

The following is a redline comparing the December 17, 2015, TNC ordinance as compared to the Initiative ordinance. The base document is the December ordinance and the changes and additions shown follow the Initiative ordinance. Deletions are shown as strike-throughs and additions are shown underlined. Language that is unchanged is left unmarked. It is a placeholder so as to allow the Council to discuss on Tuesday's work session, and then possibly adopt at the next Council meeting, an amendment to or a successor ordinance the December, 2015, ordinance.

Actual suggestions for consideration will be posted this weekend onto the bulletin board and then added as late backup or addendum.

## ORDINANCE NO.

### AN ORDINANCE RELATING TO GROUND TRANSPORTATION PASSENGER SERVICES.

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

#### PART 1. Part 1 of Ordinance No. 20151217-075 is amended as follows:

Chapter 13-2 (*Ground Transportation Passenger 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) COMPLIANT DRIVER means a Transportation Network Company driver who has passed a driver history check and a fingerprint based criminal background check.~~

~~(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.~~

(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 established under Section 13-2-509 and operates without a TNC operating authority with the City, as required by ~~in violation of~~ this Article, commits a Class "C" Misdemeanor punishable by a fine of not less than \$500 per offense.

1  
2 **Division 1 – Operations.**

3 **§ 13-2-511 TNC OPERATING AUTHORITY REQUIRED.**

- 4 (A) A TNC may not legally operate within the City without a TNC operating  
5 authority in accordance with the process set forth in this Article.  
6
- 7 (B) To obtain operating authority for a transportation network service, a person  
8 must make written application to the Austin Transportation Department (ATD).  
9 The application must be sworn or affirmed ~~A TNC must apply for a TNC~~  
10 ~~operating authority under the requirements of Section 13-2-161 (Operating~~  
11 ~~Authority Application Required).~~  
12
- 13 (C) The application shall only require: ~~A TNC applicant must have a representative~~  
14 ~~located in the City and named on the application for a TNC operating~~  
15 ~~authority, and as an agent for process~~  
16
- 17 (1) The name, address, telephone number, and Texas driver's license number, if  
18 any, of the applicant and each officer, director, partner, and any other person  
19 who will participate in the business decisions of or who has the authority to  
20 enter contracts on behalf of the transportation network company.  
21
- 22 (2) Certified copies of any documents required by state law to be filed for the  
23 business entity to legally exist, and a statement from the Texas Secretary of  
24 State certifying that the business is in good standing if state law requires the  
25 entity to file documents with the Texas Secretary of State.  
26
- 27 (3) A description of the applicant's transportation network service experience.  
28
- 29 (4) A detailed description of the proposed service.  
30
- 31 (5) Proof of insurance coverage under this Article.  
32
- 33 (D) The ATD Director shall notify a TNC operating under this Article if the ATD  
34 Director determines that there is a reasonable basis to believe that the TNC is in  
35 violation of a provision of this Article. The ATD Director shall give the TNC a  
36 reasonable opportunity to cure a continuing violation of a provision of this  
37 Article. ~~With its application for a TNC operating authority, a TNC applicant~~  
38 ~~must provide a certificate of insurance as proof that it has commercial~~  
39 ~~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) A TNC must maintain a local presence to include an active website and a 24-hour customer service number and email address.

(B) A TNC must maintain an agency for service of process in Austin, Texas.

### **§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.

### **§ 13-2-514 DYNAMIC PRICING.**

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

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

(B) As used in this section, “abnormal market disruptions” includes any change in the ground transportation market, whether actual or imminently threatened, resulting from stress of weather, convulsion of nature, failure or shortage of

electric power or other source of energy, strike, civil disorder, war, military action, national or local emergency, or other cause of an abnormal disruption of the market which results in the declaration of a state of emergency by the governor.

#### § 13-2-515 IDENTIFICATION.

A TNC application 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.

#### § 13-2-516 DATA REPORTING REQUIREMENTS.

(A) A TNC must maintain accurate records of all drivers providing service, and discontinued from providing service, through the platform. All information must be available for audit by a private, agreed upon third party at any time, no more than four times per year. These audits shall be paid for by the TNC. Additionally, a TNC must comply with the following reporting requirements: A TNC must comply with the reporting requirements of this section as a condition of its TNC operating authority for the purpose of supporting public safety and transportation planning including prevention of driving while intoxicated-

(1) 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.

(2) The TNC reports required under this section must document and evaluate information, such as rider pickup and drop-off patterns (i.e. peak ridership times and popular pickup 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, in order to help the City evaluate the role of TNCs to address transportation issues, such as drunk driving and underserved community needs.

