that there is a presumption, but not a guarantee, that drivers from a company which has its certificate revoked may be allowed to transfer to another authorized company.</p>
<p>Section 9-12-51(d) – Appeal from denial of application for driver’s permit</p>	<p>Section should be amended to have the Board hear any appeal and make a recommendation to the City Manager. The City Manager’s decision would be the final administrative remedy and determine what additional action the chief of police may take regarding the driver’s permit.</p>
<p>Section 9-12-57(a) – Acceptance of additional passengers by a taxicab already engaged by customers</p>	<p>Section should be revised to reflect consent of “all passengers” rather than “both passengers.”</p>