

MOTION SHEET – Mayor Adler and CM Kitchen

ORDINANCE NO.

AN ORDINANCE AMENDING CITY CODE CHAPTER 13-2 RELATING TO TRANSPORTATION NETWORK COMPANIES (TNCs) [~~AND TAXIS,~~] AND TERMINATING TNC OPERATING AGREEMENTS.

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

PART 1. Chapter 13-2 (*Ground Transportation Services*) of the City Code is amended to add a new Article 4 to read:

ARTICLE 4. – TRANSPORTATION NETWORK COMPANY SERVICE.

§ 13-2-509 DEFINITIONS.

In this Article:

(~~1~~) 2) DYNAMIC PRICING means a software application or other method used to maximize the supply of available vehicles on the network to match the demand for rides, including for the purpose of increasing reliability or incentivizing drivers.

(~~2~~) 1) [~~ELIGIBLE~~] COMPLIANT DRIVER means a~~s~~ Transportation Network Company driver who has passed a driver history check and a fingerprint-based criminal background check.

(~~2~~) 3) TRANSPORTATION NETWORK COMPANY (TNC) means an organization, whether a corporation, partnership, sole proprietor, or other form, which provides on-demand transportation services for compensation using an online-enabled application (app) or platform to connect passengers with drivers.

§ 13-2-510 PENALTY.

Any person, corporation, partnership, sole proprietor, or other entity that meets the definition of TNC and operates in violation of this Article commits a Class “C” Misdemeanor punishable by a fine of not less than \$500 per offense.

Division 1 – Operations.

§ 13-2-511 TNC OPERATING AUTHORITY REQUIRED.

- (A) A TNC may not legally operate within the City without a TNC operating authority.
- (B) A TNC must apply for a TNC operating authority under the requirements of Section 13-2-161 (*Operating Authority Application Required*).
- (C) A TNC applicant must have a representative located in the City and named on the application for a TNC operating authority, and as an agent for process.
- (D) With its application for a TNC operating authority, a TNC applicant must provide a certificate of insurance as proof that it has commercial automobile insurance issued in compliance with Article 4, Division 3 of this Chapter, by a company licensed to operate in the State of Texas and by an agent licensed by the State of Texas. The policy must include coverage for:
 - (1) bodily injury;
 - (2) property damage; and
 - (3) owned, non-owned, and hired vehicle coverage.
- (E) A TNC operating authority will be for a term of one year.
- (F) A TNC operating authority may not be transferred or assigned.

§ 13-2-512 TNC LOCAL PRESENCE REQUIRED.

A TNC must maintain a local presence to include an active website and a 24-hour customer service number and email address.

§13-2-513 DISCLOSURE OF FARE.

Before a TNC trip is accepted, a rider must be able to view the estimated compensation, suggested compensation, or indication that no-charge is required for the trip. A TNC must transmit an electronic receipt documenting the origin and destination of each TNC trip, and the total amount paid upon completion of each trip.

1 **§ 13-2-514 DYNAMIC PRICING.**

2 (A) If a TNC utilizes dynamic pricing, the software application must:

- 3 (1) provide clear and visible indication that dynamic pricing is in
4 effect prior to requesting a ride;
5
6 (2) include a feature that requires riders to confirm that they
7 understand that dynamic pricing will be applied in order for the
8 ride request to be completed;
9
10 (3) provide a fare estimator that enables the user to estimate the cost
11 under dynamic pricing prior to requesting the ride; and
12
13 (4) during periods of abnormal market disruptions, dynamic pricing
14 shall be prohibited[; and].
15

16 (B) As used in this section, "abnormal market disruptions" includes any
17 change in the ground transportation market, whether actual or imminently
18 threatened, resulting from stress of weather, convulsion of nature, failure
19 or shortage of electric power or other source of energy, strike, civil
20 disorder, war, military action, national or local emergency, or other cause
21 of an abnormal disruption of the market which results in the declaration
22 of a state of emergency by the governor.
23

24 **§ 13-2-515 IDENTIFICATION.**

25 A TNC application used to connect drivers to riders must display an accurate
26 picture of drivers, and a picture or description of the type of vehicle, as well as the
27 license plate number of the vehicle.
28

29 **§ 13-2-516 DATA REPORTING REQUIREMENTS.**

30 (A) A TNC must comply with the reporting requirements of this section as a
31 condition of its TNC operating authority for the purpose of supporting
32 public safety and transportation planning including prevention of driving
33 while intoxicated.

