

**CHAPTER 4
BUSINESS LICENSING AND REGULATION
GENERALLY**

Section 4.01 **Definitions.** The following terms, as used in this Chapter, shall have the meanings stated:

Subd. 1. The term "applicant" means any person making an application for a license under this Chapter.

Subd. 2. The term "application" means a form with blanks or spaces thereon, to be filled in and completed by the applicant at his or her request for a license, furnished by the City and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.

Subd. 3. The term "business" means any activity, occupation, sale of goods or services, or transaction that is either licensed or regulated, or both licensed and regulated, by the terms and conditions of this Chapter.

Subd. 4. The term "license" means a document issued by the City to an applicant permitting applicant to carry on and transact a business.

Subd. 5. The term "licensee" means an applicant who, pursuant to their application, holds a valid, current, unexpired and unrevoked license from the City for carrying on a business.

Subd. 6. The term "license fee" means the money paid to the City pursuant to an application and prior to issuance of a license to transact and carry on a business.

Subd. 7. The term "sale", "sell" and "sold" mean all forms of barter and all manner or means of furnishing merchandise to persons.

Section 4.02. **Application.**

Subd. 1. All license applications or renewal applications shall be made on forms prescribed by the City Clerk.

Subd. 2. It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement in such application, or any willful omission to state any information called for on such application form, shall, upon discovery of such falsehood work an automatic refusal of license, or if already issued, shall render any license or permit issued pursuant thereto, void, and of no effect to protect the applicant from prosecution.

Section 4.03. **Action on Application for License.**

Subd. 1. **Granting.** The Council may grant any application for the period of the remainder of the then current calendar year or for the entire ensuing license year. The City Council may by resolution delegate to city staff the issuance of any licenses required by the City.

Source: Ord. 711-2nd Series
Effective Date: 11/24/14

Subd. 2. **Issuing.** If an application is granted, the Mayor and City Clerk shall forthwith issue a license pursuant thereto upon payment of the license fee. All licenses shall be on a calendar year basis. If application is made after June 30, then the fee shall be one-half of the annual fee.

Subd. 3. **Transfer.** No license shall be transferable between persons. No license shall be transferable to a different location without prior consent of the Council. It is unlawful to make any transfer in violation of this subdivision.

Subd. 4. **Termination.** Licenses shall terminate only by expiration or revocation.

Source: Ord. 335-2nd Series
Effective Date: 12/28/92

Subd. 5. **Refusal.** The Council may in its sole discretion and for any reasonable cause refuse to grant any application.

Subd. 6. **Duplicate License.** Duplicates of all original licenses may be issued by the City Clerk, without action by the Council, upon licensee's affidavit that the original has been lost, and upon payment of a fee of \$5.00 for issuance of the duplicate. All duplicate licenses shall be clearly marked DUPLICATE.

Subd. 7. **License Suspension or Revocation.** The Council may in its sole discretion and for any reasonable cause, upon notice and hearing, suspend or revoke any license issued pursuant to the Alexandria City Code.

Source: Ord. 568-2nd Series
Effective Date: 9/12/05

Section 4.04. **Carrying or Posting.** All transient merchants, peddlers and solicitors shall at all times when so engaged, carry their license on their person. All other licensees shall post their licenses in their places of business near the licensed activity. All licensees shall display their licenses upon demand by any officer or citizen.

Section 4.05. **Penalty for Property Owners.** It is unlawful for any person to knowingly permit any real property owned or controlled by said person to be used, without a license, for any business for which a license is required by this Chapter.

Section 4.06. **Responsibility of Licensee.** The conduct of agents and employees of a person to whom a license or permit is issued shall be deemed the conduct of the licensee.

(Sections 4.07 - 4.30, inclusive, reserved for future expansion.)

Source: 335-2nd Series
Effective Date: 12/28/92

Section 4.31. **Body Art Technicians and Establishments.**

Subd. 1. Body Art Technicians and Establishments shall be licensed and regulated by the Minnesota Department of Health in accordance with Minnesota Statute 146B.011.

Source: 659-2nd Series
Effective Date: 8/23/10

Section 4.32. **Dances.** This section is hereby rescinded.

Source: Ord. 768-2nd Series
Effective Date: 08/14/17

Section 4.33. **Erotic Dancing.**

Subd. 1. The purpose of this Ordinance is to regulate erotic dance studios to the end that the many types of criminal activities frequently engendered by such studios will be curtailed. It is recognized however that such regulation cannot de facto approach prohibition, otherwise a protected form of expression would vanish. This section represents a balancing of competing interests: reduced criminal activity through the regulation of erotic dance studios versus the protected right of erotic dancers and patrons.

Subd. 2. **Definitions.** In this section the following definitions shall apply unless the context clearly requires otherwise:

A. **Dancer:** A person who dances or otherwise performs for an erotic dance studio and who seeks to evoke, arouse or excite the patrons' sexual or erotic feelings or desires;

B. **Erotic dance studio:** A place of business which emphasizes and seeks, through one or more dancers, to evoke, arouse or excite the patrons' sexual or erotic feelings or desires;

Subd. 3a. **Prima facie evidence of erotic dance studio.**

It shall be prima facie evidence that a business is an erotic dance studio when one or more dancers displays or exposes, with less than a full opaque covering; that portion of the female breast lower than the upper edge of the areola.

Source: Ord. 360-2nd Series

Effective Date: 9/12/94

Subd. 3b. **Certain activities prohibited.** No person, firm, partnership, corporation or other entity shall publicly display or expose or permit the public display or exposure, with less than a fully opaque covering, any portion of a person's genitals, pubic area, buttocks or female breast (s) below a point immediately above the top of the areola.

Source: Ord. 368-2nd Series

Effective Date: 3/13/95

Subd. 4 **Erotic dance studio license - application, issuance.**

A. Application for erotic dance studio license shall be made to the City Administrator.

B. An application for erotic dance studio license shall be verified and shall contain or set forth the following information:

1. The name, address, telephone number, principal occupation, and age of the applicant;

2. The name, address, and principal occupation, of the managing agent or agents of the business;

3. The business name, business address, and business telephone number of the establishment or proposed establishment together with a description of the nature of the business and magnitude thereof;

4. Whether the business or proposed business is the undertaking of a sole proprietorship, partnership, or corporation. If a sole proprietorship, the application shall set forth the name, address, telephone number, and principal occupation of the sole proprietor. If a partnership, the application shall set forth the names, addresses, occupation, and respective ownership shares of each partner, whether general, limited or silent. If a corporation, the application shall set forth the corporate name, a copy of the articles of incorporation, and the names, addresses, telephone numbers and principal occupations of every officer, director and shareholder who owns more than five percent of the outstanding shares and the number of shares held by each.

5. The names, addresses, telephone numbers and principal occupations of every person, partnership, or corporation having any interest in the real or personal property utilized or to be utilized by the business or proposed business.

C. Each application shall be accompanied by a non-refundable fee of two hundred dollars (\$200.00).

D. Within five (5) days of receipt of an application for erotic dance studio license, the City Administrator shall transmit copies of such application to the Chief of Police.

E. Within five (5) days of receipt of an application for erotic dance studio license, the City Administrator shall issue the license.

F. An erotic dance studio license shall expire on December 31 of the year in which it is issued.

G. Upon request by the applicant, the address and telephone number of any individual applicant making application for a license under this subdivision shall be released only to law enforcement for legitimate law enforcement purposes.

Subd. 5. **Erotic dance studio license - renewal, revocation.** An erotic dance studio license may be renewed by following the application procedure set forth in Subdivision 4.

Subd. 6 **Dancer's license.** No person shall dance at an erotic dance studio without a valid dancer's license issued by the City Administrator.

Subd. 7. **Dancer's license - application, issuance.**

A. Application for dancers' licenses shall be made to the City Administrator.

B. An application for dancers' licenses shall be verified and shall contain or set forth the following information:

1. The applicant's names, home addresses (current and former), home telephone number, date of birth, and aliases (past and present);

2. The business name and address where the applicant intends to dance.

C. Application shall be accompanied by a non-refundable fee of five dollars (\$5.00).

D. Within five (5) days of receipt of an application for dancer's license, the City Administrator shall issue the license.

E. A dancer's license shall expire on December 31 of the year in which it is issued.

F. A dancer's license shall entitle a dancer to dance only at the business indicated on the dancer's license application.

Subd. 8. **Dancer's license - renewal, revocation.** A dancer's license may be renewed by following the application procedure set forth in Subdivision 7.

Subd. 9. **Erotic dance studio regulations.**

A. No person, firm, partnership, corporation, or other entity shall advertise, or cause to be advertised, an erotic dance studio without a valid erotic dance studio license issued pursuant to this section.

B. No later than March 1 of each year an erotic dance studio licensee shall file a verified report with the City Administrator showing the licensee's gross receipts and amounts paid to dancers for the preceding calendar year.

C. An erotic dance studio licensee shall maintain and retain for a period of two (2) years the names, addresses, and ages of all persons engaged, hired or employed as dancers by the licensee.

D. No erotic dance studio licensee shall engage, hire or employ as a dancer a person under the age of eighteen (18) years or a person not licensed pursuant to this ordinance.
09/12/17 THIS PAGE REPLACES PAGE 4-7

E. No person under the age of eighteen (18) years shall be admitted to an erotic dance studio.

F. An erotic dance studio shall be closed between 1:00 A.M. and 11:00 A.M.

G. No erotic dance studio licensee shall serve, sell, distribute, or permit the consumption or possession of upon the premises of the licensee, any controlled substance, or any intoxicating liquor or non-intoxicating malt beverage for which a retail license is required under Minn. Stat. Chapter 340A or any Alexandria City Ordinances.

H. An erotic dance studio licensee shall conspicuously display all licenses required by this ordinance.

I. All dancing shall occur on a platform intended for that purpose which is raised at least two (2) feet from the level of the floor.

J. No dancer shall perform or dance closer than ten (10) feet to any patron.

K. No dancer shall fondle or caress any patron and no patron shall fondle or caress any dancer.

L. No patron shall directly pay or give any gratuity to any dancer.

03/02/2022

THIS PAGE REPLACES PAGE 4-8

M. No dancer shall solicit any pay or gratuity from any patron.

Subd. 10. **Inspections.** All books and records, or copies thereof, required to be kept pursuant to this ordinance shall be open to inspection by the Chief of Police or agents thereof during the hours when the erotic dance studio is open for business. The purpose of such inspection shall be to determine if the books and records meet the requirements of this ordinance.

Subd. 11. **Penalty.** Any person violating this section shall be guilty of a misdemeanor.

Subd. 12. **Severability.** If any term or provision of this ordinance is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms or provisions shall not be affected and the ordinance shall be construed and enforced as if the ordinance did not contain the particular term or provision held to be invalid.

Source: Ord. 360-2nd Series
Effective Date: 9/12/94

Section 4.34. **Tobacco Licensing and Regulation.**

Subd. 1. **Purpose.** The City hereby adopts the Minnesota legislature's finding, as stated in Minn. Stat. § 144.39, that: (1) smoking causes premature death, disability, and chronic disease, including cancer and heart disease, and lung disease; (2) smoking related diseases result in excess medical care costs; and (3) smoking initiation occurs primarily in adolescence. The City also adopts the legislature's desire to prevent young people from starting to smoke, to encourage and assist smokers to quit, and to promote clean indoor air. Because the City recognizes that many persons under the age of 21 years purchase or otherwise obtain, possess, and use tobacco, tobacco products, tobacco related devices, electronic delivery devices, and nicotine and lobelia delivery products and that such sales, possession, and use are violations of State and Federal laws; and pursuant to the mandates contained in state and federal law this ordinance is intended to regulate the sale, possession, and use of tobacco, tobacco products, tobacco related devices, electronic delivery devices, and nicotine and lobelia delivery products for the purpose of enforcing and furthering existing laws and state mandates, and to protect the public against the serious effects associated with the use of tobacco, tobacco products, tobacco related devices, electronic delivery devices, and nicotine and lobelia delivery products.

Subd. 2. **Definitions and Interpretations.** Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and neuter, and vice-versa. The term "shall" means mandatory and the term "may" means permissive. The following terms shall have the definitions given to them:

A. Tobacco or Tobacco Products. "Tobacco" means cigarettes; cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco, and any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means or any components, part, or accessory of a tobacco product. Tobacco excludes any tobacco product that has been approved by the United States Food and Drug Administration (USFDA) for the sale as a tobacco cessation product and sold solely for such an approved purpose.

B. Tobacco Related Devices. "Tobacco related devices" means cigarette papers or pipes for smoking or other devices intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or inhalation of vapors of tobacco or tobacco products. Tobacco-related devices include components of tobacco-related devices which may be marketed or sold separately

C. Self-Service Merchandising. "Self-Service Merchandising" means open displays of tobacco, tobacco products, tobacco related devices, electronic delivery devices, and nicotine and lobelia delivery products in any manner where any person shall have access to the tobacco, tobacco products, tobacco related devices electronic delivery devices, and nicotine and lobelia delivery products without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, tobacco related device, electronic delivery devices, or nicotine and lobelia delivery products between the customer and the licensee or employee. Self-service merchandising shall not include vending machines.

D. Vending Machine. "Vending Machine" shall mean any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine and lobelia delivery products upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco products, tobacco related device, electronic delivery devices, or nicotine and lobelia delivery products. A device by which licensee or licensee's employee must insert the payment in order to operate the machine is not a vending machine for the purpose of this definition.

