

# Late Backup

## ORDINANCE NO.

AN ORDINANCE REPEALING ORDINANCE NO. 20151217-075 AND AMENDING CITY CODE CHAPTER 13-2 RELATING TO GROUND TRANSPORTATION SERVICES.

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 Ordinance No. 20151217-075 is repealed.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 add a new Article 4 to read:

### ARTICLE 4. -TRANSPORTATION NETWORK COMPANY SERVICE.

#### § 13-2-521 DEFINITION.

In this Article:

- (1) 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.

#### § 13-2-522 TNC OPERATING AUTHORITY APPLICATION REQUIRED.

- (A) A TNC may operate only in accordance with 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.

- 1 (2) Certified copies of any documents required by state law to be filed for the  
2 business entity to legally exist, and a statement from the Texas Secretary  
3 of State certifying that the business is in good standing if state law  
4 requires the entity to file documents with the Texas Secretary of State.
- 5 (3) A description of the applicant's transportation network service  
6 experience.
- 7 (4) A detailed description of the proposed service.
- 8 (5) Proof of insurance coverage under this Article.
- 9 (D) The ATD Director shall notify a TNC operating under this Article if the ATD  
10 Director determines that there is a reasonable basis to believe that the TNC is in  
11 violation of a provision of this Article. The ATD Director shall give the TNC a  
12 reasonable opportunity to cure a continuing violation of a provision of this  
13 Article before a penalty may be imposed.

14  
15 **§ 13-2-523 TNC LOCAL PRESENCE REQUIRED.**

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

19  
20 **§ 13-2-524 DISCLOSURE OF FARE.**

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

25  
26 **§ 13 2-525 DYNAMIC PRICING.**

- 27 (A) If a TNC utilizes dynamic pricing through its software application to incentivize  
28 drivers in an effort to maximize the supply of available vehicles on the network  
29 to match the demand for rides and increase reliability, the software application  
30 must:
- 31 (1) provide clear and visible indication that dynamic pricing is in effect prior  
32 to requesting a ride;
- 33 (2) include a feature that requires riders to confirm that they understand that  
34 dynamic pricing will be applied in order for the ride request to be  
35 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.

#### **§ 13-2-526 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.

#### **§ 13-2-527 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 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.

1     **§ 13-2-528 ACCESSIBLE VEHICLE SERVICE.**

- 2         (A) The TNC shall be required to set aside a sum equivalent to 10 cents for every  
3         ride originating in the City of Austin and use those funds to support the TNC's  
4         riders who require ADA accommodations, with the goal of accessible rides  
5         being met with wait times that are equivalent to those of other TNC rides.
- 6         (B) Service animals must be reasonably accommodated by TNC drivers. If a service  
7         animal cannot be reasonably accommodated by a driver, the TNC must identify  
8         an alternative transportation arrangement for the passenger and service animal.
- 9         (C) A TNC shall conduct outreach events to community organizations with ADA-  
10        compliant vehicles to publicize the TNC's need for ADA vehicles and drivers  
11        with the goal of providing services to all passengers. A TNC shall report back  
12        to the City on results quarterly.
- 13        (D) Three months after initiating operations in the City, the TNC must have an  
14        accessible service request indicator available on the app. Once the accessible  
15        service request indicator is available, if a driver cannot provide a passenger a  
16        requested accessible ride, the TNC must identify an alternative transportation  
17        arrangement for the passenger.
- 18        (E) A TNC may not allow its drivers to refuse to accept a passenger who is  
19        disabled, or to charge a higher fare or additional fee to a person who is disabled,  
20        based on the person's disability, use of a support animal, wheelchair, crutches,  
21        or other mobility assistance device. Should exposure to a support animal cause  
22        a TNC driver an undue health burden, the TNC shall provide an alternate driver  
23        for the passenger with the support animal.

24     **§ 13-2-529 DRIVER ENFORCEMENT.**

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

29     **§ 13-2-530 TRADE DRESS.**

30         All vehicles operating under a TNC platform shall display a consistent and  
31         distinctive director approved emblem indicating under which TNC platform the vehicle is  
32         being used at all times that the vehicle is being used to provide TNC services.  
33

34     **§ 13-2-531 TAXES.**

35         Appropriate taxes must be paid or the vehicle is not allowed to operate on the  
36         streets of Austin.  
37

1     **§ 13-2-532 INSURANCE.**

2             TNCs must comply with State of Texas insurance requirements for TNCs as  
3 described in Texas Insurance Code Chapter 1954.  
4

5     **§ 13-2-533 DRIVER NOTIFICATION.**

6             TNCs must comply with State of Texas insurance requirements for TNCs as  
7 described in Texas Insurance Code section 1954.10 1 (relating to required disclosures).  
8

