

Item No. 77

9/25/2014

Initiated by CM Riley

**ORDINANCE NO.**

**AN ORDINANCE DEFINING TRANSPORTATION NETWORK COMPANIES (TNCs) AND DIRECTING THE CITY MANAGER TO ENTER INTO AGREEMENTS WITH TNCs ALLOWING THEIR OPERATION, CREATING A PENALTY, AND AMENDING CITY CODE CHAPTER 13-2 TO INCREASE CERTAIN PENALTIES.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1. FINDINGS.**

- (A) Many Austinites prefer or rely on modes of transportation other than their own private vehicle, including those who are not able to drive a car, those who choose not to own a car, and those who have been drinking and should not be behind the wheel.
- (B) More and better transportation alternatives are a priority for many Austinites and are prioritized in the Imagine Austin Comprehensive Plan.
- (C) Particularly at times of peak demand, such as weekend nights and during festivals and special events, many Austinites do not have realistic alternatives to driving a personal vehicle.
- (D) Austin is in the midst of a drunk driving epidemic, with over 6,000 DWIs occurring in 2013 alone, fed in part by revelers' lack of transportation options late at night.
- (E) Taxicab service in Austin is not consistently meeting the demand for a variety of reasons, including inefficiencies of the owner-operator system of our taxi franchises which prevent cabs from being directed to drive at certain times or places, having three individual dispatch systems, and having times of extreme peaks in demand for these services.
- (F) Austin is not unique in the level of regulatory burden that it places on its taxicab drivers and franchises.

- (G) Transportation Network Companies (TNCs) are a recent innovation in transportation services that use an online-enabled application (app) or platform to connect passengers with drivers.
- (H) Through smartphone technology, TNCs are able to be more responsive to meeting the needs of specific passengers, particularly with regard to wait time, and can also be more responsive overall to fluctuations in demand.
- (I) TNCs, like any for-hire transportation alternative, must be regulated to protect the safety of their drivers, riders, and the general public.
- (J) TNCs do not currently fit into the conventional transportation regulatory framework and are operating outside of the regulatory framework in many U.S. cities, including Austin.
- (K) There are unanswered questions about how TNCs can meet the needs of those with disabilities who require specific vehicle types in order to be transported.
- (L) The Austin City Council approved Resolution No. 20130307-67 directing the City Manager to explore ridesharing regulations in peer cities, including insurance requirements, background checks, and cost-sharing parameters.
- (M) Staff responded to Resolution No. 20130307-67 with a memo dated May 31, 2013 which described that no peer cities were allowing ridesharing for compensation.
- (N) On June 6, 2013 Council discussed clarifying the definition of ridesharing to exclude instances in which the compensation was higher than the federally determined \$.56/mile with further direction to staff to explore a pilot for ridesharing where the driver could be compensated, as well as insurance requirements and regulations to protect the safety of users.
- (O) Staff issued memos on June 19 and August 21, 2013 outlining a series of concerns over a pilot program allowing ridesharing with compensation to exist in Austin.
- (P) On August 22, 2013, the Council passed a revised definition of ridesharing definitively disallowing ridesharing in which the compensation exceeds \$.56/mile in Austin.
- (Q) On November 20, 2013 the Urban Transportation Commission created a TNC Subcommittee to examine and make recommendations on allowing TNCs to legally operate in Austin and that subcommittee began meeting in January, 2014.

- (R) Council passed Resolution No. 20140515-24 directing the City Manager to convene a stakeholder group to make recommendations on a pilot program for TNCs.
- (S) The stakeholder group has been meeting regularly, although without the input of the public.
- (T) Some members of the stakeholder group have expressed concerns about the information that the stakeholder group is receiving, the way that input is being handled within the stakeholder group, and over the composition of the stakeholder group.
- (U) Two well-known TNCs have since begun operating outside of the regulatory framework in Austin and are allegedly carrying thousands of riders each week without oversight or regulation and without sharing any of the information that could be helpful to the City in understanding where the gaps are in our current transportation network, and how this new transportation mode relates to the existing modes.
- (V) The primary safety regulations needed to protect the safety of the public, namely insurance requirements and driver background checks, are generally agreed upon by stakeholders working on this topic and are in accordance with those TNCs that are operating in Austin currently.
- (W) There are still a variety of components of TNC regulation that must be determined, including, but not limited to compliance with the Americans with Disabilities Act.
- (X) The City of Austin is currently expending precious police resources by citing and impounding the vehicles of TNC drivers, taking resources away from such initiatives as arresting those who are driving while impaired.
- (Y) Some cities and states, such as Detroit and Virginia, have taken the approach of signing agreements with TNCs who meet certain safety criteria while they evaluate their transportation codes to determine permanent changes needed to regulate them.

## **PART 2. DEFINITION.**

A Transportation Network Company (TNC) is defined as an organization whether a corporation, partnership, sole proprietor, or other form, that provides on-demand transportation services for compensation using an online-enabled application (app) or platform to connect passengers with drivers.

## **PART 3. TNC OPERATION.**

- (A) TNC may operate in accordance with the process set forth in this ordinance.

(B) A TNC must enter into an agreement with the City that includes the following provisions.