34 (B) A TNC shall provide the following data, recorded in four-hour blocks, to
35 the director on the last day of each month:

- 36 (1) number of trips requested for service;
37 (2) number of trips requested, but not serviced, according to zip code;

- (3) number of vehicles logged into the TNC platform;
 - (4) number of pick-ups and drop-offs according to zip code;
 - (5) accessible vehicle trips requested and serviced;
 - (6) accessible vehicle trips requested and not serviced; and
 - (7) amount of time that surge pricing is in effect.
- (C) Driver hours logged onto the TNC platform shall be recorded daily and reported to the director on the last day of each month.
- (D) A TNC shall record the following data monthly and report it to the director on the last day of each month:
- (1) number of trips completed and passengers transported;
 - (2) gross receipts generated;
 - (3) progress on meeting the accessibility needs of the public; and
 - (4) total hours and miles driven by [eligible] compliant drivers and for all drivers.
- (E) A TNC shall, on a daily basis, record all accident reports involving a vehicle in service and operating through the TNC platform, and report all such accidents to the director every Monday.
- (F) A TNC operating authority is automatically suspended if the TNC fails to submit the data required under this section within fifteen days of the required reporting deadline.

§ 13-2-517 ACCESSIBLE VEHICLE SERVICE.

- (A) Within six months of obtaining a TNC operating authority, a TNC shall implement an accessibility plan approved by the director. If a TNC has an existing accessibility plan on file in another jurisdiction, the TNC must adapt that plan for use in the City.
- (B) Within three months of obtaining a TNC operating authority, an accessible service request indicator must be available on the app. If a driver cannot provide a passenger a requested accessible ride, the TNC must identify an alternative transportation arrangement for the passenger.

1 (C) Service animals must be reasonably accommodated by TNC drivers. If a
2 service animal cannot be reasonably accommodated by a driver, the TNC
3 must identify an alternative transportation arrangement for the passenger
4 and service animal.

5 (D) A TNC may not allow its drivers to refuse to accept a passenger who is
6 disabled, or to charge a higher fare or additional fee to a person who is
7 disabled, based on the person's disability, use of a support animal,
8 wheelchair, crutches, or other mobility assistance device. Should
9 exposure to a support animal cause a TNC driver an undue health burden,
10 the TNC shall provide an alternate driver for the passenger with the
11 support animal.

12 (E) A TNC shall conduct outreach events to community organizations with
13 ADA-compliant vehicles to publicize the TNC's need for ADA vehicles
14 and drivers with the goal of providing services to all passengers. A TNC
15 shall report back to the City on the results of this outreach quarterly.

16 (F) A TNC shall conduct outreach events to communities that are of lower
17 social economic strata without adequate transit options with the goal of
18 increased access to transportation options. The TNC shall report to the
19 City the effectiveness of this outreach quarterly.
20

21 **§ 13-2-518 GEOFENCING.**

22 During large special events TNCs shall cooperate with event sponsors and
23 the City to identify and use geo-fence pick-up and drop-off locations, as
24 determined by the director to promote a safe and transportation efficient event.
25

26 **§ 13-2-519 TRAVEL LANES.**

27 A driver operating as a TNC driver may not stop, stand, park, load or unload
28 passengers in a travel lane or in an officially designated bus stop.
29

30 **§ 13-2-520 DRIVER ENFORCEMENT.**

31 A TNC shall establish and enforce policies requiring compliance with the
32 applicable provisions of City Code in all agreements by drivers who contract with
33 the TNC.
34

35 **Division 2. – TNC Vehicle Requirements.**

36 **§ 13-2-521 INSPECTIONS.**

1 (A) Before operating a vehicle under a TNC platform, a vehicle must
2 successfully pass an ~~[20-point]~~ inspection by a mechanic certified by the
3 State of Texas, and approved by the director, to perform state inspections.
4 Inspection stickers must be displayed on the vehicle.