(3) The TNC reports required under this section must be provided to the City no later than 15 days after the end of the quarter.

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

~~(1) number of trips requested for service;~~

~~(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 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. 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.~~

(B) ~~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.~~

(C) ~~A TNC may not allow its drivers to refuse to accept a passenger who is disabled, or to charge a higher fare or additional fee to a person who is disabled,~~

1 based on the person's disability, use of a support animal, wheelchair, crutches,  
2 or other mobility assistance device. Should exposure to a support animal cause  
3 a TNC driver an undue health burden, the TNC shall provide an alternate driver  
4 for the passenger with the support animal.

5 (D) A TNC shall conduct outreach events to community organizations with ADA-  
6 compliant vehicles to publicize the TNC's need for ADA vehicles and drivers  
7 with the goal of providing services to all passengers. A TNC shall report back  
8 to the City on the results of this outreach quarterly.

9 (E) A TNC shall conduct outreach events to communities that are of lower social  
10 economic strata without adequate transit options with the goal of increased  
11 access to transportation options. The TNC shall report to the City the  
12 effectiveness of this outreach quarterly.

13  
14 **~~§ 13-2-518 GEOFENCING.~~**

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

18  
19 **~~§ 13-2-519 TRAVEL LANES.~~**

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

22  
23 **~~§ 13-2-520 DRIVER ENFORCEMENT.~~**

24 ~~A TNC shall establish and enforce policies requiring compliance with the~~  
25 ~~applicable provisions of City Code in all agreements by drivers who contract with the~~  
26 ~~TNC.~~

27  
28 **Division 2. – TNC Vehicle Requirements.**

29 **~~§ 13-2-521 INSPECTIONS.~~**

30  
31 (A) ~~Before operating a vehicle under a TNC platform, a vehicle must successfully~~  
32 ~~pass an inspection by a mechanic certified by the State of Texas, and approved~~  
33 ~~by the director, to perform state inspections. Inspection stickers must be~~  
34 ~~displayed on the vehicle.~~

35  
36 (B) ~~The safety inspections will certify a list of items established by separate~~  
37 ~~ordinance and shall be equitable as between TNCs and other vehicles for hire.~~  
38

1  
2 **~~§ 13-2-522 TRADE DRESS.~~**

3  
4 ~~All vehicles operating under a TNC platform shall display a consistent and~~  
5 ~~distinctive director approved emblem indicating which TNC is being used at all times~~  
6 ~~that the vehicle is being used to provide TNC services.~~  
7

8 **§ 13-2-523 TAXES.**  
9

10 Appropriate taxes must be paid on each vehicle operated for a TNC. A vehicle  
11 used as a TNC vehicle that has unpaid taxes assessed may not operate on City streets.  
12

13 **Division 3. – Insurance Requirements.**  
14

15 **§ 13-2-524 INSURANCE.**

16 TNCs must comply with State of Texas insurance requirements for TNCs as  
17 described in Texas Insurance Code Chapter 1954.  
18

19 **§ 13-2-525 DRIVER NOTIFICATION.**

- 20 (A) Pursuant to Texas Insurance Code Chapter 1954, a TNC shall disclose in  
21 writing to participating drivers, as part of its agreement with those drivers, the  
22 insurance coverage and limits of liability that the TNC provides while the driver  
23 uses a vehicle in connection with a transportation network company's online-  
24 enabled application or platform.
- 25 (B) A TNC shall also disclose in writing to participating drivers, as part of its  
26 agreement with those drivers, that the driver's personal automobile insurance  
27 policy may not provide collision or comprehensive coverage for damage to the  
28 vehicle used by the driver from the moment the driver logs on to the TNC's  
29 online-enabled application or platform to the moment the driver logs off the  
30 TNC's online-enabled application or 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 current  
36 automobile liability insurance, must be at least 21 years old, and must use a vehicle that is  
37 in compliance with Texas' inspection requirements and possess proof of a successful  
38 inspection in compliance with this Chapter.  
39