E. Individually packaged. "Individually packaged" shall mean the practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products shall include, but not be limited to, single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this subdivision shall not be considered individually packaged.

F. Minor. "Minor" shall mean any natural person who has not yet reached the age of eighteen (18) years.

G. Retail Establishment. "Retail Establishment" shall mean any place of business where tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine and lobelia delivery products are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores, and restaurants.

H. Moveable Place of Business. "Moveable Place of Business" shall refer to any retail business whose physical location is not permanent, including, but not limited to, any retail business that is operated from a kiosk, other transportable structure, or a motorized or nonmotorized vehicle.

I. Sale. A "sale" shall mean any transfer of goods for money, trade, barter, or other consideration.

J. Compliance Checks. "Compliance checks" shall mean the system the city uses to investigate and ensure that those authorized to sell tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine and lobelia delivery products are following and complying with the requirements of this ordinance. Compliance checks shall involve the use of minors as authorized by this ordinance. Compliance checks shall also mean the use of minors who attempted to purchase tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine and lobelia delivery products for educational, research and training purposes as authorized by State and Federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate Federal, State, or local laws and regulations relating to tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine and lobelia delivery products.

K. Electronic Delivery Device. "Electronic delivery device" means any product containing or delivering nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device does not include any product that has been approved or certified by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose.

L. Child-Resistant Packaging. "Child-Resistant Packaging" is packaging that meets the definition as set forth in Code of Federal Regulations, title 16, section 1700.15(b), as in effect on January 1, 2015, when tested in accordance with the method described in Code of Federal Regulations, title 16, section 1700.20, as in effect on January 1, 2015.

M. Nicotine or Lobelia Delivery Products. "Nicotine or Lobelia Delivery Products" are any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco or an electronic delivery device as defined in this section, not including any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for tobacco use cessation, harm reduction, or for other medical purposes, and is being marketed and sold solely for that approved purpose.

Subd. 3. **License.** No person shall sell or offer to sell any tobacco, tobacco products, tobacco related device, electronic delivery devices, or nicotine and lobelia delivery products without first having obtained a license to do so from the city.

A. Application. An application for a license to sell tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine and lobelia delivery products shall be made on a form provided by the City. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the City deems necessary. Upon receipt of a completed application, the City Administrator shall forward the application to the City Council for action at its next regularly scheduled council meeting. If the City Administrator shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

B. Action. The City Council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the council shall approve the license, the City Administrator shall issue the license to the applicant. If the council denies the license, notice of the denial shall be given to the applicant along with notice applicant's right to appeal the council's decision.

C. Term. All licenses issued under this ordinance shall be valid for one calendar year from the date of issue.

D. Revocation or Suspension. Any license issued under this ordinance may be revoked or suspended as provided in Section 4.34, subdivisions 11 or 12 of this ordinance.

E. Transfers. All licenses issued under this ordinance shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the council.

F. Moveable Place of Business. No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this ordinance.

G. Display. All licenses shall be posted and displayed in plain view of the general public on the licensed premise.

H. Renewals. The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made by the licensee at least thirty days but no more than sixty days before the expiration of the current license. The issuance of a license issued under this ordinance shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

I. A determination by the City to deny, suspend, revoke or not renew any license under this section may be appealed to the City Council of Alexandria by filing with the City Administrator a written Notice of Appeal within fifteen (15) days of the date on which notice of the City's denial, suspension, or revocation is mailed to the licensee. In that event, the appeal will be heard by the Council at its next meeting occurring at least fifteen (15) days after the filing of the Notice of Appeal. At any appeal of a determination by the City under this Ordinance, the licensee or applicant, or an attorney representing said party, may appear and make a presentation to the City Council. The licensee or applicant shall present to the City Council the basis for the determination being appealed. After the hearing, the Council may uphold, reverse or modify the prior decision based upon the provisions of this Ordinance and upon the protection of the public health, safety or general welfare. The City Council shall issue written findings and determination within thirty-one (31) days of the hearing, unless the Council extends that time for good cause. A decision of the City Council made following an appeal as set forth herein may be appealed by Writ of Certiorari to the Court of Appeals of the State of Minnesota pursuant to its Rules of Civil Appellate Procedure and Minnesota Statutes.

Subd. 4. **Fees.** No license shall be issued under this ordinance until the appropriate license fee shall be paid in full. The fee for a tobacco license shall be set by Ordinance of the City Council.

Subd. 5. **Basis for Denial of License.** The following shall be grounds for denying the issuance or renewal of a license under this ordinance; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the City must deny the license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this section:

A. The applicant is under the age of 21 years.

B. The applicant has been convicted with the past five years of any violation of a Federal, State, or local law, ordinance provision, or other regulation relating to tobacco or tobacco products, tobacco related devices, electronic delivery devices, or nicotine and lobelia delivery products.

C. The applicant or any entity under common ownership, operation, or control by the applicant has had a license in the City to sell tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine and lobelia delivery products revoked or has failed four or more compliance checks.

D. The applicant fails to provide any information required on the application, or provides false or misleading information.

E. The applicant is prohibited by Federal, State, or other local law, ordinance, or other regulation, from holding such a license.

Subd. 6. **Prohibited Sales.**

A. Persons under 21. No person shall sell, offer to sell or otherwise provide any tobacco, tobacco products, tobacco related device electronic delivery devices, or nicotine and lobelia delivery products to any person under the age of twenty-one (21) years.

B. Self-service Sales. No person shall sell, offer to sell or otherwise provide any tobacco or tobacco related devices, electronic delivery devices, or nicotine and lobelia delivery products in open displays which are accessible to the public without the intervention of a store employee that includes a physical exchange of the tobacco products, tobacco devices,

electronic delivery devices, or nicotine and lobelia delivery products. This shall not apply to retail establishments which derive at least 90 percent of their revenue from tobacco and tobacco related devices, electronic delivery devices, or nicotine and lobelia delivery products and where the retailer ensures that no person younger than 21 years of age is present, or permitted to enter at any time.

C. Controlled Substances. No person shall sell, offer to sell or otherwise provide any tobacco, tobacco products, tobacco related device electronic delivery devices, or nicotine and lobelia delivery products containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process.

D. Sampling. No person shall distribute any tobacco, tobacco related devices, electronic delivery devices, or nicotine or lobelia products free of charge.

E. Other Prohibitions. No person shall sell, offer to sell or otherwise provide any tobacco, tobacco product, tobacco related device, electronic delivery device, or nicotine and lobelia delivery product by any other means, to any other person, or in any other manner or form prohibited by Federal, State, or other local law, ordinance provision, or other regulation.

F. Vending Machines. No person shall allow the sale of tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery products by the means of a vending machine unless minors are at all times prohibited from entering the licensed establishment.

Subd. 7. **Liquid Packaging.**

A. The sale of any liquid, whether or not such liquid contains nicotine, that is intended for human consumption and use in an electronic delivery device that is not contained in packaging that is child-resistant is prohibited. All licensees under this chapter must ensure that any liquid intended for human consumption and use in an electronic delivery device is sold in child-resistant packaging.

B. A licensee that fails to comply with this section is subject to administrative penalties as defined in Section 4.34, Subdivision 11(B).

Subd. 8. **Kiosk Sales Prohibited.** No person shall sell tobacco, tobacco-related devices, or electronic delivery devices as defined in Minnesota Statutes 609.685, subdivision 1, or nicotine or lobelia delivery products as described in section 609.6855 from a moveable place of business as defined in Section 4.34, Subd. 2(H).

Subd. 9. **Responsibility.** All licensees under this ordinance shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine and lobelia delivery production the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the City from also subjecting the employee to whatever penalties are appropriate under this Ordinance, State or Federal law, or other applicable law or regulation.

Subd. 10. **Compliance Checks and Inspections.** All licensed premises shall be open to inspection by the City police or other authorized City official during regular business hours. From time to time, but at least once per year, the City shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of fifteen (15) years but less than eighteen (18) years, to enter the licensed premise to attempt to purchase tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine and lobelia delivery products. In addition the City may conduct compliance checks by engaging persons who are at least eighteen (18) years of age but less than twenty-one (21) years of age, to enter the licensed premise to attempt to purchase tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine and lobelia delivery products. Persons who are used for the purpose of compliance checks shall be supervised by City designated law enforcement officers or other designated City personnel. Persons under 21 years of age who are used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine and lobelia delivery products when such items are obtained as a part of the compliance check. No person under 21 years of age who is used in compliance checks shall attempt to use a false identification misrepresenting the person's age, and all persons lawfully engaged in a compliance check shall answer all questions about the person's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this section shall prohibit compliance checks authorized by State or Federal laws for educational, research, or training purposes, or required for the enforcement of a particular State or Federal law.

Subd. 11. **Other Illegal Acts.** Unless otherwise provided, the following acts shall be a violation of this Ordinance:

A. **Illegal Possession.** It shall be a violation of this ordinance for any minor to have in his or her possession any tobacco, tobacco product, tobacco related device electronic delivery device, or nicotine and lobelia delivery product. This subdivision shall not apply to minors lawfully involved in a compliance check.

B. **Illegal Use.** It shall be a violation of this ordinance for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, tobacco related device electronic delivery device, or nicotine and lobelia delivery product.

C. **Illegal Procurement.** It shall be a violation of this ordinance for any person under 21 years of age to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, tobacco related device, electronic delivery devices, or nicotine and lobelia delivery products and it shall be a violation of this ordinance for any person to purchase or otherwise obtain such items on behalf of a person under 21 years of age. It shall further be a violation for any person to coerce or attempt to coerce a person under 21 years of age to illegally purchase or otherwise obtain or use any tobacco, tobacco product, tobacco related device electronic delivery devices, or nicotine and lobelia delivery products. This subdivision shall not apply to persons under 21 years of age who are lawfully involved in a compliance check.

D. **Use of False Identification.** It shall be a violation of this ordinance for any person under 21 years of age to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

Subd. 12. **Violations.**

A. **Misdemeanor Prosecution.** The City may prosecute any violation of this subdivision as a misdemeanor. If the City elects to prosecute the license holder, no administrative penalty shall be imposed.

B. Administrative Process.

1. Notice. If the City chooses to proceed with an administrative review of an alleged violation of this section, the alleged violator shall be notified in writing, either personally or by mail, of the nature of the alleged violation, his or her right to a hearing on the alleged violation and the potential penalties for a violation.
2. Hearing. A person, who receives notice of an alleged violation of this section, may request a hearing on the alleged violation. The hearing request must be in writing and received by the City Administrator within two (2) weeks of the date of the notice. The person requesting the hearing shall be advised of the date, time, and place of the hearing, which will also be published. The hearing shall be recorded. The Mayor shall serve as the Hearing Officer.
3. Decision by the Hearing Officer. The Hearing Officer shall make written findings, which shall be mailed, to the person requesting the hearing and made a part of the hearing record. If the Hearing Officer determines that a violation of this section occurred, the Hearing Officer's findings shall be forwarded to the City Council for determination of the appropriate penalty pursuant to Subdivision 12 of this section.
4. Appeal. Any person found to have violated this section, shall have the right to appeal to Douglas County district court as provided by law.

C. Continued Violation. Each violation and each day a violation occurs shall constitute a separate offense or violation.

Subd. 13. Penalties.

A. Licensee. Any licensee found to have violated this ordinance, or whose employee shall have violated this ordinance, shall be charged an administrative fine of \$75 for a first violation of this ordinance; \$200 for a second offense at the same licensed premises within a twenty-four month period; and \$250 for a third or subsequent offense at the same location

within a twenty-four month period. In addition, upon the third or subsequent offense, the City Administrator shall suspend the license for each location owned, operated or controlled by the licensee for not less than seven days or recommend to the City Council that the license be revoked or not renewed. The administrative penalties noted above are the minimum mandatory penalties, which in no way restrict the City from suspending or revoking a license regardless of the lack of prior violations.

B. Other Individuals. Other individuals, other than minors regulated by 4.34, Subd. 12. D herein, found to be in violation of this ordinance shall be charged an administrative fee of \$50.

C. Misdemeanor. Nothing in this section shall prohibit the City from seeking prosecution as a misdemeanor for any violation of this ordinance.

D. Minors. The City of Alexandria recognizes that on April 17, 1997, the Judges of the Seventh Judicial District, Douglas County, adopted a policy regarding standard fines for the use or possession of tobacco by minors.

Subd. 14. **Exceptions and Defenses.** Nothing in this ordinance shall prevent the providing of tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine and lobelia delivery products to a person under 21 years of age as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this ordinance for a person to have reasonably relied on proof of age as described by State law.

Subd. 15. **Severability and Savings Clause.** If any section or portion of this ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as invalidation or affect the validity and enforceability of any other section or provision of this ordinance.

Subd. 16. **Signage.** All licensees shall post and display in plain view of the general public on the licensed premise, a sign supplied by the City of Alexandria, which shall state that it is illegal to sell tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine and lobelia delivery products to anyone under the age of 21 years, and that the possession and use of such items by minors is also illegal under both state law and local ordinance. Said signs shall be issued to the licensee along with their license.

Source: Ord. 826-2nd Series
Effective Date: 4/27/2020

Section 4.35. **Transient Merchants.**

Source: Ord. 764-2nd Series
Effective Date: 06/12/17

Subd. 1. **Purpose.** This section is not intended to interfere with legitimate business activities or transient merchant as the same are herein defined, whether the same be local or interstate. These provisions are intended only to, as nearly as possible, ferret out the illegitimate or confidence operators and to regulate and control all those who would use their unique presence on property within the City, be it public or private property, either in person or by means of a telephone contact, or use their unique proximity to its residences, for purposes of harassment, nuisance, theft, or other unlawful activities.