9     **§ 13-2-534 DRIVER ELIGIBILITY.**

- 10            (A) TNC drivers must possess a valid driver's license, proof of registration, and  
11 current automobile liability insurance, must be at least 21 years old, and must  
12 use a vehicle that is in compliance with Texas' inspection requirements and  
13 possess proof of a successful inspection.
- 14            (B) Criminal background and driver history checks for all TNC drivers as set forth  
15 below are required upon application to drive for a TNC and annually thereafter.
- 16                (1) A criminal background check is required and must be national in scope  
17 and prevent any person who has been convicted, within the past seven  
18 years, of driving under the influence of drugs or alcohol, or who has been  
19 convicted at any time for fraud, sexual offenses, use of a motor vehicle to  
20 commit a felony, gun related violations, resisting/evading arrest, reckless  
21 driving, a crime involving property damage, and/or theft, acts of  
22 violence, or acts of terror from driving for a TNC.
- 23                (2) A TNC driver history check is required and must prevent anyone with  
24 more than three moving violations within the three-year period before the  
25 driving history check, or anyone charged with driving without insurance  
26 or a suspended license within the three-year period prior to the history  
27 check, from driving for a TNC.
- 28                (3) A TNC driver may be authorized to drive for a TNC under this Article if  
29 the TNC has caused the criminal history of the driver to be researched by  
30 a company approved by the Austin Transportation Department Director  
31 (Director), and the results of that search demonstrate that the driver has  
32 no convictions of any offense listed in this section. These results must be  
33 available for audit by a private, agreed-upon third party, for further  
34 criminal history checks, if deemed necessary by the Austin  
35 Transportation Department Director.
- 36            (C) Nothing in this section shall require or be construed to require fingerprinting as  
37 part of any criminal history search or audit required under this section.

1 Voluntary fingerprinting, as may be provided and rewarded pursuant to separate  
2 ordinance, is allowed so long as a non-fingerprinted TNC driver is not denied  
3 access to a legally accessible area that was available to a TNC driver on January  
4 28, 2016.

- 5 (D) The permit requirement described in City Code §13-2-101 (*Chauffeur's Permit*  
6 *Required*) is waived for TNC drivers working under TNCs as provided by this  
7 Article.  
8

9 **§ 13-2-535 DRIVER HOURS.**

- 10 (A) A TNC driver may not drive-for-hire for more than twelve hours within any 24-  
11 hour period. For purposes of this section, "drive-for-hire," is defined as  
12 offering, making available, or using:

- 13 (1) a vehicle to provide a transportation network service, including any time  
14 when a driver is logged onto the transportation network company's  
15 internet-enabled application or digital platform showing that the driver is  
16 available to pick up passengers; when a passenger is in the vehicle; when  
17 the TNC's dispatch records show that the vehicle is dispatched; or when  
18 the driver has accepted a dispatch and is en route to provide  
19 transportation network service to a passenger; and  
20  
21 (2) a ground transportation service vehicle or operating a ground  
22 transportation service as defined in City Code Chapter 13-2 (*Ground*  
23 *Transportation Passenger Services*).  
24

25 **§ 13-2-536 DRIVER TRAINING.**

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

28 **§ 13-2-537 ZERO TOLERANCE POLICY.**

29 A TNC shall implement a zero-tolerance policy on the use of drugs or alcohol by  
30 drivers who are driving passengers obtained through the use of a TNC app and advertise  
31 this policy on its website. Procedures for filing a complaint about a TNC driver suspected  
32 of using drugs or alcohol while driving and an explanation warning of deactivation for  
33 drivers found in violation of the policy must also be advertised on a TNC's website.  
34  
35

1     **§ 13-2-538 SAFETY PROGRAMS.**

2     (A) The council may, by separate ordinance, authorize voluntary participation in a  
3     verifier, certificate, or badge program designed to protect public safety and  
4     welfare by enhancing consumer choice and access to information in the peer-to-  
5     peer and sharing markets for ground transportation and other goods and  
6     services. A program adopted under this section:

- 7     (1) must be administered by the City or by an independent third party; and  
8     (2) may include regulatory and other incentivizes to encourage the use of  
9     software platforms and other electronic applications that:
- 10         (a) provide enhanced choice for participants in a service available in  
11         the peer-to-peer or sharing markets; and  
12         (b) increase the availability of information regarding program  
13         participants.

14     (B) The City may use other programs to protect public safety and welfare in peer-  
15     to-peer and sharing markets.

16  
17     **§ 13-2-539 STREET-HAILS PROHIBITED.**

18     TNC drivers shall only accept rides booked through the digital platform and shall  
19     not solicit or accept street-hails, except as may be allowed by separate ordinance pursuant  
20     to a Safety Program.

21  
22     **§ 13-2-540 FEES.**

- 23     (A) Each TNC operating in the City of Austin shall pay an annual fee of two (2)  
24     percent of the TNC's annual local gross revenues.
- 25     (B) The annual fee required to be paid by a TNC under this section shall be paid to  
26     the City at the end of each year of operation.

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28     **§ 13-2-541 OUTREACH.**

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

1     **§ 13-2-542 AIRPORT.**

2             This Article does not regulate or authorize the operation of TNCs, including  
3 vehicles or operators, at the Austin Bergstrom International Airport (ABIA). Such  
4 operation shall be with the approval of the ABIA Director and under such terms and  
5 conditions as the ABIA Director shall prescribe, including assessment of a fee. The  
6 regulation and operation of TNCs at ABIA may not contradict or amend the requirements  
7 set forth in Section 13-2-513 (*Driver Eligibility*) of this Article.  
8

9     **§ 13-2-543 PENALTY.**

10            Any person, corporation, partnership, sole proprietor, or other entity that meets the  
11 definition of TNC established under Section 13-2-521 (*Definition*) of this Article and  
12 operates without a TNC operating authority with the City, as required by this ordinance,  
13 commits a Class "C" Misdemeanor punishable by a fine of not less than \$500 per offense.  
14

15     **PART 3.** This ordinance takes effect on \_\_\_\_\_, 2016  
16

17     **PASSED AND APPROVED**

18  
19  
20  
21     \_\_\_\_\_, 2016

22                             Steve Adler  
23                             Mayor

24  
25  
26     **APPROVED:** \_\_\_\_\_  
27                     Anne L. Morgan  
28                     City Attorney

29     **ATTEST:** \_\_\_\_\_  
30                     Jannette S. Goodall  
31                     City Clerk