5 (B) ~~[In addition to the standard State inspection, a TNC vehicle inspection~~
6 ~~shall include certification of:~~

- 7 ~~(1) emergency brakes;~~
- 8 ~~(2) foot brakes;~~
- 9 ~~(3) steering mechanism;~~
- 10 ~~(4) windshield condition;~~
- 11 ~~(5) rear window and other glass;~~
- 12 ~~(6) windshield wipers;~~
- 13 ~~(7) headlights;~~
- 14 ~~(8) tail lights;~~
- 15 ~~(9) turn indicator lights;~~
- 16 ~~(10) brake lights;~~
- 17 ~~(11) front seat adjustment mechanism;~~
- 18 ~~(12) door operation (open, close, and lock);~~
- 19 ~~(13) horn;~~
- 20 ~~(14) speedometer;~~
- 21 ~~(15) bumper condition;~~
- 22 ~~(16) muffler and exhaust system;~~
- 23 ~~(17) condition of tires (including tread depth);~~
- 24 ~~(18) interior and exterior rear view mirrors;~~
- 25 ~~(19) safety belts for drivers and passengers; and~~
- 26 ~~(20) fire extinguisher.]~~ The safety inspections will certify a list of

27 items established by separate ordinance and shall be equitable as
28 between TNCs and other vehicles for hire.

1
2 **§ 13-2-522 TRADE DRESS.**

3 All vehicles operating under a TNC platform shall display a consistent and
4 distinctive director approved emblem indicating which TNC is being used at all
5 times that the vehicle is being used to provide TNC services.

6 **§ 13-2-523 TAXES.**

7 Appropriate taxes must be paid on each vehicle operated for a TNC. A
8 vehicle used as a TNC vehicle that has unpaid taxes assessed may not operate on
9 City streets.

10
11 **Division 3. – Insurance Requirements.**

12
13 **§ 13-2-524 INSURANCE.**

14 TNCs must comply with State of Texas insurance requirements for TNCs as
15 described in Texas Insurance Code Chapter 1954.

16
17 **§ 13-2-525 DRIVER NOTIFICATION.**

18 (A) Pursuant to Texas Insurance Code Chapter 1954, a TNC shall disclose in
19 writing to participating drivers, as part of its agreement with those
20 drivers, the insurance coverage and limits of liability that the TNC
21 provides while the driver uses a vehicle in connection with a
22 transportation network company's online-enabled application or
23 platform.

24 (B) A TNC shall also disclose in writing to participating drivers, as part of its
25 agreement with those drivers, that the driver's personal automobile
26 insurance policy may not provide collision or comprehensive coverage
27 for damage to the vehicle used by the driver from the moment the driver
28 logs on to the TNC's online-enabled application or platform to the
29 moment the driver logs off the TNC's online-enabled application or
30 platform.

31
32 **Division 4. – Drivers.**

33
34 **§ 13-2-526 DRIVER REQUIREMENTS.**

35 TNC drivers must possess a valid driver's license, proof of registration, and
36 current automobile liability insurance, must be at least 21 years old, and must use a

1 vehicle that is in compliance with Texas' inspection requirements and possess
2 proof of a successful inspection in compliance with this Chapter.

3
4 **§ 13-2-527 DRIVER ELIGIBILITY—CRIMINAL BACKGROUND AND**
5 **DRIVER HISTORY CHECKS.**

6 (A) In accordance with the schedule set forth in (B) below, a person must
7 pass a driver history check and a fingerprint-based criminal background
8 check under the provisions of this section to be eligible to drive for a
9 TNC.

