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ORDINANCE NO.

2016 JAN 19 AM 9 53

**AN ORDINANCE AMENDING CITY CODE CHAPTER 13-2 RELATING TO TRANSPORTATION
NETWORK COMPANIES (TNCs)**

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

PART 1. Ordinance No. 20151217-075 is repealed.

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

ARTICLE 4. - TRANSPORTATION NETWORK COMPANY SERVICE.

§ 13-2-501 DEFINITION.

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.

§ 13-2-502 TNC OPERATING AUTHORITY APPLICATION REQUIRED.

- (A) A TNC may operate in accordance with the process set forth in this Article.
- (B) To obtain operating authority for a transportation network service, a person must make written application to the Austin Transportation Department (ATD). The application must be sworn or affirmed.
- (C) The application shall only require:
 - (1) The name, address, telephone number, and Texas driver's license number, if any, of the applicant and each officer, director, partner, and any other person who will participate in the business decisions of or who has the authority to enter contracts on behalf of the transportation network company.
 - (2) Certified copies of any documents required by state law to be filed for the business entity to legally exist, and a statement from the Texas Secretary of State certifying that the business is in good standing if state law requires the entity to file documents with the Texas Secretary of State.
 - (3) A description of the applicant's transportation network service experience.
 - (4) A detailed description of the proposed service.
 - (5) Proof of insurance coverage under this Article.
- (D) The ATD Director shall notify a TNC operating under this Article if the ATD Director determines that there is a reasonable basis to believe that the TNC is in violation of a provision of this Article. The ATD Director shall give the TNC a reasonable opportunity to cure a continuing violation of a provision of this Article.

§ 13-2-503 TNC LOCAL PRESENCE REQUIRED.

- (A) A TNC must maintain a website and provide a 24-hour customer service phone number and email address.
- (B) A TNC must maintain an agent for service of process in Austin, Texas.

§ 13-2-504 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.

§ 13-2-505 DYNAMIC PRICING.

- (A) If a TNC 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, 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” are defined as 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.

§ 13-2-506 IDENTIFICATION.

A 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.

§ 13-2-507 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:
 - (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 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, 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.

§ 13-2-508 ACCESSIBLE VEHICLE SERVICE.

- (A) The TNC shall be required to set aside a sum equivalent to 10 cents for every ride originating in the City of Austin and use those funds to support the TNC's riders who require ADA accommodations, with the goal of accessible rides being met with wait times that are equivalent to those of other TNC rides.
- (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 shall conduct outreach events to community organizations with ADA-compliant vehicles to publicize the TNC's need for ADA vehicles and drivers with the goal of providing services to all passengers. A TNC shall report back to the City on results quarterly.
- (D) Three months after initiating operations in the City, the TNC must have an accessible service request indicator available on the app. Once the accessible service request indicator is available, if a driver cannot provide a passenger a requested accessible ride, the TNC must identify an alternative transportation arrangement for the passenger.
- (E) 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, based on the person's disability, use of a support animal, wheelchair, crutches, or other mobility assistance device. Should exposure to a support animal cause a TNC driver an undue health burden, the TNC shall provide an alternate driver for the passenger with the support animal.

§ 13-2-509 DRIVER ENFORCEMENT.

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

§ 13-2-510 TAXES.

Appropriate taxes must be paid or the vehicle is not allowed to operate on the streets of Austin.

§ 13-2-511 INSURANCE.

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

§ 13-2-512 DRIVER NOTIFICATION.

TNCs must comply with State of Texas insurance requirements for TNCs as described in Texas Insurance Code section 1954.101 (relating to required disclosures).

§ 13-2-513 DRIVER ELIGIBILITY.

- (A) 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' inspection requirements and possess proof of a successful inspection.
- (B) Criminal background and driver history checks for all TNC drivers, as set forth below, are required upon application to drive for a TNC and annually thereafter.
- (C) A criminal background check is required and must 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 a TNC.
- (D) A TNC driver history check is required and must prevent anyone with more than three moving violations within the three-year period before the driving history check, or anyone charged with driving without insurance or a suspended license within the three-year period prior to the history check, from driving for a TNC.
- (E) A TNC driver may be authorized to drive for a TNC under this Article if the TNC has caused the criminal history of the driver to be researched by a company approved by the Austin Transportation Department Director (Director), and the results of that search demonstrate that the driver has no convictions of any offense listed in this section. These results must be available for audit by a private, agreed-upon third party, for further criminal history checks, if deemed necessary by the Austin Transportation Department Director.

- (F) Nothing in this section shall require or be construed to require fingerprinting as part of any criminal history search or audit required under this section.
- (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.

§ 13-2-514 DRIVER HOURS.

- (A) A TNC driver may not drive-for-hire for more than twelve hours within any 24-hour period. For purposes of this section, "drive-for-hire," is defined as offering, making available, or using:
 - (1) a vehicle to provide a transportation network service, including any time when a driver is 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*).

§ 13-2-515 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.

§ 13-2-516 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.

§ 13-2-517 STREET-HAILS PROHIBITED

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

§ 13-2-518 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.

- (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.

§ 13-2-519 OUTREACH.

A TNC shall conduct outreach events to communities that are of lower socioeconomic strata without adequate transit options with the goal of increased access to transportation options. The TNC shall report to the City the effectiveness of this outreach quarterly.

§ 13-2-520 AIRPORT.

This Article does not regulate or authorize the operation of TNCs, including vehicles or operators, at the Austin Bergstrom International Airport (ABIA). Such operation shall be with the approval of the ABIA Director and under such terms and conditions as the ABIA Director shall prescribe, including assessment of a fee. The regulation and operation of TNCs at ABIA may not contradict or amend the requirements set forth in Section 13-2-513 (*Driver Eligibility*) of this Article.

§ 13-2-521 PENALTY.

Any person, corporation, partnership, sole proprietor, or other entity that meets the definition of TNC established under § 13-2-501 (*Definition*) of this Article and operates without a TNC operating authority with the City, as required by this ordinance, commits a Class "C" Misdemeanor punishable by a fine of not less than \$500 per offense.

This ordinance takes effect on _____.

PASSED AND APPROVED

_____, 2016

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Steve Adler
Mayor

APPROVED: _____

Anne L. Morgan
City Attorney

ATTEST: _____

Jannette S. Goodall
City Clerk