- (1) TNC will provide commercial automobile liability insurance with a minimum combined single limit of \$1 million for each occurrence of bodily injury and property damage for accidents involving TNC vehicles in transit, beginning with the time that the TNC driver accepts a trip request on the TNC's digital network, or during the accepted trip, and ending when the rider departs the vehicle, naming the City of Austin as an additional insured. The policy shall be accompanied by a commitment from the insurer that such policy will not be cancelled or coverage reduced without at least 30 days' notice.
- (2) TNC drivers must possess a valid driver's license, proof of registration, and current automobile liability insurance, must be at least 21 years old, and must use a vehicle that is in compliance with Texas' vehicle quality requirements for private vehicles.
- (3) Criminal background and driver history checks for all drivers upon application to drive and annually thereafter.
  - (a) The criminal background check shall be national in scope and prevent any person who has been convicted, within the past seven years, of driving under the influence of drugs or alcohol, or who has been convicted at any time for fraud, sexual offenses, use of a motor vehicle to commit a felony, gun related violations, resisting/evading arrest, reckless driving, a crime involving property damage, and/or theft, acts of violence, or acts of terror from driving for the TNC.
  - (b) The driver history check shall prevent anyone with more than three moving violations or anyone charged with driving without insurance or a suspended license within the three-year period prior to the check from driving for the TNC.
- (4) TNC must maintain a website and provide a 24-hour customer service phone number and email address.
- (5) TNC must maintain an agent for service of process for Austin, Texas.
- (6) A rider must be able to view the estimated compensation, suggested compensation, or no-charge for trip before trip is accepted, and the TNC must transmit an electronic receipt documenting the origin and destination of trip, and total amount paid upon completion of trip.

- (7) TNC app used to connect drivers to riders must display an accurate picture of drivers, and a picture or description of the type of vehicle, as well as the license plate number of the vehicle.
- (8) TNC shall pay a \$0.10 surcharge for all rides originating in the City of Austin. This surcharge shall be used to support the TNC's riders who require ADA accommodations, with the goal of accessible rides being met with wait times similar to those of the rest of the rides.
- (9) Service animals must be reasonably accommodated by TNC Drivers. If a service animal cannot be reasonably accommodated by a driver, the TNC must identify an alternative transportation arrangement for the passenger and service animal.
- (10) TNC drivers shall only accept rides booked through the digital platform and shall not solicit or accept street-hails.
- (11) TNC driver may not drive for more than twelve (12) consecutive hours.
- (12) TNC shall establish a driver-training program designed to ensure that each driver safely operates his or her vehicle prior to the driver being able to offer service.
- (13) TNC shall implement a zero-tolerance policy on the use of drugs or alcohol and advertise it on its website along with procedures for filing a complaint about a driver suspected of using drugs or alcohol while driving and an explanation warning of deactivation for drivers found in violation of the policy.
- (14) Outreach events to community organizations with ADA-compliant vehicles.
  - (a) Report back to city on results quarterly.
- (15) Outreach events to marginalized communities
  - (a) Report back to city on results quarterly.
- (16) A TNC that utilizes dynamic pricing through its software application to incentivize drivers in an effort to maximize the supply of available vehicles on the network to match the demand for rides and increase reliability must provide:
  - (a) Clear visible indication through its software application that dynamic pricing is in effect prior to requesting a ride;

- (b) A feature on the software application that requires riders to confirm that they understand that dynamic pricing will be applied in order for the ride request to be completed; and
  - (c) Provide a fare estimator that enables the user to estimate the cost under dynamic pricing prior to requesting the ride; and
- (17) TNC must maintain accurate records of all drivers providing service, and discontinued from providing service, through the platform and must be available for audit by a private, agreed-upon third party at any time, no more than four times per year.
- (a) TNC shall provide quarterly reports to the city providing information on the effectiveness of the platform to address gaps in Austin's transportation network. To develop this, the TNC must evaluate and report on information including rider pick-up and drop-off patterns (i.e. peak ridership times and popular pick-up and drop-off locations), cost of trip (including a measure of the amount of time in dynamic pricing), length of trip, and ADA service comparison, to help the city evaluate the role of TNCs to address transportation issues, such as drunk driving and underserved community needs.

**PART 4.** The City Manager is directed to enter into agreements with TNCs within 30 days.

**PART 5.** This agreement should be for a minimum of one year, cancellable at any time by either party if the requirements of the agreement are not upheld, a public safety issue becomes apparent, or until Council adopts code amendments to regulate TNCs. TNC performance under this agreement should inform the work of the TNC Stakeholder group.

**PART 6.** Any person corporation, partnership, sole proprietor, or other entity that meets the above definition of TNC and operates without an agreement with the City above described commits a Class "C" Misdemeanor punishable by a fine of not less than \$500.

**PART 7.** City Code Section 13-2-19 (*Penalty*) is amended as follows:

- (A) Unless otherwise provided in this Chapter, a[A]n offense under this Chapter is a Class C misdemeanor, punishable by a fine not to exceed \$500.

**PART 8.** City Code Section 13-2-101 (*Chauffer's Permit Required*) is amended to add the following:

- (D) A person who operates a ground transportation service vehicle in violation of this section commits a Class "C" Misdemeanor punishable by a fine of not less than \$500.

**PART 9.** City Code Section 13-2-3 (*Operating Authority or Taxicab Franchise Required*) is amended to add the following:

- (G) A person who provides or operates a ground transportation service in violation of this section commits a Class "C" Misdemeanor punishable by a fine of not less than \$500.

**PART 10.** City Code Section 13-2-34 (*Insurance Required*) is amended to add the following:

- (H) A person who provides or operates a ground transportation service in violation of this section commits a Class "C" Misdemeanor punishable by a fine of not less than \$500.

**PART 11.** This ordinance takes effect on \_\_\_\_\_, 2014.

**PASSED AND APPROVED**

\_\_\_\_\_, 2014      §  
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                                 Lee Leffingwell  
                                 Mayor

**APPROVED:** \_\_\_\_\_  
Karen M. Kennard  
City Attorney

**ATTEST:** \_\_\_\_\_  
Jannette S. Goodall  
City Clerk