Source: Ord. 764-2nd Series
Effective Date: 06/12/17

Subd. 2. **Definition.** The term "transient merchant" as used in this chapter means and includes door-to-door, street-to-street, place-to-place or temporary vendors without a fixed, determined and permanent location at which the person transacts business, carries on his or her occupation or practices his or her profession, and includes, but is not limited to, persons commonly referred to as peddlers, solicitors, transient merchants or canvassers regardless of whether the said transient merchant shall be operating their business upon public or private property.

Source: Ord. 764-2nd Series
Effective Date: 06/12/17

Subd. 3. **License Required.** It is unlawful for any person to engage in, do, or transact any business without a license therefore from the City. To be eligible as a transient merchant, a person must:

- A. Be at least eighteen (18) years old.
- B. Not be under sentence or have been discharged for any gross misdemeanor or felony conviction within the ten (10) years immediately preceding application for a license for any offense that would indicate that the applicant has a history of physical abuse or unfair acts or dealings, including, but not limited to:
 - i) murder, assault, domestic assault, any crime against a vulnerable adult, robbery, kidnapping or criminal sexual conduct;
 - ii) sexual abuse, physical abuse, malicious punishment or maltreatment of a child;
 - iii) neglect or endangerment of a child;

- iv) the manufacture, distribution, sale, gift, delivery, transportation, exchange or barter of a controlled substance as defined in Minnesota Statutes chapter 152;
 - v) the possession of a controlled substance as defined in Minnesota Statutes chapter 152 in such quantities or under circumstances giving rise to a reasonable inference that the possession was for the purpose of sale or distribution to others;
 - vi) theft, fraud, or any related crime;
 - vii) trespass, arson, damage to property;
 - viii) forgery; or
 - ix) disorderly conduct, terroristic threats, harassment, stalking;
- C. Not have shown by the abuse of alcohol or other drugs that the person is not of the good moral character or fitness required to engage in, do, or transact any business.

Source: Ord. 764-2nd Series
 Effective Date: 06/12/17

Subd. 4. **License Fee.** A license fee for a transient merchant shall be set by Resolution of the City Council. The transient merchant shall designate on the license application, and the license granted shall reflect, the dates on which the transient merchant shall be licensed to operate in the City of Alexandria.

Source: Ord. 764-2nd Series
 Effective Date: 06/12/17

Subd. 5. This subdivision was deleted in its entirety.

Source: Ord. 837-2nd Series
 Effective Date: 10/26/2020

Subd. 6. **Conditions of Licensing.**

A. **Separate Licenses.** Each individual engaged as a transient merchant or accompanying a licensee at work must secure a separate license.

Source: Ord. 764-2nd Series
 Effective Date: 06/12/17

B. **Practices Prohibited.** It is unlawful for any person, licensed under this Chapter, to:

03/02/2022

THIS PAGE REPLACES PAGE 4-22

- i) call attention to their business or to their merchandise by crying out, blowing a horn, ringing a bell, or by any loud or unusual noise, or by use of any amplifying device;
- ii) conduct their activities in a manner that creates a serious danger to the public health, safety or welfare; or
- iii) conduct their activities in a way that unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public.

Commission of any of the foregoing, or of any offense listed in Subdivision 3 of this Section, shall be grounds for revocation of any license granted hereunder.

Source: Ord. 671-2nd Series

Effective Date: 10/11/2011

Subd. 7. **Exceptions.** This Section shall not apply to any sale under court order, nor to any bona fide auction sale, nor to newspaper delivery, nor to sale at wholesale to a retail dealer in the articles sold, nor to the sale of farm or garden products by the person producing the same, nor sales of admissions by local school students to a school function. Nor shall this Section apply to solicitations for philanthropic, religious, and educational charitable causes.

Source: Ord. 837-2nd Series

Effective Date: 10/26/2020

Section 4.35.1 **Mobile Food Trucks/Vendors**

Subd. 1. **Purpose.** The purpose of this Section is to protect the public health, safety, and general welfare of the community through the establishment of standards to ensure that mobile food trucks/vendors as defined herein are appropriately located, licensed and inspected, do not impede vehicular access, traffic flow or circulation, or create public safety hazards.

Subd. 2. **General Regulations:**

A. **Definitions.** For the purposes of this Section, the following definitions shall apply:

1. Mobile food truck and mobile food truck/vendor shall be defined as any self-propelled vehicle or fully contained trailer, licensed by the State of Minnesota to operate on public streets and roadways, which vends food (either prepackaged, prepared in the unit, or at a commissary) at retail for immediate consumption by the customer. Said vehicle and/or trailer may also be referred to herein as "unit".
2. Commissary shall be defined as a permanent, State-licensed location which services food trucks, including but not limited to the provision of food storage, paper goods and supplies, waste and grease disposal and food preparation.
3. Vend or vending shall be defined as the process of the transfer of a food product from the unit operator to a customer. Vending begins when the unit initially stops in a location at which customers can access the unit and continues until the unit leaves that location.

B. **Applicability.** Notwithstanding any contrary provision of any City ordinance, regulation, or rule, mobile food trucks/vendors shall be licensed and located as provided in this ordinance:

1. Licenses required. Within the City of Alexandria, no person shall vend from a mobile food truck without first having obtained a license to do so from the City, subject to the following exceptions:

- a. Mobile food trucks which are vending under a Special Event Permit issued by the City are allowed to operate under that Special Event Permit as authorized by the organizers/managers of the event, at the location of, and for the duration of the event.
 - b. Appropriately licensed caterers are exempted from this Section for catered events.
 - c. Food vendors on the Douglas County Fairgrounds while participating in the Douglas County Fair do not need to be licensed pursuant to this Section.
2. Fees. The fee for an annual license shall be established from time-to-time by the City Council and shall entitle the operator to vend from one such unit from the date on which the license is issued through December 31st of that year. Each unit must obtain a separate license which shall be displayed on or within the unit, visible from the outside of the unit, whenever the unit is vending.
3. Inspections. Applicants must provide evidence of current licensing of the unit by the Minnesota Department of Agriculture, by the Minnesota Department of Health, and/or by Horizon Public Health, (or their successor agencies) as appropriate.
4. Insurance. Applicants must provide evidence of liability insurance in which the City is named coinsured which shall provide a limit of coverage as established from time-to-time by the City Council for both bodily injury and for property damage. Written notice of cancellation of such insurance must be given to the City not less than thirty (30) days prior to actual cancellation.

5. Restrictions on Vending Activity:

- a. Mobile food trucks/vendors are prohibited from vending activity on Broadway Street in the area bounded by Third Avenue to the north and 22nd Avenue to the south, from vending activity on any portion of State Trunk Highway 29 lying within the City, (unless authorized by the State of Minnesota and while operating under a Special Event Permit as described in part B.1.a of this Subdivision), from vending activity in any municipal parking lot, and from vending activity on any public street or private property within 150' of the nearest property line of any restaurant within the City, and from vending activity on private property used or zoned for other than commercial or industrial purposes.
- b. Mobile food trucks/vendors are prohibited from vending activities within 300' of a community event for which the City has issued a Special Event Permit, unless they are specifically authorized by the event sponsor to participate in the event. The terms of the Special Event Permit shall apply.

Source: Ord. 726-2nd Series

Effective Date: 06/22/15

- c. Subject to subpart (i) below, mobile food trucks/vendors are allowed to operate as an accessory use on private property as expressly authorized by the owner/manager/agent of the private property, and only for the length of time authorized by the Minnesota Department of Agriculture and/or Horizon Public Health.

(i) From the effective date of this ordinance until November 1, 2020 the requirement that a mobile food truck be an "accessory use" is waived for any owner of a vacant restaurant site, provided that: (a) the vacancy is the result of fire or other disaster; (b) the site had been used as a restaurant within 120 days prior to the owner's application for a mobile food truck license; and (c) the restaurant owner owns or operates the mobile food truck to be used on the vacant site.

Source: Ord. 829-2nd Series
Effective Date: 06/08/2020

- d. Mobile food trucks/vendors are allowed to vend on public streets between the hours of 8:00 a.m. to 10:00 p.m. inclusive, and on private property between the hours of 7:00 a.m. to 10:00 p.m. inclusive, on all days of the week.

6. Location or placement:

- a. On public streets and in City public parks no unit shall occupy more than two (2) parking spaces.
- b. In no case shall a unit vend while occupying a traffic lane, parked on a sidewalk, or in any location which obstructs or impedes traffic.
- c. The unit shall vend only from the side of the vehicle away from moving traffic and as near as possible to the curb or side of the street.

- d. The unit shall not vend to any person standing in the traveled portion of any public roadway.
 - e. On public streets, no unit shall vend within sixty (60) feet of the intersection of two or more public streets, nor within thirty (30) feet of a driveway which enters onto a public street.
 - f. No unit shall vend while the unit is in motion.
 - g. Connection of the unit to public utilities is not permitted.
 - h. There shall be no overnight parking of food trucks on the public right of way.
7. Dimensions. No mobile food truck shall exceed 32' feet in length (overall length for a self-propelled vehicle; trailer length including the towing vehicle for self-contained trailers) or ten (10) feet in height.
8. Signs and Appurtenances:
- a. Mobile food trucks/vendors shall not employ or utilize any signs that are not attached directly to the vehicle/trailer. Signs may not project above the unit, nor more than six (6) inches from the side of the unit. No flashing, strobing or intermittent lighting is allowed.
 - b. No external seating shall be provided or utilized except as may be provided by the owner, manager, or agent of any private property on which the unit may be properly located.

- c. Any generator used by the unit must be self-contained within or on the unit, screened from view, and operate at no more than 70 decibels.

- d. While vending, operator may not call attention to the unit by crying out, blowing a horn, ringing a bell, or playing music or other sounds discernible beyond the unit. Amplified sound is not permitted outside of the unit.

- e. Waste receptacle(s) must be provided by the unit operator and the vending site must be cleaned of all litter and garbage generated by the unit and customers before the unit leaves the location.

Subd. 3. **Enforcement.** Any violation of this Section, including but not limited to the vending operation of a mobile food truck within the City without a license issued pursuant to this Section, shall be a misdemeanor punishable by up to a \$1000.00 fine and/or ninety (90) days in jail.

Source: Ord. 726-2nd Series
Effective Date: 06/22/15

Section 4.36 **Taxicabs**

Subd. 1. **Definitions.** The following terms, as used in this Section, shall have the meanings stated:

A. A "taxicab" is a vehicle driven by mechanical power. The term "taxicab" will include any motor vehicle for hire designed to carry seven persons or less, operated upon any highway in this City or on call or demand, accepting or soliciting passengers indiscriminately for transportation for hire between points along streets or highways as may be directed by the passenger or passengers so being transported.

B. The term "driver" means the person driving and having physical control over a taxicab, whether they be the licensee or in the employ of the licensee.

Subd. 2. **License Required for Taxicab Vehicle.** No person will operate or permit to be operated for hire upon the streets of the City of Alexandria any taxicab as hereinafter defined, without first obtaining a license from the City of Alexandria in the manner hereinafter provided and paying the required license fees.

Subd. 3. **License Fee.** The annual taxicab vehicle license fee, per vehicle, and taxicab drivers license fee shall be set by Resolution of the City Council. It is unlawful for any licensee to operate or permit the operation of a vehicle unless the license fee therefore shall have been paid to the City.

Subd. 4. **License Issuance and Display and Vehicle Marking.** All licenses shall be issued for specific vehicles, except as otherwise herein provided. License tags, including number and year for which issued, shall be plainly visible from the front of the vehicle. Both sides of every licensed taxicab, when in use, shall be plainly and permanently marked as such with a painted sign or attachment showing the full or abbreviated name of the licensed operator.

Subd. 5. **Licensed Required for Taxicab Drivers.** No person will drive or operate a taxicab in the City of Alexandria unless duly licensed as hereinafter provided.

Subd. 6. **Application for Taxicab Driver License.** Every applicant for an initial license and renewal license as a driver of a taxicab or motor vehicle for hire will file a verified application with City of Alexandria on a form provided for that purpose. Such application will set forth that the applicant meets the following requirements:

A. is a citizen of the United States or an alien admitted for permanent residence, or who has otherwise obtained work authorization from the U.S. Immigration and Naturalization Service

B. is the holder of a valid Minnesota driver's license authorizing operation of the licensed vehicle

C. is able to speak, read and write the English language

D. is eighteen years of age or over

E. has obtained and provided a doctor's certificate indicating the applicant is free from any infirmity, physical or mental, which would render the applicant unfit for the safe operation of the licensed vehicle. Said medical doctor's certificate shall be in the form provided by the City, and must be provided every three years after the date the initial license was issued. In lieu of a medical doctor's certificate, the City shall accept from the applicant a current Minnesota Commercial Driver's License (CDL) as proof of fitness. The City reserves the right to require a follow-up medical doctor's certificate if the City receives a substantiated report that a licensed taxicab driver is not free from an infirmity, physical or mental, which would render the licensee unfit for the safe operation of the license vehicle.

Source: Ord. 723-2nd Series
Effective Date: 05/11/15

F. has no felony convictions in this State or elsewhere in the last ten (10) years; no gross misdemeanor convictions in this State or elsewhere within the last five (5) years; no misdemeanor convictions in this State or elsewhere in the last three (3) years involving alcohol-related driving offenses, theft, damage to property, check forgery, the use or threat of use of force, possession or sale of a controlled substance, prostitution or indecent conduct; no convictions in this State or elsewhere of three (3) or more traffic code violations within the preceding twelve (12) months. For purposes of this ordinance, traffic code ordinances will be defined pursuant to Minnesota Statutes, Chapter 169 and Minnesota Statutes, Chapter 171. The applicant's verified status must be maintained during the entire licensing period.