1       **§ 13-2-527 DRIVER ELIGIBILITY—CRIMINAL BACKGROUND AND**  
2       **DRIVER HISTORY CHECKS.**

- 3       (A) TNC drivers must possess a valid driver's license, proof of registration, and  
4       current automobile liability insurance, must be at least 21 years old, and must  
5       use a vehicle that is in compliance with Texas' inspection requirements and  
6       possess proof of a successful inspection. In accordance with the schedule set  
7       forth in (B) below, a person must pass a driver history check and a fingerprint-  
8       based criminal background check under the provisions of this section to be  
9       eligible to drive for a TNC.
- 10       (B) Criminal background and driver history checks for all TNC drivers as set forth  
11       below are required upon application to drive for a TNC and annually thereafter.  
12       The department will implement procedures for drivers to obtain driver history  
13       and finger-print based background checks in order to assist TNCs to meet the  
14       following benchmarks. The department is authorized to calculate benchmarks  
15       using data reported by TNCs under Section 13-2-516, and other data available  
16       to the department. Benchmarks are calculated as the percentage of hours or  
17       miles driven by compliant drivers of the total hours or miles driven by other  
18       drivers for the TNC during the benchmark time period. TNCs that fail to meet  
19       the following benchmarks shall be subject to penalties established by separate  
20       ordinance
- 21               (1) 25% compliance by May 1, 2016
- 22               (2) 50% compliance by August 1, 2016
- 23               (3) 85% compliance by December 1, 2016
- 24               (4) 99% compliance by February 1, 2017
- 25       (C) A criminal background check is required and must be national in scope and  
26       prevent any person who has been convicted, within the past seven years, of  
27       driving under the influence of drugs or alcohol, or who has been convicted at  
28       any time for fraud, sexual offenses, use of a motor vehicle to commit a felony,  
29       gun related violations, resisting/evading arrest, reckless driving, a crime  
30       involving property damage, and/or theft, acts of violence, or acts of terror from  
31       driving for a TNC. If the driving history check required by this section  
32       indicates that, within the three-year period prior to the history check, a person  
33       has had more than three moving violations or has been charged with driving  
34       without insurance or a suspended license, that person is prohibited from  
35       driving for a TNC.



1 (D) A TNC driver history check is required and must prevent anyone with more  
2 than three moving violations within the three-year period before the driving  
3 history check, or anyone charged with driving without insurance or a  
4 suspended license within the three-year period prior to the history check, from  
5 driving for a TNC. To meet the requirements of this section, a criminal  
6 background check must be national in scope and comply with the requirements  
7 in Subsection (E) of this section. If the criminal background check indicates  
8 that a person has been convicted of certain offenses, to be specified by separate  
9 ordinance, that person is prohibited from driving for a TNC.

10 (E) A TNC driver may be authorized to drive for a TNC under this Article if the  
11 TNC has caused the criminal history of the driver to be researched by a  
12 company approved by the Austin Transportation Department Director  
13 (Director), and the results of that search demonstrate that the driver has no  
14 convictions of any offense listed in this section. These results must be available  
15 for audit by a private, agreed-upon third party, for further criminal history  
16 checks, if deemed necessary by the Austin Transportation Department  
17 Director. Consistent with the requirements of Texas Government Code  
18 Sections 411.122 and 411.087, which authorizes the City to obtain criminal  
19 history record information maintained or indexed by the Federal Bureau of  
20 Investigation (FBI) through the Texas Department of Public Safety (DPS).

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

28 (2) Upon receipt of the fingerprints and any applicable fee, the City, or City  
29 approved third party, is authorized to submit the fingerprints to the DPS  
30 for a search of the State's criminal history record, and the DPS is  
31 authorized to forward a set of the fingerprints to the FBI for a national  
32 criminal history check. The results of the FBI check will be returned to  
33 the DPS, which will disseminate the results of state and national criminal  
34 history checks to the City.

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

38 (4) An individual may request and obtain a copy of his or her criminal  
39 history and related information from Austin Transportation Department.

1                   Any requests to amend or correct an individual's criminal history must be  
2                   submitted to and approved by the Texas Department of Public Safety, for  
3                   a Texas state record, or the Federal Bureau of Investigation for records  
4                   from other jurisdictions maintained in its file.

5           (F)   Nothing in this section shall require or be construed to require fingerprinting  
6           as part of any criminal history search or audit required under this section  
7           ~~After obtaining a TNC operating authority, a TNC that meets the~~  
8           ~~requirements in Subsection (G) of this section may elect to participate in a~~  
9           ~~Safety Assurance Program. The program shall be administered by the~~  
10           ~~Austin Transportation Department consistent with the requirements of this~~  
11           ~~subsection.~~

12           ~~(1) If a TNC opts to participate in the program, the Austin Transportation~~  
13           ~~Department shall assist the TNC in obtaining fingerprint-based~~  
14           ~~criminal background checks for all drivers, as required by this section.~~

15           ~~(2) In providing assistance to TNCs participating in this Program, the~~  
16           ~~Austin Transportation Department shall:~~

