

ORDINANCE NO. 20160217-001

AN ORDINANCE ORDERING A SPECIAL ELECTION TO BE HELD IN THE CITY OF AUSTIN ON MAY 7, 2016 TO SUBMIT TO THE VOTERS AN ORDINANCE INITIATED BY PETITION RELATING TO TRANSPORTATION NETWORK COMPANIES; PROVIDING FOR THE CONDUCT OF THE ELECTION; AUTHORIZING THE CITY CLERK TO ENTER INTO JOINT ELECTION AGREEMENTS; AND DECLARING AN EMERGENCY.

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

PART 1. A special municipal election shall be held in the City on May 7, 2016, to submit to the voters of the city an ordinance initiated by petition relating to the regulation of transportation network companies. The ballot shall be prepared to permit voting “for” or “against” the following proposition:

Shall the City Code be amended to repeal City Ordinance No. 20151217-075 relating to Transportation Network Companies; and replace with an ordinance that would repeal and prohibit required fingerprinting, repeal the requirement to identify the vehicle with a distinctive emblem, repeal the prohibition against loading and unloading passengers in a travel lane, and require other regulations for Transportation Network Companies?

PART 2. If the proposition provided in Part 1 is approved by the majority of voters voting at the election, Article 4 of Chapter 13-2 of the City Code is repealed and replaced as provided in the ordinance initiated by petition, with a new Article 4 of Chapter 13-2 to read: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 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.

§ 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.

PART 3. The election shall be conducted between the hours of 7:00 a.m. and 7:00 p.m. The precincts and locations of the election day polling places; the dates, hours, and locations of the early voting places; and the names of the officers appointed to

conduct the election are provided in Exhibits A-G attached and incorporated as a part of this ordinance.

PART 4. A direct electronic recording voting system, as the term is defined in Title 8 of the Texas Election Code, shall be used for early voting and for voting conducted on election day. The central counting station is established at the Travis County Elections Division, 5501 Airport Boulevard, Austin, Texas.

PART 5. (a) Notice of this election shall be given by posting and publishing a copy of this ordinance in both English and Spanish. The notice and a copy of this ordinance shall be posted, in both English and Spanish, in three public places and at the City Hall notice kiosk not later than the 21st day before election day. The copy of the notice posted at City Hall shall be accompanied by a cover page, at the top of which shall appear the words “A MUNICIPAL SPECIAL ELECTION, MAY 7, 2016.” Notice of this election shall be published, not earlier than the 30th day before the date of the election, in a newspaper of general circulation on the same day in each of two successive weeks, with the first publication occurring before the 14th day before the date of the election.

(b) A copy of this ordinance shall be posted, in both English and Spanish, on election day and during early voting by personal appearance, in a prominent location at each polling place.

(c) This ordinance, together with the notice of election and the contents of the Proposition, shall be posted on the City’s website, in both English and Spanish, during the twenty-one (21) days before the election.

PART 6. In accordance with Chapter 271 of the Texas Election Code, the May 7, 2016 municipal special election may be held jointly with the various political subdivisions that share territory with the City of Austin and that are holding elections on that day. The City Clerk may enter and sign joint election agreements with other political subdivisions for this purpose, and their terms as stated in the agreements are hereby adopted.

PART 7. The Council finds that the need to immediately begin required preparations for this election constitutes an emergency. Because of this emergency, this ordinance

takes effect immediately on its passage for the immediate preservation of the public peace, health, and safety.

PASSED AND APPROVED

February 17, 2016 §
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 § _____
 Steve Adler
 Mayor

APPROVED: _____
 Anne L. Morgan
 City Attorney

ATTEST: _____
 Jannette S. Goodall
 City Clerk

Exhibits A – G to be updated

- Exhibit A: Ordinance No. _____*
- Exhibit B: Election Day Polling Places*
- Exhibit C: Election Day Presiding Judges and Alternate Judges*
- Exhibit D: Early Voting Polling Places*
- Exhibit E: Central Counting Station Staff*
- Exhibit F: Early Voting Ballot Board*
- Exhibit G: Joint Election Agreements*