A person who has been convicted of a crime, as defined in this ordinance will not be disqualified from obtaining taxicab driver's license if the person can show competent evidence of sufficient rehabilitation and present fitness to perform the

duties of the public employment sought or the occupation for which the license is sought pursuant to Minnesota Statutes §364:03. Sufficient evidence of rehabilitation may be established by the production of:

1. A copy of the local, state, or federal release order
2. Evidence showing that at least one year has elapsed since release from any local, state, or federal correctional institution without subsequent conviction of a crime; and evidence showing compliance with all terms and conditions of probation or parole; or
3. A copy of the relevant department of corrections discharge order or other documents showing completion of probation or parole supervision.

In addition to the documentary evidence presented, the licensing or hiring authority will consider any evidence presented by the applicant regarding:

1. The nature and seriousness of the crime or crimes for which convicted
2. All circumstances relative to the crime or crimes, including mitigating circumstances or social conditions surrounding the commission of the crime or crimes
3. The age of the person at the time the crime or crimes were committed
4. The length of time elapsed since the crime or crimes were committed
5. All other competent evidence of rehabilitation and present fitness presented, including, but not limited to, letters of reference by persons who have been in contact with the applicant since the applicant's release from any local, state, or federal correctional institution.

G. At the time of filing said initial application or renewal application, the applicant will exhibit to the Alexandria Police Department the driver's license issued to the applicant by the State of Minnesota. Prior to issuance or renewal of a Taxicab Driver License, the Alexandria Police Department shall conduct a driving record and criminal background history investigation to verify any qualifying or disqualifying factors set forth in this subdivision 6. The Alexandria Police Department shall communicate to the City Council only whether or not their investigation revealed a driving record or criminal history that would prevent the issuance of the license. No such driving record and criminal background history investigation will be conducted without the applicant's informed consent, but if an applicant fails or refuses to provide informed consent, no Taxicab Driver License will be issued. The City Council shall issue a Taxicab Driver License to an applicant who fulfills all the requirements of this Section, pays the applicable fees, and does not have a disqualifying driving record or criminal background history. Upon issuance of the license, the Alexandria Police Department will issue a card with the name and photograph of the holder of the Taxicab Driver's License, along with the license term. This card shall be displayed in the vehicle where it can be seen by passengers.

Subd. 7. **License Term.** All initial licenses issued pursuant to this section will be issued until December 31 of the current year. All taxicab vehicle and taxicab drivers' licenses shall be renewed annually.

Subd. 8. **Insurance Required.** Before a taxicab license is issued by the City, and at all times effective during such period, the licensee shall have and maintain public liability and bodily injury insurance in the amount of Fifty Thousand Dollars (\$50,000) for any one person and One Hundred Thousand Dollars (\$100,000) for two or more persons in any one accident, as well as Five Thousand Dollars (\$5,000) property damage insurance. Such insurance shall cover all passengers carried by the insured licensee and shall be for public taxicab purposes. All such policies shall contain a clause providing for ten days' written notice to the City Administrator before cancellation and a memorandum of such insurance shall be furnished to the City before a license is issued.

Subd. 9. **Rates.** Each applicant shall file with the City Administrator, before a taxicab license is issued or renewed, a schedule of proposed maximum rates to be charged by the applicant during the license period for which the application is made. The schedule of proposed maximum rates, or a compromise schedule thereof, shall be approved by the City Council before granting the license. Such schedule shall be posted in a

conspicuous place in the taxicab in full view of passengers riding therein. A taxicab licensee may petition the City Council for a review of rates during the license period, and the City Council may consider such petition and authorize new rates effective at any time. No taxicab licensee shall charge rates in excess of maximum rates approved by the City Council.

A. No driver of any licensed taxicab shall carry any other than the passenger first employing the taxicab without the consent of such passenger.

Subd. 10. **Vehicle Requirements; Inspection.** As a condition for the issuance of a taxicab vehicle license, the applicant shall file with the City Administrator, a certificate signed by a competent and experienced mechanic acceptable to the City of Alexandria showing that each taxicab vehicle has been inspected within a period of 30 days prior to the application and found to be in proper mechanical condition and safe for the transportation of passengers.

A. A similar certificate may be required by the City of Alexandria on a semi-annual basis for all vehicles which continue to be licensed during the licensing period.

B. The Chief of Police of the City of Alexandria shall have the authority to make inspections of taxicabs any time during the period the license is issued. If the Chief of Police determines that a taxicab vehicle does not meet the requirements of this section for an original license or does not comply with state law at any time during the license period, the Chief of Police may suspend the license for any vehicle found to be unfit or unsuitable, and the license shall remain suspended until such time as the vehicle can successfully pass all reasonable inspection requirements of the City.

C. All taxicab vehicles licensed by the City of Alexandria must be maintained in a clean and well-painted condition.

D. All vehicles must be equipped with inside door handles easily operated.

E. Composition. Automobiles licensed as a taxicab shall have at least four (4) doors and vans licensed as taxicabs shall have at least three (3) doors so as to permit easy ingress and egress by the passengers.

Subd. 11. **Service Required.** Every licensee shall provide service between the hours of 5:00 a.m. and 2:00 a.m., seven days a week, in the City of Alexandria. Every licensee shall provide additional services between the hours of 2:01 a.m. and 5:00 a.m., seven days a week, to such customers who call and arrange for such service not less than six hours in advance of the requested service. If the licensed operator cannot respond to a call within a reasonable period of time, they shall notify the prospective passengers as to the length of the delay before the call can be answered and give the reason therefore.

Subd. 12. **Delivery and Procurement of Liquor Prohibited.** No taxicab operator within the City of Alexandria shall make deliveries of intoxicating liquor or non-intoxicating malt liquor for any person within the City limits of Alexandria, nor shall any taxicab driver procure intoxicating liquor or non-intoxicating malt liquor for the purpose of making delivery of the intoxicating or non-intoxicating malt liquor to another. Each violation of this ordinance shall be a misdemeanor.

Subd. 13. Upon any transfer of ownership of any taxicab, the City may, where the transferor indicates that the vehicle is no longer to be operated as a taxicab, validate by appropriate endorsements thereon such license for use on another taxicab to be designated by such transferor. The provision of the foregoing sentence will also apply where the licensee will produce satisfactory evidence that such taxicab has through destruction or otherwise ceased to be used as a taxicab. Upon any transfer of ownership of any taxicab where the transferor indicates that such vehicle is to continue in use as a taxicab, the City may, by appropriate endorsements thereon validate such license in the hands of the transferee. Upon the death of any person owning a vehicle licensed hereunder, the City may, upon receipt of satisfactory evidence of such death, at the request of the deceased's personal representative, validate by appropriate endorsement thereon such license in the hands of the person in whose name title to such taxicab will have vested by reason of such death. In no event, however, will any transfer be made as hereinbefore contemplated unless and until the transferee in all other respects complies with the terms and provisions of this ordinance.

Subd. 14. **Revocation.** A taxicab driver's license or taxicab vehicle license may be revoked, suspended or not renewed at any time for cause pursuant to the provisions of this chapter upon notice and hearing by the City Council.

A. Any time that a licensee's Minnesota driver's license is suspended, revoked or canceled, his or her taxicab driver's license will likewise be immediately suspended, revoked or canceled. No person will operate a taxicab without a valid Minnesota driver's license.

B. Any person holding a taxicab driver's license whose Minnesota driver's license is suspended, canceled or revoked for any reason will immediately surrender his or her taxicab driver's license to the Alexandria Police Department. The taxicab driver's license will be returned to the licensee upon reinstatement of the Minnesota driver's license or issuance of a limited license authorizing operation of a taxicab; provided, however, that suspension, cancellation or revocation of a Minnesota driver's license due to refusal to submit to a legally required blood alcohol test under the state implied consent statute will be grounds for the revocation, non-issuance or nonrenewal of the taxicab driver's license.

C. Any licensed taxicab driver whose Minnesota driver's license has been revoked and who has been issued a limited license authorizing the operation of a taxicab will immediately notify the Alexandria Police Department of the same. At that time, the licensee will furnish to the Alexandria Police Department a copy of the limited license and a written statement containing a schedule of the days and hours of each day during which he or she will be driving a taxicab during the term of the limited license. No deviation from the schedule will be permitted. In addition, the licensee will personally furnish to the Alexandria Police Department copies of all trip sheets for all shifts worked during the term of the limited license. The limited license documentation and trip sheets must be furnished weekly, i.e., every Monday by 12:00 noon, to the Alexandria Police Department.

D. Any person holding a taxicab driver's license will notify the Alexandria Police Department immediately whenever he or she is convicted of an alcohol-related driving offense, whether or not it involves the operation of a taxicab.

E. Refusal to take and/or failure to pass a standard breathalyzer test administered pursuant to Minn. Stat. § 169.123 while on duty will be grounds for revocation of a taxicab driver's license.

F. Failure to comply with the provisions of this section will be grounds for revocation of a taxicab driver's license.

Subd. 15. **Appeals.** A determination by the City to deny, suspend, revoke or not renew any license under this section may be appealed to the City Council of Alexandria by filing with the City Administrator a written notice of appeal within fifteen (15) days of the date on which the City mails such determination to the applicant or licensee. In that event, the appeal will be heard by the Council at its next meeting occurring at least fifteen (15) days after the filing of the Notice of Appeal. At any appeal of a determination by the City under this Ordinance, the licensee or applicant, or an attorney representing said party, may appear and make a presentation to the City Council. The licensee or applicant shall present to the City Council the basis for the determination being appealed. If the appeal is based on the results of a driving record or criminal history background investigation, the licensee or applicant may present to the City Council evidence of rehabilitation as set forth in Subdivision 6.F of this Section. After the hearing, the Council may uphold, reverse or modify the decision of the City based upon the provision of this Ordinance and upon the protection of the public health, safety or general welfare. The City Council shall issue written findings and determination within thirty-one (31) days of the hearing, unless the Council extends that time for good cause. A decision of the City Council made following an appeal as set forth herein may be appealed by Writ of Certiorari to the Court of Appeals of the State of Minnesota pursuant to its Rules of Civil Appellate Procedure and Minnesota Statutes.

Source: Ord. 710-2nd Series
Effective Date: 11/24/14

Subd. 16. Upon the occurrence of any disqualifying circumstances described in Subd. 6, a license may be suspended or revoked at the City's discretion. In addition, upon such an occurrence or the existence of pending charges of disqualifying crimes, the licensee shall immediately notify the City of the circumstance. The failure to give notice shall be grounds for suspension or revocation of the license.

Source: Ord. 864-2nd Series
Effective Date: 2/28/2022

Section 4.37. **Motorized Vehicle Races and Events.**

Subd. 1. **License Required.** It is unlawful for any person, firm, corporation or other organization to sponsor, conduct or operate motorized vehicle races or competitive events within the City of Alexandria, or within two miles of the City of Alexandria without first having obtained a license therefore from the City of Alexandria.

Subd. 2. **License Fee.** The license fee for events shall be set annually by resolution of the Alexandria City Council.

Subd. 3. **License Terms and Conditions.** A separate license shall be required for each day of a scheduled race or event and all events shall be subject to the following conditions:

A. No license shall authorize motorized vehicle racing or events between the hours of 10:45 p.m. and 9:00 a.m.

B. All vehicles participating in the activity or event shall be equipped with sound muffling equipment to minimize the impact of noise resulting from the race or event.

C. All racing or events shall be conducted within a defined geographic area which shall be clearly identified and secured.

D. All racing or events shall be conducted to comply with the Rules of the Minnesota Pollution Control Agency for Noise Pollution Control, Minn. Rules 7030.0010 through 7030.1060.

Subd. 4. **License Application.** The application for a license for a race, activity, or event shall be on forms prescribed by the Alexandria City Council and shall include, but not be limited to the following information and data:

A. Name, address and description of the sponsoring person, firm, corporation or organization;

B. The federal and state employer identification number of the sponsoring person, firm, corporation or organization;

C. The name, home address and telephone numbers of all officers, directors and the supervising official responsible for the conduct of the race, activity, or event;

03/02/2022

THIS PAGE REPLACES PAGE 4-38

- D. A description of the proposed race, activity or event;
- E. The date(s) for which each license is sought;
- F. The location for the conduct of the race, activity or event;
- G. If the applicant is not the owner of the real estate upon which the race, activity, or event is to be held, a copy of the lease or rental agreement between the sponsoring person, firm, corporation or organization and the owner of the real estate.

Subd. 5. **Immediate Revocation.** If during the course of a race or event there occurs conduct which violates the terms and conditions of the grant of the license, the license shall be immediately revoked, and the Police Department of the City of Alexandria shall be authorized to immediately terminate the racing or event for which the license was granted.

Subd. 6. **Future Licenses.** Any violation of the terms and conditions for the grant of the license authorized by this section shall immediately revoke any license to the person, firm, corporation or organization for any and all future licensed races or events. Any licensee whose license is revoked under the terms of this Subdivision 6 may request reconsideration for the grant of future licenses by the Alexandria City Council.

Subd. 7. **Individual Officer's Responsible.** The individual offices, directors and managers of the sponsoring firm, corporation or organization shall be personally responsible for each and every violation of the term of the license.