17                   ~~(a) develop processes that mitigate perceived or actual barriers for~~  
18                   ~~drivers obtaining fingerprints, including use of best practices~~  
19                   ~~for app and other technology functionality;~~

20                   ~~(b) facilitate driver completion of fingerprint checks through driver~~  
21                   ~~fairs and other activities;~~

22                   ~~(c) contract with a third party, if necessary at the department's~~  
23                   ~~determination, to manage the fingerprint collection and~~  
24                   ~~background check process so that the process is completed~~  
25                   ~~quickly, does not create barriers for onboarding drivers, and~~  
26                   ~~supports the processes developed under Subsection (E) of this~~  
27                   ~~section; and~~

28                   ~~(d) implement incentives designed to assist the TNCs to achieve~~  
29                   ~~the city's goal of 100% hours or miles driven by compliant~~  
30                   ~~drivers;~~

31           ~~(3) The Austin Transportation Department may provide assistance to~~  
32           ~~drivers with the cost of fingerprint collection~~

33           ~~(4) The Austin Transportation Department may develop innovative~~  
34           ~~processes and initiatives, in conjunction with community~~  
35           ~~organizations and the TNCs participating in this Program to enhance~~  
36           ~~the availability of services to prevent driving while intoxicated. The~~

~~Austin Transportation Department may assess the processes developed with the TNCs for effectiveness in mitigating perceived or actual barriers for drivers obtaining fingerprints, and their impact on public safety including driving while intoxicated.~~

(G) ~~The permit requirement described in City Code §13-2-101 (*Chauffeur's Permit Required*) is waived for TNC drivers working under TNCs as provided by this Article. To be eligible to participate in the Safety Assurance Program authorized under Subsection (E), a TNC must commit to a driver onboarding process that:~~

~~(a) reflects best practices for public safety;~~

~~(b) includes face-to-face interviews with all drivers to be onboarded;~~

~~(c) requires potential drivers to demonstrate the ability to drive safely; and~~

~~(d) demonstrates good faith efforts to onboard drivers who have completed the fingerprint-based background check process as measured by the Austin Transportation Department and measured by percentages of drivers.~~

~~(H) Council will establish by separate ordinance programs, processes and procedures to incentivize drivers to become compliant drivers under subsection (A), incentivize consumers to use compliant drivers, and incentivize TNCs to utilize compliant drivers.~~

### **§ 13-2-528 DRIVER HOURS.**

(A) A TNC driver may not drive-for-hire, as defined in Subsection (B) of this section, for more than twelve hours within any 24-hour period.

(B) For purposes of this section, “drive-for-hire” includes offering, making available, or using:

(1) a vehicle to provide any TNC or TNC-related service, including any time when a driver is in the vehicle and logged onto the transportation network company’s internet-enabled application or digital platform showing that the driver is available to pick up passengers; when a passenger is in the vehicle; when the TNC’s dispatch records show that the vehicle is dispatched; or when the driver has accepted a dispatch and is enroute to provide transportation network service to a passenger; and

- (2) a ground transportation service vehicle or operating a ground transportation service as defined in City Code Chapter 13-2 (*Ground Transportation Passenger Services*).

### **§ 13-2-529 DRIVER TRAINING.**

A 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.

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

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

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

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

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

**PART 2.** Chapter 13-2 (*Ground Transportation Passenger Services*) of the City Code is amended to add:

### **Division 5 – Fees.**

### **§ 13-2-532 TNC FEES.**

(A) Each TNC operating in the City of Austin shall pay an annual fee of one (1) percent of the TNC's annual local gross revenues. ~~Each TNC operating in the City of Austin shall pay an annual fee calculated by the department based on one of the following methods of that TNC's choosing:~~

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

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

~~(3) Based on total miles driven.~~

(B) The annual fee required to be paid by a TNC under this section shall be paid to the City at the end of each year of operation. Except for any TNC participating in the Safety Assurance Program, each TNC shall pay an additional fee of one (1) percent of the TNC's annual local gross revenue for the Compliant Driver Education Fund to be used to assist and incent drivers to 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.** All TNC operating agreements executed under the authority of Ordinance No. 20141016-038 by the City are terminated as of the effective date of this ordinance.

**PART 4.** This ordinance takes effect on February \_\_\_\_\_, 2016.

**PASSED AND APPROVED**

\_\_\_\_\_, 2016      § \_\_\_\_\_  
   § \_\_\_\_\_  
   § \_\_\_\_\_  
Steve Adler  
Mayor

**APPROVED:** \_\_\_\_\_  
Anne L. Morgan  
City Attorney

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