

1 **ORDINANCE NO.**

2
3 **AN ORDINANCE AMENDING CITY CODE CHAPTER 13-2 RELATING**
4 **TO TRANSPORTATION NETWORK COMPANIES (TNCs) AND TAXIS,**
5 **AND TERMINATING TNC OPERATING AGREEMENTS.**
6

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

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

10 **ARTICLE 4. – TRANSPORTATION NETWORK COMPANY SERVICE.**

11 **§ 13-2-509 DEFINITION.**

12 In this Article:

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

17 (2) **ELIGIBLE DRIVER** means as Transportation Network Company driver
18 who has passed a driver history check and a fingerprint-based criminal
19 background check.

20 (2) **TRANSPORTATION NETWORK COMPANY (TNC)** means an
21 organization, whether a corporation, partnership, sole proprietor, or other
22 form, which provides on-demand transportation services for
23 compensation using an online-enabled application (app) or platform to
24 connect passengers with drivers.
25

26 **§ 13-2-510 PENALTY.**

27 Any person, corporation, partnership, sole proprietor, or other entity that
28 meets the definition of TNC and operates in violation of this Article commits a
29 Class “C” Misdemeanor punishable by a fine of not less than \$500 per offense.
30

31 **Division 1 – Operations.**

32 **§ 13-2-511 TNC OPERATING AUTHORITY REQUIRED.**

- 1 (A) A TNC may not legally operate within the City without a TNC operating
2 authority.
- 3 (B) A TNC must apply for a TNC operating authority under the requirements
4 of Section 13-2-161 (*Operating Authority Application Required*).
- 5 (C) A TNC applicant must have a representative located in the City and
6 named on the application for a TNC operating authority, and as an agent
7 for process.
- 8 (D) With its application for a TNC operating authority, a TNC applicant must
9 provide a certificate of insurance as proof that it has commercial
10 automobile insurance issued in compliance with Article 4, Division 3 of
11 this Chapter, by a company licensed to operate in the State of Texas and
12 by an agent licensed by the State of Texas. The policy must include
13 coverage for:
- 14 (1) bodily injury;
15 (2) property damage; and
16 (3) owned, non-owned, and hired vehicle coverage.
- 17 (E) A TNC operating authority will be for a term of one year.
- 18 (F) A TNC operating authority may not be transferred or assigned.
19

20 **§ 13-2-512 TNC LOCAL PRESENCE REQUIRED.**

21 A TNC must maintain a local presence to include an active website and a
22 24-hour customer service number and email address.
23

24 **§13-2-513 DISCLOSURE OF FARE.**

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

30 **§ 13-2-514 DYNAMIC PRICING.**

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

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

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

22 **§ 13-2-515 IDENTIFICATION.**

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

27 **§ 13-2-516 DATA REPORTING REQUIREMENTS.**

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

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

- 34 (1) number of trips requested for service;
35 (2) number of trips requested, but not serviced, according to zip code;
36 (3) number of vehicles logged into the TNC platform;
37 (4) number of pick-ups and drop-offs according to zip code;

- 1 (5) accessible vehicle trips requested and serviced;
- 2 (6) accessible vehicle trips requested and not serviced; and
- 3 (7) amount of time that surge pricing is in effect.
- 4 (C) Driver hours logged onto the TNC platform shall be recorded daily and
- 5 reported to the director on the last day of each month.
- 6 (D) A TNC shall record the following data monthly and report it to the
- 7 director on the last day of each month:
 - 8 (1) number of trips completed and passengers transported;
 - 9 (2) gross receipts generated;
 - 10 (3) progress on meeting the accessibility needs of the public; and
 - 11 (4) total hours and miles driven by eligible drivers.
- 12 (E) A TNC shall, on a daily basis, record all accident reports involving a
- 13 vehicle in service and operating through the TNC platform, and report all
- 14 such accidents to the director every Monday.
- 15 (F) A TNC operating authority is automatically suspended if the TNC fails to
- 16 submit the data required under this section within fifteen days of the
- 17 required reporting deadline.
- 18

19 **§ 13-2-517 ACCESSIBLE VEHICLE SERVICE.**

- 20 (A) Within six months of obtaining a TNC operating authority, a TNC shall
- 21 implement an accessibility plan approved by the director. If a TNC has
- 22 an existing accessibility plan on file in another jurisdiction, the TNC
- 23 must adapt that plan for use in the City.
- 24 (B) Within three months of obtaining a TNC operating authority, an
- 25 accessible service request indicator must be available on the app. If a
- 26 driver cannot provide a passenger a requested accessible ride, the TNC
- 27 must identify an alternative transportation arrangement for the passenger.
- 28 (C) Service animals must be reasonably accommodated by TNC drivers. If a
- 29 service animal cannot be reasonably accommodated by a driver, the TNC
- 30 must identify an alternative transportation arrangement for the passenger
- 31 and service animal.