Subd. 8. **Criminal Penalties.** Any violation of this Ordinance involving the failure to obtain a license or a violation of the terms for which the license is granted, is a misdemeanor, and upon conviction of the individual, the officer, director or manager shall be subject to a fine of not more than \$700 or imprisonment for a term not to exceed 90 days or both. In all cases, the City shall be entitled to collect the costs of prosecution to the extent permitted by law. Each act of violation and each day a violation occurs or continues shall constitute a separate offense.

Subd. 9. **Effective Date.** This ordinance shall become effective from and after its passage and publication.

Source: Ord. 462-2nd Series
Effective Date: 5/14/01

Section 4.38. **Fireworks Sales.**

Subd. 1. **License Required.** It is unlawful for any person to engage in the sale of fireworks permitted by Minn. Stat. § 624.20. subd. 1(c) without first having obtained a license therefore from the City.

Subd. 2. **License Application.** The applicant shall submit an application for a consumer fireworks license on a form prepared by the Alexandria City Council. Information required as part of the license application includes, but is not limited to the following information:

A. Name, address and telephone number of the applicant.

B. Address where the fireworks will be sold.

C. A description of the fireworks to be sold.

D. Estimated quantity of the fireworks that will be stored on the premises.

E. Description of the premises and facility from which the fireworks are proposed to be sold.

F. Approval of the property owner, if different from the applicant.

G. Prior to the issuance of a license, the premises must be inspected and approved by the City Fire Marshal.

Subd. 3. **Conditions of License.** Any license issued to sell consumer fireworks shall be subject to the following conditions:

A. The license is not transferable, either to a different person or location.

B. The license must be publicly displayed on the licensed premises.

C. The premises are subject to inspection by City employees including police officers during normal business hours.

D. The premises for which a license will be issued must be located in a zoning district permitting retail sales.

E. Storage of consumer fireworks on the premises must be in compliance with the Uniform Fire Code.

F. The premises must be in compliance with the Uniform Fire Code and Uniform Building Code.

Subd. 4. **License Fee.** The annual license fee for fireworks sales shall be set by Resolution of the City Council.

Subd. 5. **Practices Prohibited.** It is unlawful for any seller of fireworks to violate any governmental regulation relating thereto, including the requirements of Minn. Stat. § 624.20 related to permitted consumer fireworks.

Subd. 6. **Insurance Requirement.** Each applicant shall submit with their application a certificate of insurance in a company approved by the City showing public liability insurance with limits of at least \$10,000/20,000 for personal injury and \$500,000 for property damage.

Subd. 7. **License Denial, Suspension and Revocation.** A consumer fireworks license may be denied, suspended, or revoked in accordance with Section 4.38 of the Alexandria City Code.

Source: Ord. 491-2nd Series
Effective Date: 7/22/02

Section 4.41. **Sign and Awning Hangers.**

Subd. 1. **License Required.** It is unlawful for any person to engage in the business of hanging signs or awnings without first having obtained a license therefor from the City.

Subd. 2. **License Fee.** The annual license fee for sign and awning hangers shall be set by Resolution of the City Council.

Subd. 3. **Practices Prohibited.** It is unlawful for any sign or awning hanger to violate any governmental regulation relating thereto.

Subd. 4. **Insurance Requirement.** Each applicant shall submit with their application a certificate of insurance in a company approved by the City showing public liability insurance with limits of at least \$10,000/20,000 for personal injury and \$5000 for property damage.

Section 4.46 **Excavators.**

Subd. 1. **License Required.** It is unlawful for any person to excavate in or under any public or private property without a license therefor from the City.

Subd. 2. **License Fee.** The annual license fee for an excavator shall be set by Resolution of the City Council.

Subd. 3. **Agreement.** Excavations may be made in public property only by licensed excavators acting under a written agreement with the City. Such agreement shall provide that the excavator must pay any damages to water mains, sewer mains or other public property of any kind or nature whatsoever.

Subd. 4. **Insurance Requirement.** Each applicant shall submit with their application a certificate of insurance in a company approved by the City showing public liability insurance with limits of at least \$10,000/20,000 for personal injury and \$5000 for property damage.

Section 4.49. **Massage Therapy.**

Subd. 1. **Definitions.** The following words and terms when used in this Chapter shall have the following meanings unless the context clearly indicates otherwise.

A. "Operate" means to own, manage, or conduct.

B. "Within the City" includes physical presence as well as telephone referral situations, such as a "phone-a-message" type operations, in which the business premises, although not actually located within the City, serves as a point of assignment of employees who respond to requests for services from within the City.

C. "Massage" means the method of treating the superficial parts of the human body by rubbing, pressing, stroking, kneading, tapping, pounding, vibrating, or stimulating with the hands or any instrument.

D. "Sanitary" shall mean free from pathogenic-microorganisms.

E. "Adequate" or "approved" shall mean acceptable to the City Health Officer or the officer's agents following the officer's determination as to the conformance with public health practices and standards.

Subd. 2. **License Required.**

A. **Massage Therapy License.** It shall be unlawful for any person to operate a massage business within the City unless such business is currently licensed under this Section. This ordinance shall not apply to the following individuals while engaged in the personal performance of the duties of their respective professions:

1. Physicians, surgeons, chiropractors, osteopaths, acupuncturists, occupational therapists, or physical therapists who are duly licensed to practice their respective professions in the State of Minnesota.

2. Massage therapists who are hired or employed by a medical professional licensed under Chapters 147 or 148 or a dental professional licensed under Chapter 150A, who provides treatment exclusively on the premises of that medical or dental professional.

3. Nurses who are registered under the laws of this State.

4. Barbers and beauticians who are duly licensed under the laws of this State, except that this exemption shall apply solely to the massaging of the neck, face, scalp and hair of the customer or client for cosmetic or beautifying purposes.

B. Individual massage therapist License. It shall be unlawful for any person to perform massage services within the City unless currently licensed under this Section.

Subd. 3. **Application.** Every application for a license under this Section shall be filed with the City Clerk. Each application shall be made on a form supplied by the City and shall contain the following information:

A. **Business Licenses.**

1. Whether the applicant is a natural person, a corporation, a partnership, or other form of organization.

2. If the applicant is a natural person:

a. The true name, place and date of birth, and street resident address and phone number of the applicant.

b. Whether the applicant is a citizen of the United States or is otherwise legally authorized to work in the United States.

c. Whether the applicant has ever used or has been known by a name other than their true name; and if so, what was such name or names and information concerning dates and places where used.

d. The name of the business if it is to be conducted under a designation, name or style other than the full individual name of the applicant. In such case, a copy of the certification as required by M.S.A. Chapter 333, certified by the Clerk of District court, shall be attached to the application.

e. The street addresses at which applicant has lived during the preceding five years.

f. The kind, name and location of every business or occupation the applicant has been engaged in during the preceding five years.

g. The names and addresses of applicant's employer(s) and partner(s), if any, for the preceding five years.

h. Whether the applicant has ever been convicted of any felony or crime. If so, the applicant shall furnish information as to the time, place and offense for which convictions were had.

i. The physical description of the applicant.

j. Whether the applicant has any training or experience in performing massage services.

3. If the applicant is a partnership:

a. The names and addresses of all partners and all information concerning each partner as is required of an individual applicant in Subparagraph 2 above.

b. The name of the managing partner(s) and the interest of each partner in the business.

c. A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name under the provisions of M.S.A. Chapter 333, a copy of such certificate, certified by the Clerk of District Court, shall also be attached.

4. If the applicant is a corporation or other organization:

a. The name; and if incorporated, the state of incorporation.

b. A true copy of the Certificate of Incorporation, Articles of Incorporation or Association Agreement, and By-Laws shall be attached to the application. If a foreign corporation, a Certificate of Authority, as described in M.S.A. Chapter 303, shall also be attached.

c. The name of the manager or proprietor or other agent in charge of the business to be licensed and all information concerning said person(s) as is required in Subparagraph 2 above.

d. A list of all parties who control or own an interest in excess of five percent in such corporation or organization or who are officers of the corporation or organization and all information concerning said person(s) as is required in Subparagraph 2 above.

5. Whether the applicant is licensed in other communities to run similar businesses; and if so, where.

6. The names of those individuals to be licensed and working for the applicant who may work in the City of Alexandria.

7. Whether the applicant has previously been denied a massage therapist license.

8. The names, residences, and business addresses of three residents of Douglas County, of good moral character, not related to the applicant or financially interested in the premises or business, who may provide a reference as to the applicant's or manager's character.

9. The location of the business premises.

10. Such other information as the City Council may require.

B. Personal Service License. All the information requested under Subd. 3 A, Subparagraphs 1, 2, 5, 7, 8 and 10 shall be required of applicants for a personal service license.

C. Any falsification of information on the license application shall result in the denial of said license.

D. It shall be the continuing duty of each licensee to properly notify the City Clerk of any change in the information or facts required to be furnished on the application for license. This duty shall continue throughout the period of such license and failure to comply with this section shall constitute cause for revocation or suspension of such license.

Subd 4. **Execution of Application.** All applications for license, whether business or personal services, shall be signed and sworn to. If the application is that of a natural person, it shall be signed and sworn to by such person; if by a corporation, by an officer thereof; if by a partnership, by one of the partners; and if by an unincorporated association by the manager or managing officer thereof.

Subd. 5. **Fees.**

A. **License Fees.** Each application for a license shall be accompanied by payment in full of the required license fee. The fee for an individual massage therapy license, and for a business license shall be set by Resolution of the City Council. Upon rejection of any application for a license, the City shall refund the amount paid. No other refunds shall be made.

B. **Investigation Fees.** At the time of each original application for a business license, there shall be paid in full an investigation fee of \$200.00. No investigation fee shall be refunded.

Subd. 6. **Persons Ineligible for a License.** No license shall be issued to an applicant who (1) is under 18 years of age, (2) is not a United States citizen or otherwise legally authorized to work in the United States, (3) has been convicted of any violent crime, as that term is defined in Minn. Stat. § 609.1095, Subd. 1(d); any sex crime, as that term is defined in Minn. Stat. § 609.3457, subd. 4; or any violation of Minn. Stat. §§ 609.2241, 609.282, 609.284, 609.322, 609.324, 609.3242, 609.3243; or any violation of any similar ordinance or law of the United States or any other state.

Subd. 7. **Granting of Licenses.**

A. **Business Licenses.**

1. All applications shall be referred to the Chief of Police and to such other City Departments as the City Clerk shall deem necessary for verification and investigation of the facts set forth in the application. The Chief of Police and other consultants shall make a written recommendation to the City Council as to issuance or non-issuance of the license. The City Council may order and conduct such additional investigation as it deems necessary.

Subd. 8. **License Not Transferable.** Each license shall be issued to the applicant only and shall not be transferable to another holder. No licensee shall loan, sell, give or assign a license to another person.

Subd. 9. **Conditions of License.**

A. **Business License.** No business licensee shall solicit business or offer or agree to perform massage services, nor shall his or her employee(s) solicit business or offer or agree to perform massage services, within the City while under suspension or revocation by the City Council.

Subd. 10. **Suspension or Revocation of License.**

A. The City Council may suspend or revoke a license issued under this Chapter upon finding a violation of any of the conditions set forth in Subd. 9 or any provision upon violation of any other state statute regulating massage services. Any conviction for any crime listed in Subdivision 6 of this section shall result in the revocation of any license issued hereunder. The following shall also be considered cause for revocation:

1. It shall be grounds for revoking a license granted to any person, partnership or corporation under this ordinance if they fail to comply with any of the ordinances of the City of Alexandria or statutes of the State of Minnesota.

2. It shall be grounds for revoking a license granted to any person, partnership or corporation under this ordinance if the owner, manager, lessee, or any of the employees are found to be in control or possession of any alcoholic beverages or narcotic drugs and controlled substances on the premises, possession of which is illegal as defined by Minnesota Statutes or City of Alexandria Ordinances.

Subd. 11. **Construction and Maintenance of Premises.**

A. All massage therapy rooms and all restrooms and bathrooms used in connection therewith shall be constructed of materials which are impervious to moisture, bacteria, mold or fungus growth. The floor-to-wall and wall-to-wall joints shall be constructed to provide a sanitary cove with a minimum radius of one inch.

B. All restrooms used in connection with massage therapy rooms shall be provided with mechanical ventilation with 2 cfm per square foot of floor area, a minimum of 15 foot candles of illumination, a hand washing sink equipped with hot and cold running water under pressure, sanitary towels and a soap dispenser.

C. Each massage therapy establishment shall have a janitor's closet which shall be provided for the storage of cleaning supplies. Such a closet shall have mechanical ventilation with 2 cfm per square foot of floor area and a minimum of 10 foot candles of illumination. Such closet shall include a mop sink.

D. Floors, walls, and equipment in massage therapy rooms, restrooms and in bathrooms used in connection therewith must be kept in a state of good repair and sanitary at

all times. Linens and other materials shall be stored at least 6 inches off the floor. Sanitary towels, wash cloths, cleaning agents and toilet tissue must be made available for each customer.

E. Individual lockers shall be made available for use by patrons. Such lockers shall have separate keys for locking.

F. Doors on massage therapy rooms shall not be locked or capable of being locked. Locks, latches, or other devices intended to secure a door so as to prevent its being opened by any person from either side of the door with or without a key cannot be present on any doors of massage therapy rooms. All massage therapy rooms shall be constructed with air space between partitions and the ceiling, and be clearly identified by signs.