10 (B) The department will implement procedures for drivers to obtain driver
11 history and finger-print based background checks in order to assist
12 TNCs to meet the following benchmarks. The department is authorized
13 to calculate benchmarks using data reported by TNCs under Section 13-
14 2-516, and other data available to the department. ~~Benchmarks are~~
15 ~~calculated as the percentage of hours or miles driven by [eligible]~~
16 ~~compliant drivers of the total hours or miles driven by other drivers for~~
17 ~~the TNC during the benchmark time period. TNCs that fail to meet the~~
18 ~~following benchmarks shall be subject to penalties [up to and including~~
19 ~~revocation of operating authority and operating authority reapplication~~
20 ~~fees] established by separate ordinance.~~

21 (1) ~~25%~~⁵⁰ compliance by May 1, 2016

22 (2) ~~50%~~¹⁰⁰ compliance by August 1, 2016

23 (3) ~~85%~~ compliance by December 1, 2016

24 (4) ~~99%~~ compliance by February 1, 2017

25 (C) If the driving history check required by this section indicates that, within
26 the three-year period prior to the history check, a person has had more
27 than three moving violations or has been charged with driving without
28 insurance or a suspended license, that person is prohibited from driving
29 for a TNC.

30 (D) To meet the requirements of this section, a criminal background check
31 must be national in scope and comply with the requirements in
32 Subsection (~~(D)~~ E) of this section. If the criminal background check
33 indicates that a person has been convicted of certain offenses, to be

1 specified by separate ordinance, that person is prohibited from driving
2 for a TNC.

3 (E) Consistent with the requirements of Texas Government Code Sections
4 411.122 and 411.087, which authorizes the City to obtain criminal
5 history record information maintained or indexed by the Federal Bureau
6 of Investigation (FBI) through the Texas Department of Public Safety
7 (DPS).

8 (1) Each individual whose application for a license, permit or
9 authorization or any renewal thereof is subject to subsection (a)
10 shall be required to provide a complete set of fingerprints and other
11 identifying information to the official designated by the permitting,
12 licensing or authorizing department, along with any applicable fee
13 and any release or waiver forms required in order for the official to
14 conduct a national background check through the FBI.

15 (2) Upon receipt of the fingerprints and any applicable fee, the City, or
16 City approved third-party, is authorized to submit the fingerprints
17 to the DPS for a search of the State's criminal history record, and
18 the DPS is authorized to forward a set of the fingerprints to the FBI
19 for a national criminal history check. The results of the FBI check
20 will be returned to the DPS, which will disseminate the results of
21 state and national criminal history checks to the City.

22 (3) The criminal history record information obtained through the FBI
23 will be used by the Austin Transportation Department to determine
24 whether an individual is prohibited from driving for a TNC under
25 Subsection (C).

26 (4) An individual may request and obtain a copy of his or her criminal
27 history and related information from Austin Transportation
28 Department. Any requests to amend or correct an individual's
29 criminal history must be submitted to and approved by the Texas
30 Department of Public Safety, for a Texas state record, or the
31 Federal Bureau of Investigation for records from other jurisdictions
32 maintained in its file.

33 (F) After obtaining a TNC operating authority, a TNC that meets the
34 requirements in Subsection (~~(F)~~ G) of this section may elect to
35 participate in a Safety Assurance Program. The program shall be
36 administered by the Austin Transportation Department consistent with
37 the requirements of this subsection.

- 1 (1) If a TNC opts to participate in the program, the Austin
2 Transportation Department shall assist the TNC in obtaining
3 fingerprint-based criminal background checks for all drivers, as
4 required by this section.
- 5 (2) In providing assistance to TNCs participating in this Program,
6 the Austin Transportation Department shall:
- 7 (a) develop processes that mitigate perceived or actual
8 barriers for drivers obtaining fingerprints, including use
9 of best practices for app and other technology
10 functionality;
- 11 (b) facilitate driver completion of fingerprint checks through
12 driver fairs and other activities;
- 13 (c) contract with a third party, if necessary at the
14 department's determination, to manage the fingerprint
15 collection and background check process so that the
16 process is completed quickly, does not create barriers for
17 onboarding drivers, and supports the processes developed
18 under Subsection (E) of this section; and
- 19 (d) implement incentives designed to assist the TNCs to
20 achieve the city's goal of 100% hours or miles driven by
21 [eligible] compliant drivers.
- 22 (3) The Austin Transportation Department may provide assistance
23 to drivers with the cost of fingerprint collection
- 24 (4) The Austin Transportation Department may develop innovative
25 processes and initiatives, in conjunction with community
26 organizations and the TNCs participating in this Program to
27 enhance the availability of services to prevent driving while
28 intoxicated. The Austin Transportation Department may assess
29 the processes developed with the TNCs for effectiveness in
30 mitigating perceived or actual barriers for drivers obtaining
31 fingerprints, and their impact on public safety including driving
32 while intoxicated.
- 33 (G) To be eligible to participate in the Safety Assurance Program
34 authorized under Subsection (E), a TNC must commit to a driver
35 onboarding process that:

- 1 (a) reflects best practices for public safety;
- 2 (b) includes face-to-face interviews with all drivers to be onboarded;
- 3 (c) requires potential drivers to demonstrate the ability to drive
- 4 safely; and
- 5
- 6 (d) demonstrates good-faith efforts to onboard drivers who have
- 7 completed the fingerprint-based background check process
- 8 ~~[during the transition period]~~ as measured by the Austin
- 9 Transportation Department and measured by percentages of
- 10 drivers
- 11

12 (H) ~~[The department will implement]~~ Council will establish by separate

13 ordinance programs, processes and procedures to incentivize drivers to

14 become ~~[eligible]~~ compliant drivers under subsection (A), ~~[and]~~

15 incentivize consumers to use ~~[eligible]~~ compliant drivers, and

16 incentivize TNCs to utilize compliant drivers.

17

18 **§ 13-2-528 DRIVER HOURS.**

19 (A) A TNC driver may not drive-for-hire, as defined in Subsection (B) of this

20 section, for more than twelve hours within any 24-hour period.

21 (B) For purposes of this section, "drive-for-hire" includes offering, making

22 available, or using:

- 23 (1) a vehicle to provide any TNC or TNC-related service, including
- 24 any time when a driver is in the vehicle and logged onto the
- 25 transportation network company's internet-enabled application or
- 26 digital platform showing that the driver is available to pick up
- 27 passengers; when a passenger is in the vehicle; when the TNC's
- 28 dispatch records show that the vehicle is dispatched; or when the
- 29 driver has accepted a dispatch and is enroute to provide
- 30 transportation network service to a passenger; and
- 31 (2) a ground transportation service vehicle or operating a ground
- 32 transportation service as defined in City Code Chapter 13-2
- 33 (*Ground Transportation Passenger Services*).
- 34
- 35

36 **§ 13-2-529 DRIVER TRAINING.**

1 A TNC shall establish a driver-training program designed to ensure that each
2 driver safely operates his or her vehicle prior to the driver being able to offer
3 service.

4 **§ 13-2-530 ZERO TOLERANCE POLICY.**

5 A TNC shall implement a zero tolerance policy on the use of drugs or
6 alcohol by drivers who are driving passengers obtained through the use of a TNC
7 app and advertise this policy on its website. Procedures for filing a complaint
8 about a TNC driver suspected of using drugs or alcohol while driving and an
9 explanation warning of deactivation for drivers found in violation of the policy
10 must also be advertised on a TNC's website.

11 **§ 13-2-531 OFF-APPLICATION AND STREET-HAILS PROHIBITED.**

12 (A) TNC drivers shall only accept rides booked through the digital
13 platform and shall not solicit or accept street-hails.

14 (B) In addition to criminal penalties, any TNC driver who provides rides
15 without using the TNC digital application shall face suspension of
16 their chauffer permit.

17 **PART 2.** Chapter 13-2- *Ground Transportation Services* of the City Code is
18 amended to add:

19 **Division 5 – Fees.**

20 **§ 13-2-532 TNC FEES.**

21 (A) Each TNC operating in the City of Austin shall pay an annual fee
22 calculated by the department based on one of the following methods
23 of that TNC's choosing:

24
25 (1) The total of the permit fee paid by taxicab companies times the
26 number of persons driving for the TNC;

27
28 (2) One (1) percent of the TNC's annual local gross revenues, or a
29 comparable percentage of a TNC's portion of driver fares; or

30
31 (3) Based on total miles driven.