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

8 (E) A TNC shall conduct outreach events to community organizations with
9 ADA-compliant vehicles to publicize the TNC’s need for ADA vehicles
10 and drivers with the goal of providing services to all passengers. A TNC
11 shall report back to the City on the results of this outreach quarterly.

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

16
17 **§ 13-2-518 GEOFENCING.**

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

21
22 **§ 13-2-519 TRAVEL LANES.**

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

25
26 **§ 13-2-520 DRIVER ENFORCEMENT.**

27 A TNC shall establish and enforce policies requiring compliance with the
28 applicable provisions of City Code in all agreements by drivers who contract with
29 the TNC.

30
31 **Division 2. – TNC Vehicle Requirements.**

32 **§ 13-2-521 INSPECTIONS.**

33 (A) Before operating a vehicle under a TNC platform, a vehicle must
34 successfully pass a 20-point inspection by a mechanic certified by the
35 State of Texas, and approved by the director, to perform state inspections.
36 Inspection stickers must be displayed on the vehicle.

1 (B) In addition to the standard State inspection, a TNC vehicle inspection
2 shall include certification of:

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

23
24 **§ 13-2-522 TRADE DRESS.**

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

1 **§ 13-2-523 TAXES.**

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

5
6 **Division 3. – Insurance Requirements.**

7
8 **§ 13-2-524 INSURANCE.**

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

11
12 **§ 13-2-525 DRIVER NOTIFICATION.**

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

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

26
27 **Division 4. – Drivers.**

28
29 **§ 13-2-526 DRIVER REQUIREMENTS.**

30 TNC drivers must possess a valid driver’s license, proof of registration, and
31 current automobile liability insurance, must be at least 21 years old, and must use a
32 vehicle that is in compliance with Texas’ inspection requirements and possess
33 proof of a successful inspection.

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

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

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

17 (1) 25% compliance by May 1, 2016

18 (2) 50% compliance by August 1, 2016

19 (3) 85% compliance by December 1, 2016

20 (4) 99% compliance by February 1, 2017

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

26 (D) To meet the requirements of this section, a criminal background check
27 must be national in scope and comply with the requirements in
28 Subsection (D) of this section. If the criminal background check
29 indicates that a person has been convicted of certain offenses, to be
30 specified by separate ordinance, that person is prohibited from driving
31 for a TNC.

32 (E) Consistent with the requirements of Texas Government Code Sections
33 411.122 and 411.087, which authorizes the City to obtain criminal
34 history record information maintained or indexed by the Federal Bureau

1 of Investigation (FBI) through the Texas Department of Public Safety
2 (DPS).

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

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

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

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

28 (F) After obtaining a TNC operating authority, a TNC that meets the
29 requirements in Subsection (F) of this section may elect to participate
30 in a Safety Assurance Program. The program shall be administered
31 by the Austin Transportation Department consistent with the
32 requirements of this subsection.

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

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

3 (a) develop processes that mitigate perceived or actual
4 barriers for drivers obtaining fingerprints, including use
5 of best practices for app and other technology
6 functionality;

7 (b) facilitate driver completion of fingerprint checks through
8 driver fairs and other activities;

9 (c) contract with a third party, if necessary at the
10 department's determination, to manage the fingerprint
11 collection and background check process so that the
12 process is completed quickly, does not create barriers for
13 onboarding drivers, and supports the processes developed
14 under Subsection (E) of this section; and

15 (d) implement incentives designed to assist the TNCs to
16 achieve the city's goal of 100% hours or miles driven by
17 eligible drivers

18 (3) The Austin Transportation Department may provide assistance
19 to drivers with the cost of fingerprint collection

20 (4) The Austin Transportation Department may develop innovative
21 processes and initiatives, in conjunction with community
22 organizations and the TNCs participating in this Program to
23 enhance the availability of services to prevent driving while
24 intoxicated. The Austin Transportation Department may assess
25 the processes developed with the TNCs for effectiveness in
26 mitigating perceived or actual barriers for drivers obtaining
27 fingerprints, and their impact on public safety including driving
28 while intoxicated.