Subd. 12. **Massage Therapists Employed in the Business.**

A. No such business shall employ or use any person as a massage therapist unless such person is licensed by the City of Alexandria.

B. Any person acting as a massage therapist in any such business shall have their registration certificate or a true copy thereof displayed in a prominent place on the licensed premises.

C. Whenever a massage is given, it shall be required by the massage therapist that the person who is receiving the massage shall have his/her breasts, nipples, buttocks, anus and genitals covered with an appropriate non-transparent covering.

D. Any massage therapist performing massages shall be fully clothed at all times, and shall have his/her breasts, nipples, buttocks, anus and genitals covered with a non-transparent material.

E. No person shall engage in providing services as a massage therapist without being licensed by the City Council of the City of Alexandria.

F. A massage therapist shall apply to the City Council of the City of Alexandria for a license to provide services by paying the initial license fee, set by Resolution of the City Council, at the Office of City Clerk and by completing an application form prepared by the City Clerk. Such application shall include:

03/02/2022

THIS PAGE REPLACES PAGE 4-50

1. The name, age and address of the applicant.

2. The length of experience in this occupation and the past places of employment and position held; and

Source: Ord. 820-2nd Series
Effective Date: 3/9/2020

3. A description of any crime including the time, place, date and disposition for which the applicant has been arrested or convicted.

Source: Ord. 838-2nd Series
Effective Date: 10/26/2020

G. Massage Therapist License. Each massage therapist license shall be subject to the following conditions:

1. The licensee shall carry, and display upon request, his/her license while working within the City.

2. No licensee shall perform or offer to perform massage services within the City while under suspension or revocation by the City Council.

3. No person shall solicit business in any public place or in any licensed liquor establishment within the City.

H. No massage therapy establishment for which a license has been granted by the City shall be open for business unless and until any massage therapists employed in the business have first complied with the registration of this ordinance.

I. A license for a massage therapist may be denied or revoked upon any one of the following grounds.

1. Fraud or deception in the license application.

2. Applicant/licensee has a history of violations of laws and ordinances that apply to health, safety or are listed in Subdivision 6 of this Section.

3. Applicant/licensee is convicted of an ordinance or State statute violation arising within the business establishment to which a sauna and/or massage parlor license was granted under this ordinance; and

4. Applicant/licensee has been convicted of crimes or offenses involving sexual misconduct.

Source: Ord. 820-2nd Series
Effective Date: 3/9/2020

J. A new license issued by the City of Alexandria providing services as a massage therapist unless revoked, is for the calendar year or part thereof for which it has been issued and one additional calendar year. A renewal application shall be made in the same manner as provided for in the original application. The annual license fee shall be set by Resolution of the City Council.

Source: Ord. 838-2nd Series
Effective Date: 10/26/2020

Subd. 13. **Submission of Plans and Specifications.** All persons who hereafter construct, extensively remodel or convert buildings or facilities for use as a massage therapy room shall conform and comply in their construction, erection or alteration with the requirements of this ordinance. Plans and specifications for such layout, arrangement and plumbing and construction materials of the sauna and massage areas, and locations, size, and type of equipment and facilities shall be filed by the owner in the Office of the City Clerk. A building permit shall not be issued for any such construction, remodeling, or alteration until such permit shall have the approval of the City Health Officer or the officer's agents.

Subd. 14. **Hearing.**

A. **Business License.** Except in the case of a suspension pending a hearing on revocation, revocation or suspension by the Council shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least eight days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The Council may, without any notice, suspend any license pending a hearing on revocation for a period not exceeding 30 days. The notice may be served upon the licensee personally or by leaving the same at the licensed premises with the person in charge thereof. No suspension shall exceed 60 days.

B. **Massage Therapist License.** Within 30 days of a written request by the suspended or revoked licensee, a public hearing before the City Council shall be held concerning the reasons for suspension or revocation.

Subd. 15. **Duration of License.**

A. All licenses issued pursuant to this Chapter shall be effective up to two years. All licenses shall expire on December 31 of the year following the year of issuance, regardless of the date a license is issued. There shall be no pro-rata adjustment for licenses issued after January 1.

Source: Ord. 820-2nd Series
Effective Date: 3/9/2020

B. When a licensee makes application for renewal of a current license and pays the required fee to the issuing authority on or before the termination date, the licensee is authorized to operate until such a time as the City Council acts upon the applicant's renewal application and the license is either renewed or denied.

Subd. 16. **Inspection of Premises.** During business hours, all saunas and/or massage parlors shall be open to inspection by City Health, Building Inspectors, Police, or other duly designated officers. Upon demand by any police officer, any person engaged in providing services in any licensed premises shall identify himself giving his or her true legal name and correct address.

Source: Ord. 335-2nd Series
Effective Date: 12/28/92

Subd. 17. **Hours of Operation.** No customers or patrons shall be allowed to enter the licensed premises after 9:00 p.m. and before 8:00 a.m. daily.

Source: Ord. 580-2nd Series
Effective Date: 2/27/06

Subd. 18. **Penalty.** Every person who commits or attempts to commit, conspires to commit, or aid or abets in the commission of any act constituting a violation of this ordinance, whether individually or in connection with one or more other persons or as principal agent, or accessory, shall be guilty of a misdemeanor and every person who falsely, fraudulently, forcibly or willfully induced, causes, coerces, permits or directs another to violate any of the provisions of this ordinance is likewise guilty of a misdemeanor.

Section 4.50. **Licenses Required for Business Operations at Chandler Field.** No person, firm or corporation may conduct any business operation at Chandler Field (the Alexandria Municipal Airport) without first securing from the Alexandria Airport Commission a license for the conduct of said business.

A. An applicant for a license from the Alexandria Airport Commission must file with the Airport Commission not less than thirty (30) days prior to the desired date of commencement of business operations an application form reflecting:

1. A narrative description of the type of business to be conducted at the airport;

2. The names of the persons responsible for the conduct of the operation;

3. Such other information as the Airport Commission may determine is necessary for them to act upon the said application.

B. The Alexandria Airport Commission shall have the full authority to impose such terms and conditions for the issuance of a license for the conduct of any business operation at Chandler Field as they may, in their sole discretion, determine reasonable and necessary. Among such conditions shall be terms providing for insurance, terms providing for reporting, and terms providing for control over physical activities and coordination of all physical activities and business operations at Chandler Field.

Section 4.51. Pawnbrokers.

Subd. 1. **Definition.** For the purposes of this Section, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

A. **Billable transaction.** Every reportable transaction conducted by a pawnbroker is a billable transaction, except renewals, redemptions, or extensions of existing pawns on items previously reported and continuously in the licensee's possession, voided transactions, and confiscations.

B. **Item containing precious metal.** An item made in whole or in part of metal and containing more than one percent by weight of silver, gold, or platinum.

C. **Pawnbroker.** Any natural person, partnership, corporation, limited liability company, joint venture, trust, association or any other legal entity, either as principal, or agent or employee thereof, who loans money on deposit or pledge of personal property, or other valuable thing, including an item containing precious metal, or who deals in the purchasing of personal property, or other valuable thing, including an item containing precious metal, on condition of selling the same back again at a stipulated price, or who loans money secured by chattel mortgage on personal property, taking possession of the property or any part thereof so mortgaged. To the extent that a pawnbroker's business includes buying personal property, including an item containing precious metal, previously used, rented, or leased, or selling it on consignment, the provisions of this Section shall be applicable.

A pawnbroker licensed under this Section shall have the authority to receive or purchase precious metals or items containing precious metal without obtaining a separate precious metal dealer license under this Section.

D. **Precious metals.** Precious metals mean silver, gold, and platinum.

E. **Reportable transaction.** Every transaction conducted by a pawnbroker in which merchandise is received through a pawn, purchase, consignment, or trade, or in which a pawn is renewed, extended or redeemed, or for which a unique transaction number or identifier is generated by their point-of-sale software, or an item is confiscated by law enforcement, is reportable except:

i. The bulk purchase or consignment of new or used merchandise from a merchant, manufacturer or wholesaler having an established permanent place of business, and the retail sale of said merchandise, provided the pawnbroker must maintain a record of such purchase or consignment which describes each item, and must mark each item in a manner which relates it to that transaction record;

ii. Retail and wholesale sales of merchandise originally received by pawn or purchase, and for which all applicable hold and/or redemption periods have expired.

Subd. 2. **License Required.** No person shall exercise, carry on, or be engaged in the trade or business of a pawnbroker or act as a pawnbroker within the city unless the person is currently licensed pursuant to the provisions of this Subdivision. A pawn transaction made without the benefit of a license is void. Such license shall authorize the licensee to engage in the pawnbroking business at the premises named on the license. Each premises shall require a separate license. No person shall be eligible for a license unless such person meets the eligibility standards set forth in Minnesota Statutes Section 325J.03(a) or its successor. Licenses shall be nontransferable. Any change in the direct or beneficial ownership of a pawnbroking business, including pawnbroking businesses lawfully operating pursuant to Minnesota Statutes Section 325J.10, shall be reported by the licensee to the clerk and shall require a new license.

Subd. 3. **Same Fees.**

A. The applicant for a license under this Section shall accompany the application to the city clerk with a license fee, which shall be set in accordance with this Code;

B. If the license period is for less than one year, the fee to be paid by the applicant shall be a pro rata portion of the amount required for the entire year; provided that the minimum fee shall be not less than that set in accordance with this Code;

C. During any month, or part thereof, when the city or the chief of police requires computerized recordkeeping of pawnbrokers, each licensee shall also pay a monthly license fee to the city treasurer on a per transaction basis. The fee shall be equal to the amount of City's per transaction cost of participating in computer interchange file specification format mandated by Minnesota Statutes Section 325J.05, or its successor, together with a fee per billable transaction, the amount of which is set in accordance with this Code, which amount will cover the city's costs in processing the data. The licensee shall pay this

transaction fee to the city within 30 days of the date of the billable transaction. A licensee may pass this fee through to their customers by imposing a per transaction fee to persons pawning goods that is equal to the per transaction license fee paid to the city by the licensee. This customer per transaction fee shall not be considered as a fee or interest for purposes of determining compliance with maximum permitted charges by pawnbrokers under Minnesota Statutes Section 325J.07.

Subd. 4. **Same Term; Expiration Date.** A license issued under this Section shall expire on the 1st day of January each year.

Subd. 5. **Bond Required.** Every applicant for a license under this Section shall accompany his application with a bond in the sum of \$1,000, executed by a corporation authorized to do business in this state and conditioned that in conducting such business, the licensee will, in all things, observe the conditions and provisions of this Section. Such bond shall be for the benefit of the city or any person who shall suffer any damage through the act of such pawnbroker.

Subd. 6. **Records to Be Kept; Right of Inspection; Pawn Tickets.**

A. Each person licensed hereunder shall keep a record of each reportable transaction made in the course of his or her business. Such records shall be in a form prescribed by the chief of police and shall, in all instances, be legibly made in ink and be in the English language. The record so kept shall include the following information about each transaction:

i. A complete and accurate description of each item including, but not limited to, any trademark, identification number, serial number, model number, brand name or other identifying mark on such an item;

ii. The purchase price, amount of money loaned upon or pledged therefor;

iii. The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges;

iv. Date, time, and place the item of property was received by the licensee and the unique alpha and/or numeric transaction identifier that distinguishes it from all other transactions in the licensee's records;

v. Full name, current residence address, current residence telephone number, date of birth and accurate description of the person from whom the item of the property was received, including: sex, height, weight, race, color of eyes, and color of hair;

vi. The identification number and state of issue from any of the following forms of identification of the seller:

a. Current valid Minnesota driver's license;

b. Current valid Minnesota identification card;

c. Current valid photo identification card issued by another U.S. state or a province of Canada;

d. Current valid tribal identification card as defined in Minnesota Statutes Section 171.072;

e. Current valid military identification card issued by the United States department of defense;

vii. The signature of the person identified in the transaction.

B. The records required herein shall be kept available for police inspection at any reasonable time at the licensee's place of business and shall be kept for at least three years after any transaction;

C. The chief of police may require that all records and information required to be kept by this Section be kept by computer or other electronic format, or that video or photographic records be kept. The chief of police may also require that the computerized or electronic records of the pawnbrokers be electronically transmitted to the Alexandria Police Department on a periodic basis. The format for computerized pawnbroker records shall be the "interchange file specification format" specified in Minnesota Statutes Section 325J.05(b) and (c) or its successor;

D. The pledgor or seller shall sign a pawn ticket and receive an exact copy of the pawn ticket. The following shall be printed on all pawn tickets:

i. The statement that "Any personal property pledged to a pawnbroker within this state is subject to sale or disposal when there has been no payment made on the account for the period of not less than 60 days past the date of the pawn transaction, renewal, or extension; no further notice is necessary. There is no obligation for the pledgor to redeem pledged goods.";

ii. The statement that "The pledgor of this item attests that it is not stolen, it has no liens or encumbrances against it, and the pledgor has the right to sell or pawn the item.";

iii. The statement that "This item is redeemable only by the pledgor to whom the receipt was issued, or any person identified in a written and notarized authorization to redeem the property identified in the receipt, or a person identified in writing by the pledgor at the time of the initial transaction and signed by the pledgor. Written authorization for release of property to persons other than the original pledgor must be maintained along with the original transaction record."; and

iv. A blank line for the pledgor's signature;

E. All licensees shall take a color photograph of every item pawned or sold. The photograph must be at least two inches in length by two inches in width and must be maintained in such a manner that the photograph can be readily matched and correlated with all other records of the transaction to which they relate. Such photographs must be available to the chief of police, or the chief's designee, upon request. Items photographed must be accurately depicted. A high-quality color scan of every item pawned or sold may be taken in lieu of a photograph provided the items scanned are accurately depicted;

F. All licensees shall take a color photograph of each customer involved in a reportable transaction. In the alternative, all licensees shall make a high-quality color photocopy of the current valid photo identification presented by each customer. The photograph must be at least two inches in length by two inches in width and must be maintained in such a manner that the photograph can be readily matched and correlated with all other records of the transaction to which they relate. The major portion of the photograph must include an identifiable front facial close-up of the person. The licensee must inform the person that he or she is being photographed by displaying a sign of sufficient size in a conspicuous place in the premises;

G. All photographs, photocopies of valid photo identifications, and color scans of items pawned or sold, are reportable transaction information that must be submitted to the Automated Pawn System as set forth in Subdivision 7 of this Section.