32 (B) Except for any TNC participating in the Safety Assurance Program,
33 each TNC shall pay an additional fee of one (1) percent of the TNC's
34 annual local gross revenue for the ~~Eligible~~ Compliant Driver

Education Fund to be used to assist and incent drivers to ~~[be eligible]~~
become compliant.

(C) Subsection (B) shall not take effect until the incentives referenced in
Section 13-2-527 (H) (Driver Eligibility – Criminal Background and
Driver History Checks) have been established by Council.

§ 13-2-533 GRADUATED FEES.

TNCs with a total number of drivers that is less than the number of taxicab permits for the smallest taxicab company may elect to pay a fee according to a graduated per driver fee schedule determined by the Transportation Department that is less than the permit fee paid by taxicab companies.

§ 13-2-534 MAXIMUM FEE.

No TNC shall pay more than 2% of its annual gross revenue.

~~[PART 3. City Code Section 13-2-102 (Contents of Application) is amended as follows:~~

~~§ 13-2-102 CONTENTS OF APPLICATION (NON TAXI PERMIT).~~

~~PART 4. City Code Chapter 13 (Ground Transportation Services) is amended to add:~~

~~§ 13-2-103 CONTENTS OF APPLICATION (TNC OR TAXI PERMIT).~~

~~(A) An application for a chauffeur's permit for TNC or taxi driving must contain the following:~~

~~(1) Applicant's name, social security number, and date of birth.~~

~~(2) Applicant's residence address and telephone number and states of residence during the three years preceding the date of the application.~~

~~(3) Applicant's Texas driver's license number and expiration date.~~

~~(4) A description of the applicant's experience in driving motor vehicles generally and in driving ground transportation service vehicles.~~

1 ~~(5) For a non citizen applicant, proof that the applicant is permitted~~
2 ~~to work in the United States.~~

3 ~~(6) A statement that the applicant has read and understands the~~
4 ~~provisions of this chapter applicable to drivers of ground~~
5 ~~transportation service vehicles.~~

6 ~~(7) A statement of whether the applicant has been convicted of a~~
7 ~~criminal offense, whether the applicant's driver's license has~~
8 ~~been suspended or revoked, and complete information~~
9 ~~concerning any conviction, suspension, or revocation. Under~~
10 ~~this provision, a traffic violation must be included whether or~~
11 ~~not it is classified as a criminal offense.~~

12 ~~(8) Additional information required on the application form~~
13 ~~prescribed by the department. The applicant must attach to the~~
14 ~~application a copy of the applicant's complete criminal history~~
15 ~~and driving record, issued and certified by the Texas~~
16 ~~Department of Public Safety or other relevant governmental~~
17 ~~entity as determined by the department. The criminal history~~
18 ~~and driving record must be issued and certified not earlier than~~
19 ~~the 30th day before the date the applicant submits an~~
20 ~~application for a chauffeur's permit.~~

21 ~~(C) the required criminal background check must be national in scope and~~
22 ~~prevent any person who has been convicted of certain offenses from~~
23 ~~obtaining a chauffeur permit. These offenses shall be specified by~~
24 ~~separate ordinance; and~~

25 ~~(D) a check of a TNC driver's driving history is required and must prevent~~
26 ~~anyone with more than three moving violations within the three year~~
27 ~~period before the driving history check, or anyone charged with~~
28 ~~driving without insurance or a suspended license within the three year~~
29 ~~period prior to the history check, from driving for a taxi franchise.]~~
30

31 **PART [5] 3.** All TNC operating agreements executed under the authority of
32 Ordinance No. 20141016-038 by the City are hereby terminated as of the effective
33 date of this ordinance.
34
35

1 **PART [6] 4.** This ordinance takes effect on February 1, 2016.

2
3 **PASSED AND APPROVED**

4 §
5 §
6 §

_____, 2015

Steve Adler
Mayor

10
11 **APPROVED:** _____

12 Anne L. Morgan
13 City Attorney

ATTEST: _____

Jannette S. Goodall
City Clerk