29 (G) To be eligible to participate in the Safety Assurance Program
30 authorized under Subsection (E), a TNC must commit to a driver
31 onboarding process that:

32 (a) reflects best practices for public safety;

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

1 (c) requires potential drivers to demonstrate the ability to drive
2 safely; and
3

4 (d) demonstrates good-faith efforts to onboard drivers who have
5 completed the fingerprint-based background check process
6 during the transition period as measured by the Austin
7 Transportation Department and measured by percentages of
8 drivers
9

10 (H) The department will implement programs, processes and procedures to
11 incentivize drivers to become eligible drivers under subsection (A), and
12 incentivize consumers to use eligible drivers.
13

14 **§ 13-2-528 DRIVER HOURS.**

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

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

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

27 (2) a ground transportation service vehicle or operating a ground
28 transportation service as defined in City Code Chapter 13-2
29 (*Ground Transportation Passenger Services*).
30

31 **§ 13-2-529 DRIVER TRAINING.**

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

35 **§ 13-2-530 ZERO TOLERANCE POLICY.**

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

7 **§ 13-2-531 OFF-APPLICATION AND STREET-HAILS PROHIBITED.**

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

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

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

15 **Division 5 – Fees.**

16 **§ 13-2-532 TNC FEES.**

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

- 20
- 21 (1) The total of the permit fee paid by taxicab companies times the
22 number of persons driving for the TNC;
- 23
- 24 (2) One (1) percent of the TNC's annual local gross revenues, or a
25 comparable percentage of a TNC's portion of driver fares; or
26
- 27 (3) Based on total miles driven.

28 (B) Except for any TNC participating in the Safety Assurance Program,
29 each TNC shall pay an additional fee of one (1) percent of the TNC's
30 annual local gross revenue for the Eligible Driver Education Fund to
31 be used to assist and incent drivers to be eligible.

32 **§ 13-2-533 GRADUATED FEES.**

33 TNCs with a total number of drivers that is less than the number of taxicab
34 permits for the smallest taxicab company may elect to pay a fee according to a

1 graduated per driver fee schedule determined by the Transportation Department
2 that is less than the permit fee paid by taxicab companies.
3

4 **§ 13-2-534 MAXIMUM FEE.**

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

6 **PART 3.** City Code Section 13-2-102 (*Contents of Application*) is amended as
7 follows:
8

9 **§ 13-2-102 CONTENTS OF APPLICATION (NON-TAXI PERMIT).**

10 **PART 4.** City Code Chapter 13 (*Ground Transportation Services*) is amended
11 to add:
12

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

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

- 16 (1) Applicant's name, social security number, and date of birth.
- 17 (2) Applicant's residence address and telephone number and states
18 of residence during the three years preceding the date of the
19 application.
- 20 (3) Applicant's Texas driver's license number and expiration date.
- 21 (4) A description of the applicant's experience in driving motor
22 vehicles generally and in driving ground transportation service
23 vehicles.
- 24 (5) For a non-citizen applicant, proof that the applicant is permitted
25 to work in the United States.
- 26 (6) A statement that the applicant has read and understands the
27 provisions of this chapter applicable to drivers of ground
28 transportation service vehicles.
- 29 (7) A statement of whether the applicant has been convicted of a
30 criminal offense, whether the applicant's driver's license has
31 been suspended or revoked, and complete information
32 concerning any conviction, suspension, or revocation. Under

1 this provision, a traffic violation must be included whether or
2 not it is classified as a criminal offense.

3 (8) Additional information required on the application form
4 prescribed by the department. The applicant must attach to the
5 application a copy of the applicant's complete criminal history
6 and driving record, issued and certified by the Texas
7 Department of Public Safety or other relevant governmental
8 entity as determined by the department. The criminal history
9 and driving record must be issued and certified not earlier than
10 the 30th day before the date the applicant submits an
11 application for a chauffeur's permit.

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

16 (D) a check of a TNC driver's driving history is required and must prevent
17 anyone with more than three moving violations within the three-year
18 period before the driving history check, or anyone charged with
19 driving without insurance or a suspended license within the three-year
20 period prior to the history check, from driving for a taxi franchise.

21
22 **PART 5.** All TNC operating agreements executed under the authority of
23 Ordinance No. 20141016-038 by the City are hereby terminated as of the effective
24 date of this ordinance.
25

26

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

2

3 **PASSED AND APPROVED**

4 §
5 §
6 _____, 2015 § _____

7 Steve Adler
8 Mayor

9

10
11 **APPROVED:** _____ **ATTEST:** _____

12 Anne L. Morgan
13 City Attorney

Jannette S. Goodall
City Clerk