H. The licensee shall, at all times during the term of the license, allow the Alexandria police department, or designee, to enter the premises where the licensee's business is located, during normal business hours and at all other reasonable times, for the purpose of inspecting such premises and inspecting the items, ware and merchandise therein for the purpose of locating items suspected or alleged to have been stolen or otherwise improperly disposed of and to verify compliance with this Section and applicable state laws.

Subd. 7 **Daily Reports to Chief of Police.** Every pawnbroker shall make available to the chief of police every day, before the hour of 12:00 noon, a complete, legible, and correct copy of the records required by Subdivision 6 and Minnesota Statutes Chapter 325J or its successor, for all transactions occurring on the previous day. If the chief of police requires computerized recordkeeping for pawnbroker records, the chief shall also set and enforce specifications for each licensee's transmittal of those records to local and statewide authorities or data systems.

A. Effective no later than 60 days after the police department provides licensees with the current version of the Automated Pawn System Interchange File Specification or similar automated record system as may be specified by the city, licensees must submit every reportable transaction to the police department daily. Licensees must provide to the police department all reportable transaction information by transferring it from their computer to the Automated Pawn System via modem using the current version of the Automated Pawn System Interchange File Specification. All required records must be transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the issuing authority. Any transaction that does not meet the Automated Pawn System Interchange File Specification must be corrected and resubmitted the next business day. The licensee must display a sign of sufficient size, in a conspicuous place in the premises, which informs patrons that all transactions are reported to the police department daily;

B. Billable transaction fees. Licensees will be charged for each billable transaction reported to the police department;

i. If a licensee is unable to successfully transfer the required reports by modem, the licensee must provide the police department, upon request, printed copies of all reportable transactions along with the video surveillance for that date, by noon the next business day;

ii. If the problem is determined to be in the licensee's system and is not corrected by the close of the first business day following the failure, the licensee must continue to provide the required reports as detailed in Subdivision 6 of this Section, and must be charged a reporting failure penalty, daily, until the error is corrected, which penalty shall be set in accordance with Subdivision 8 of this Section;

iii. If the problem is determined to be outside the licensee's system, the licensee must continue to provide the required reports in Subdivision 6 of this Code, and resubmit all such transactions via modem when the error is corrected;

iv. Regardless of the cause or origin of the technical problems that prevented the licensee from uploading their reportable transactions, upon correction of the problem, the licensee shall upload every reportable transaction from every business day the problem had existed;

v. Subdivision 7.B.i. through iii. notwithstanding, the police department may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.

Subd. 8. Pledge or Pawn Not Forfeited for 60 Days.
Any person pledging or pawning any article with any pawnbroker shall have at least 60 days from the date of the pawn transaction, renewal, or extension, to redeem the same before the pledge or pawn becomes forfeited.

Subd. 9. Holding Periods; Labels Required.

A. Pawned items. Any person pledging, pawning, or depositing an item for security must have a minimum of 60 days from the date of that transaction to redeem the item before it may be forfeited and sold. During the 60-day redemption period or any extensions of the pawn transaction, items may not be removed from the premises or sold. However, licensees are permitted to return pledged goods to the borrower at any time during the redemption period. Licensees are prohibited from redeeming any item to anyone other than the person to whom the receipt was issued or, to any person identified in a written and notarized

authorization to redeem the property identified in the receipt, or to a person identified in writing by the pledgor at the time of the initial transaction and signed by the pledgor. Written authorization for release of property to persons other than the original pledgor must be maintained along with the original transaction record in accordance with this Section.

B. Purchased items. Any item, including an item containing precious metal, sold to a pawnbroker shall not be sold or otherwise removed from the premises for at least 30 days from the date of the purchase transaction. Such items may not be altered, modified, or changed in any way during this holding period;

C. Label required. Licensees must attach a label to every item at the time it is pawned, purchased, or received in inventory from any reportable transaction. Permanently recorded on this label must be the number or name that identifies the transaction in the shop's records, the transaction date, the name of the item and the description or the model and serial number of the item as reported to the police department, whichever is applicable, and the date the item is out of pawn or can be sold, if applicable. Labels shall not be re-used.

Subd. 10. **Hours of Operation.** From 9:00 p.m. Saturday to 7:00 a.m. Monday, no property shall be received as a pledge or purchase by any pawnbroker; nor shall any property be sold during said hours by any pawnbroker, nor on any other day before 7:00 a.m. nor any day after 9:00 p.m. No pawnbroker shall be open for business of any kind on the following holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, after 4:00 p.m on December 24, and Christmas Day.

Subd. 11. **Police Order to Hold Property.**

A. Investigative hold. Whenever a law enforcement official from any agency notifies a licensee not to sell an item, the item must not be sold or removed from the premises. The investigative hold shall be confirmed in writing by the originating agency within 72 hours and will remain in effect for 15 days from the date of initial notification, or until the investigative order is canceled, or until an order to hold/confiscate is issued, pursuant to Subdivision 11.B. or C. of this Subdivision, whichever comes first;

B. Order to hold. Whenever the chief of police, or the chief's designee, notifies a licensee not to sell an item, the item must not be sold or removed from the licensed premises until authorized to be released by the chief or the chief's

designee. The order to hold shall expire 90 days from the date it is placed unless the chief of police or the chief's designee determines the hold is still necessary and notifies the licensee in writing;

C. Order to confiscate. If an item is identified as stolen or evidence in a criminal case, the chief or chief's designee may:

i. Physically confiscate and remove it from the shop, pursuant to a written order from the chief or the chief's designee; or

ii. Place the item on hold or extend the hold as provided in Subdivision 11.B. of this Code and leave it in the shop. When an item is confiscated, the person doing so shall provide identification upon request of the licensee and shall provide the licensee the name and phone number of the confiscating agency and investigator, and the case number related to the confiscation. When an order to hold/confiscate is no longer necessary, the chief of police, or chief's designee, shall so notify the licensee.

Subd. 12. **Prohibited Conduct.** A pawnbroker, and any clerk, agent, or employee of a pawnbroker, shall not:

A. Make any false entry in the records of pawn transactions;

B. Falsify, obliterate, destroy, or remove from the place of business the records, books or accounts relating to the licensee's pawn transactions;

C. Refuse to allow the Alexandria police, the attorney general or any other duly authorized state or federal law enforcement officer to inspect the pawn records or any pawn goods in the person's actual or constructive possession during the ordinary hours of business or at other reasonable times;

D. Fail to maintain a record of each pawn transaction for three years;

E. Accept a pledge, or purchase property from, a person under the age of 18 years, nor from an intoxicated person;

F. Make any agreement requiring the personal liability of a pledgor or seller, or waiving any provision of this Section;

G. Fail to return pledged goods to a pledgor or seller, or provide compensation as set forth in Minnesota Statutes Section 325J.09, or its successor, upon payment of the full amount due the pawnbroker unless either the date of redemption is more than 60 days past the date of the pawn transaction, renewal or extension and the pawnbroker has sold the pledged goods pursuant to Minnesota Statutes Section 325J.06, or its successor, or the pledged goods have been taken into custody by a court or a law enforcement officer or agency;

H. Sell or lease, or agree to sell or lease, pledged or purchased goods back to the pledgor or seller in the same, or in a related, transaction;

I. Remove pledged goods from the pawnshop premises or other storage place approved by the chief of police at any time before the expiration of the redemption period pursuant to Minnesota Statutes Section 325J.06 or its successor. However:

i. A pawnbroker is permitted to return pledged goods to the borrower at any time during the redemption period;

ii. A pawnbroker is permitted to sell the pledged goods or remove the pledged goods from the pawnshop premises or other storage at any time after the expiration of the redemption period set forth in Minnesota Statutes Section 325J.06 or its successor, and;

iii. A pawnbroker who purchases goods not involving a pawn transaction is permitted to sell or remove the purchased goods from the pawnshop premises 31 days or later from the purchase transaction date.

Subd. 13. Identification Requirements.

A. Each person pawning, pledging, or selling items in an establishment licensed pursuant to this Section shall identify himself or herself, as provided herein, to the licensee or licensee's agent accepting such pawn, pledge or sale and shall present himself or herself for taking of a photo or video picture, and, if requested, a fingerprint. Neither the licensee nor any of his or her agents shall transact any business with any person who fails to identify himself or herself as provided herein. Identification shall be made as follows:

i. By a showing of one of the forms of photo identification as set forth in Subdivision 6 of this Section. The licensee or agent shall record the information

contained on face of said photo identification on the record required by Subdivision 6 of this Section; or, if the person has none of these forms of photo identification, then

ii. By a showing of a form of identification sufficient to establish proof of age as set out in Minnesota Statutes Section 340A.503, Subd. 6, as it may be amended or succeeded. The licensee or agent shall record the type of identification, any identifying number on the identification, and the name and physical description on the identification in the record required by Subdivision 6 of this Section;

B. The licensee or licensee's agent transacting the pawn, pledge or sale shall have the affirmative duty to compare all pictures, physical descriptions and signatures on the identification presented with the physical features and signature of the person presenting such identification and shall not transact any business with any person who appears to be presenting false identification.

Subd. 14. False Statements and Identification Prohibited. No person shall misrepresent his identity to any pawnbroker, nor shall any person furnish such pawnbroker with any identification not belonging to and identifying himself.

Subd. 15. Suspension and Revocation of License.

A. Any license issued pursuant to this Section may be suspended for up to 60 days or revoked by the chief of police for good cause. If the chief of police intends to revoke or suspend such license, he shall give written notice of such intention to the licensee at least 20 days before such suspension or revocation is to begin. The licensee may then demand a hearing before the chief of police. Such demand shall be made in writing to the chief of police and must be made within ten days after the notice of revocation or suspension is received. For the purposes of this Subdivision "good cause" shall include, but not be limited to:

i. Conviction of licensee or any of his employees of any crime relating to the operation of a pawnbroking business;

ii. Violation by the licensee or his employees of any of the provisions of this Section or any other ordinance or statute relating to the operation of a pawnbroking business;

iii. Failure to record any item pawned, pledged or purchased by the licensee or his employees;

08/25/2022

THIS PAGE REPLACES PAGE 4-65

iv. Failure to submit to the police all required records;

v. Failure to tell the truth to any police officer about any material fact about which such police officer inquires in the course of an investigation;

vi. Falsely stating any material fact on the license application;

vii. Submitting a false or incomplete record to the police;

B. Any person whose license is suspended or revoked by the chief of police may appeal such suspension or revocation to the city council. Such appeal must be made in writing within ten days of the final order of suspension or revocation of the chief of police and shall be heard at the first regularly scheduled meeting of the city council thereafter.

Source: Ord. 872-2nd Series
Effective Date: 8/22/2022

Section 4.52. **Lodging Tax**

Subd. 1. **Definitions.** For the purpose of this Ordinance, the following terms, phrases and words, and their derivations have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural form include the singular and words in the singular include the plural form. The word "shall" is always mandatory and not merely directory.

A. The term "City" means the City of Alexandria, Minnesota acting by or through its duly authorized representative(s).

B. The term "lodger" means the person obtaining lodging from an operator.

C. The term "lodging" means the furnishing for a consideration of lodging by a hotel, motel, resort or campground cabin, or private/vacation home rental as defined in Section 5.08 and 5.09 of the City Code, except where such lodging shall be rented or leased for a continuous period of thirty (30) days or more to the same lodger(s).

Source: Ord. 792-2nd Series
Effective Date: 01/14/19

The furnishing of rooms owned by religious, educational or nonprofit organizations for self-sponsored activities shall not constitute "lodging" for purposes of this Ordinance. "Hotel" includes bed and breakfast establishments. (Reference Minnesota Statutes 469.190, subd. 1 and 327.70, subd. 3.) "Lodging" specifically does not include "rooming houses" or non-cabin campground sites.

D. The term "operator" means the person who is the proprietor of the lodging facility, whether in the capacity of owner, lessee, sublessee, licensee, agent or any other capacity.

E. The term "person" means any individual, corporation, partnership, association, estate, receiver, trustee, executor, administrator, assignee, syndicate, or any other combination of individuals. Whenever the term "person" is used in any provision of this Ordinance prescribing and imposing a penalty, the term as applied to a corporation, association or partnership shall mean the officers or partners thereof, as the case may be.

F. The term "rent" means the total consideration valued in money charged for the lodging whether paid in money or otherwise, but shall not include any charges for services rendered in connection with furnishing lodging other than the room charge itself.

Subd. 2. **Imposition of Tax.** Pursuant to Minnesota Statutes Section 469.190 there is hereby imposed a tax of three percent (3%) on the rent charged by an operator for providing lodging to any person. The lodging tax shall commence on July 1, 1998. The tax shall be stated and charged separately and shall be collected from the lodger. The tax collected by the operator shall be a debt owed by the operator to the City and the tax shall be satisfied only by payment to the City of the amount levied by this Ordinance. In no case shall the tax imposed by this section upon an operator exceed the amount of tax which the operator is authorized and required by this Ordinance to collect from the lodger. In computing the tax to be collected, amounts of tax less than one (1) cent shall be considered an additional one (1) cent.

Subd. 3. **Collections.** Each operator shall collect the tax imposed by this Ordinance at the time the rent is paid. The tax collections shall be deemed to be held in trust by the operator for the City. The amount of tax shall be separately stated from the rent charged for the lodging and those persons paying the tax shall receive a receipt of payment from the operator.

Subd. 4. **Exceptions and Exemptions.**

A. **Exceptions.** No tax shall be imposed on rent for lodging paid by any officer or employee of a foreign government who is exempt by reason of express provisions of federal law or international treaty.

B. **Exemptions.** An exemption shall be granted to any person as to whom or whose occupancy it is beyond the power of the City to tax. No exemption shall be granted except upon a claim therefore made at the time the rent is collected and such a claim shall be made in writing and under penalty of perjury on forms provided by the City. All such claims shall be forwarded to the City when the returns and collections are submitted as required by this Ordinance.

Subd. 5. **Advertising no Tax.** It shall be unlawful for any operator to advertise or hold out or state to the public or any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent or that, if added, it or any part thereof will be refunded.

Subd. 6. **Payment and Returns.** The taxes imposed by this Ordinance shall be paid monthly by the operator to the City not later than twenty (20) days after the end of the month in which the taxes were collected by the operator. At the time of payment, the operator shall submit a return upon such forms and containing such information as the City may require. The return shall contain the following minimum information:

1. The total amount of rent collected for lodging during the period covered by the return.

2. The total amount of exceptions/exemptions.

3. The amount of tax required to be collected and due for the period.

4. The signature of the person filing the return or that of his/her agent duly authorized in writing.

5. The period covered by the return.

6. The amount of uncollectible rental charges subject to the lodging tax.

7. A certification of accuracy attested to by the person signing the form for submission to the City.

The operator may offset against the taxes payable with respect to any reporting period, the amount of taxes imposed by this Ordinance previously paid as a result of any transaction the consideration for which became uncollectible during such reporting period, but only in proportion to the portion of such consideration which became uncollectible.

Subd. 7. **Examination of Return, Adjustments, Notices and Demands.** The City shall, after a return is filed, examine the same and make any investigation or examination of the records and accounts of the person making the return deemed necessary for determining its correctness. The tax computed on the basis of such examination shall be the tax to be paid. If the tax due is found to be greater than that paid, such excess shall be paid to the City within ten (10) days after receipt of a notice thereof given either personally or sent by certified mail, return receipt requested, to the address shown on the return. If the tax paid is greater than the tax found to be due, the excess shall be refunded to the person who paid the tax to the City within ten (10) days after determination of such refund.

Subd. 8. **Refunds.** Any person may apply to the City for a refund of taxes paid for a prescribed period in excess of the amount legally due for that period, provided that no application for a refund shall be considered unless filed within one (1) year after such tax was paid, or within one (1) year from the filing of the return, whichever period is the longer. The City shall examine the claim and make and file written findings denying or allowing the claim, in whole or in part, and shall mail a notice thereof by certified mail, return receipt requested, to such person at the address stated upon the return. If such claim is allowed, in whole or in part, the City shall credit the amount of the allowance against any taxes due under this Ordinance from the claimant and the balance of said allowance, if any, shall be paid by the City to the claimant.

Subd. 9. **Failure to File a Return.**

1. If any operator required to file a return by this Ordinance shall fail to do so within the time prescribed, or shall make, willfully or otherwise, an incorrect, false, or fraudulent return, the operator shall, upon written notice and demand, file such return or corrected return within five (5) days of receipt of such written notice and shall at the same time pay any tax due on the basis thereof. If such person fails to file such return or corrected return, the City shall make a return or corrected return for such person from such knowledge and information as the tax administrator can obtain, and assess a tax on the basis thereof, which tax (less any payments theretofore made on account of the tax for the taxable period covered by such return) shall be paid upon within five (5) days of the receipt of written notice and demand for such payment. Any such return or assessment made by the City shall be prima facie correct and valid, and such person shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.

2. If any portion of a tax imposed by this Ordinance, including penalties thereon, is not paid within thirty (30) days after it is required to be paid, the prosecuting attorney for the City may institute such legal action as may be necessary to recover the amount due plus interest, penalties, and the costs and disbursements of any action.

3. Upon a showing of good cause, the City may grant an operator one thirty (30) day extension of time within which to file a return and make payment of taxes as required by this Ordinance, provided that interest during such period of extension shall be added to the taxes due at the rate of ten percent (10%) per annum.

Subd. 10. **Penalties.**

1. Late Payment of Tax. If any tax imposed by this Ordinance is not paid within the time herein specified for the payment, or any extension thereof, there shall be added thereto a specific penalty equal to ten percent (10%) of the amount remaining unpaid. If the penalty as computed does not exceed ten dollars (\$10), a minimum penalty of ten dollars (\$10) shall be assessed.

2. Late Filing of Return. If any operator fails to make and file a return within the time prescribed by this Ordinance (unless it is shown that such failure is not due to willful neglect), in addition to the penalty provided in Section 4.52 Subd. 10 1 above, there shall be added to the tax owed a penalty of ten percent (10%) of the tax owed for each thirty (30) day period, or fraction thereof, during which such failure continues. The amounts so added to any tax shall be collected at the same time and in the same manner and as part of the tax unless the tax has been paid before the discovery of the negligence, in which case the amount so added shall be collected in the same manner as the tax.

3. Willful Failure to File a Return. If any operator willfully fails to file any return or make any payment required by this Ordinance, or willfully files a false or fraudulent return, or willfully attempts in any manner to evade or defeat any such tax or payment thereof imposed by this Ordinance, there shall be imposed as a penalty an amount equal to fifty percent (50%) of any tax found due for the period to which such return applies, less any amounts paid on the basis of such false or fraudulent return. This penalty shall be collected as part of the tax and shall be in addition to any other penalties provided in this Ordinance.

4. Interest Rate. The amount of tax not timely paid, together with any penalty imposed by provisions of this Ordinance, shall bear interest at the rate of ten percent (10%) per annum from the time such tax should have been paid until the time it is paid. Any interest and penalty shall be added to the tax and shall be collected as part thereof.

5. Application of Payment, Interest and Penalties. All payments received pursuant to the provisions of this Ordinance shall be credited first to penalties, next to interest, and then to the tax due.

Subd. 11. **Administration of Tax.** The City shall administer and enforce the assessment and collection of the taxes imposed by this Ordinance. The City shall cause to be prepared blank forms for the returns and other documents required by this Ordinance and shall distribute the same throughout the City and furnish them upon application. Failure to receive or secure such forms shall not relieve any person from any obligation required of him or her under this Ordinance.

Subd. 12. **Examination of Records.** Persons acting on behalf of the City and authorized in writing by the City may examine the books, papers and records of any operator in order to verify the accuracy of any return made, or if no return was made, to ascertain the tax as provided in this Ordinance. Every such operator is directed and required to give to the City, or its duly authorized agent or employee, the means, facilities and opportunity for such examinations and investigations as are hereby authorized.

Subd. 13. **Violations.** Any person who shall willfully fail to make a return required by this ordinance, or who shall fail to pay the tax after written demand for payment, or who shall fail to remit the taxes collected or any penalty or interest imposed by this Ordinance after written demand for such payment, or who shall refuse to permit the City or its duly authorized agent(s) to examine the books, records and papers under his or her or its control, or who shall willfully make any incomplete, false or fraudulent return shall be guilty of a misdemeanor.

Source: Ord. 412-2nd Series
Effective Date: 4/27/98

Subd. 14. **Use of Proceeds.** Ninety-five percent (95%) of the gross proceeds obtained from the collection of taxes pursuant to this Ordinance shall be used in accordance with Minnesota Statute 469.190, as the same may be amended from time to time, to fund through Alexandria Hotel & Hospitality, Inc., a Minnesota Non-Profit Corporation, a local convention or tourism bureau for the exclusive and limited purpose of marketing and promoting the City as a tourist or convention center. The City may retain up to a maximum of five percent (5%) to defray the costs and expenses of collection and administration of the lodging tax. The City shall disburse the balance of the tax collected to Alexandria Hotel & Hospitality, Inc., by the 15th day of the month following the City's receipt of such funds.

Source: Ord. 517-2nd Series
Effective Date: 8/11/03

Subd. 15. **Appeals.**

1. Any operator aggrieved by any notice, order or determination made by the City pursuant to this Ordinance may file a petition for review of such notice, order or determination. The petition shall:

a. detail the operator's reasons for contesting the notice, order or determination;

b. contain the name of the petitioner, the petitioner's address and the location of the lodging subject to the order, notice or determination; and,

c. be filed with the City within ten (10) days after the notice, order or determination for which review is sought has been mailed or served upon the operator requesting the review.

2. Upon receipt of the petition, the City shall set a date for a hearing with the petitioner and give the petitioner at least five (5) days prior written notice of the date, time and place of the hearing.

3. At the hearing, the petitioner shall be given an opportunity to show cause why the notice, order or determination should be modified or withdrawn.

4. The hearing shall be conducted by the City Council, or its authorized representative. The City Council or its authorized representative shall make written findings of fact and conclusions based on the applicable section(s) of this Ordinance and the evidence presented at the hearing. The Council, or its authorized representative, may affirm, modify or reverse the notice, order or determination which is the subject of the appeal.

Subd. 16. **Effective Date.** This Ordinance shall take effect and be enforced from and after its passage, adoption and publication, but not earlier than May 1, 1998.

Source: Ord. 412-2nd Series
Effective Date: 4/27/98

Section 4.53 **Gambling Contribution**

Pursuant to Minnesota Statute 349.213, Subdivision 1, organizations conducting lawful gambling within the City of Alexandria shall contribute five percent (5%) of its net gambling profits to the City of Alexandria in 2003 and 10% of its net gambling profits in 2004 and thereafter. Such contributions shall be used for lawful purposes as allowed in Minnesota Statutes 349.213.

Source: Ord. 516-2nd Series
Effective Date: 8/11/03

Section 4.54 **Sidewalk Café**

Subd. 1. **Definition.** Tables, chairs, benches and appurtenant equipment located on a public sidewalk (i) for the exclusive use by patrons of an abutting food establishment, or (ii) where the service of food or beverages is offered to persons using such tables, chairs and benches.

Subd. 2. **Permitted.** Sidewalk cafes may be located on public sidewalks subject to a permit or license issued by the City. Applications for a sidewalk café permit or license shall be made on forms supplied by the City and shall include a plan drawn to scale which illustrates the exact location of the proposed sidewalk café together with distances and dimensions of the adjoining buildings, the sidewalk, the distance to and location of the traveled portion of the street and distances to all obstructions in the vicinity. The appropriate fee shall accompany the application.

1. No Permit or license shall be issued or renewed for a sidewalk café unless the following requirements are met:

a. The applicant must possess a valid food establishment license.

b. A distance of at least 200 feet shall be maintained between the nearest point of the sidewalk café to the nearest point of property zoned for residential purposes.

c. The applicant must furnish to the City evidence that insurance has been procured in amounts not less than \$1,000,000 per occurrence and \$2,000,000 in aggregate for commercial general liability coverage. The applicant shall maintain such insurance in effect at all times during the term of the sidewalk café permit or license. The City shall be named as an additional insured in the policy providing such insurance.

d. The applicant shall indemnify and hold the City and the City's officials and employees harmless from any loss, cost, damage and expenses arising out of the use, design, operation, or maintenance of the sidewalk café.

e. The area occupied by the sidewalk café shall abut and shall be operated as part of the food establishment operated by the applicant. No part of the sidewalk café shall adjoin any premises other than the applicant's food establishment.

f. The City shall find that the sidewalk café will not unduly restrict the safe usage of the sidewalk by the public after taking into consideration the location of obstructions, vehicular traffic and other impediments to the

passage of pedestrians. A minimum of 48" of clear travel space (between the sidewalk café and the curb) shall be maintained on the public sidewalk adjacent to the sidewalk café. The sidewalk café shall be located immediately adjacent to the building in which the food establishment is located. The City shall renew a permit only upon finding that the operation of the sidewalk café complies with all provisions of this Ordinance.

2. The following requirements shall apply to the operation of sidewalk cafes.

a. Only food or beverages for immediate consumption may be offered for sale.

b. Intoxicating liquors, beer or wine may not be consumed or offered for sale at a sidewalk café.

c. No expansion of the area occupied by the sidewalk café from that shown on the permit or license application shall be made.

d. No tables, chairs, furnishings planters, railings or other obstructions associated with the sidewalk café shall be placed or remain on the sidewalk between November 1 and April 1.

e. The applicant shall maintain the sidewalk café in a clean and sanitary condition.

f. The applicant shall promptly replace or repair any damage to the sidewalk or other public property caused by the applicant's use of the sidewalk as a sidewalk café.

g. An appropriate refuse receptacle shall be readily available to the patrons of the sidewalk café.

3. Permits issued pursuant to this Ordinance shall expire on March 31 of each calendar year.

Source: Ord. 556-2nd Series
Effective Date: 5/23/05

(Sections 4.55 through 4.99, inclusive, reserved for future expansion.)