

..Title

AN ORDINANCE AMENDING CHAPTER 47 OF THE DULUTH CITY CODE ADDING A NEW ARTICLE V RELATING TO TRANSPORTATION NETWORK COMPANIES.

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BY COUNCILOR HOBBS:

The city of Duluth does ordain:

Section 1. That Chapter 47 of the Duluth City Code is hereby amended by adding a new Article V as follows:

Article V. Transportation Network Companies

Section 47-48. Definitions.

For purposes of this Article, the definitions in Section 47-16 are incorporated as if fully set forth herein. In addition, the following words shall have the meanings respectively ascribed to them by this Section:

Active on the Transportation Network Company ("TNC") dispatch system. Active on the TNC dispatch system includes, but is not limited to:

(a) Whenever a TNC driver is logged onto a TNC's digital network and shown as available for pick-up and transport of passengers;

(b) When a TNC driver has accepted a ride request and is en route to pick up a TNC passenger; and

(c) Whenever a TNC passenger is in a TNC vehicle.

Chief administrative officer. The chief administrative officer shall mean the Chief Administrative Officer for the City of Duluth or his or her duly-authorized designee.

Chief of police. The chief of police shall mean the Chief of the Duluth Police Department or his or her duly-authorized designee.

License. A transportation network company license.

Licensing official. Licensing official means the Duluth City Clerk or his or her designee.

Pearranged Ride. A pearranged ride includes transportation provided by a TNC driver to a TNC passenger beginning when the driver accepts a ride requested by the passenger through the TNC's digital network and ending at the time the last requesting passenger departs from the TNC vehicle. The term does not include (a) a shared expense carpool or vanpool arrangement or service or (b) transportation provided using a taxicab, limousine, or similar for-hire vehicle.

Transportation Network Company or TNC. A corporation, partnership, sole proprietorship, or other entity operating in this State that uses a TNC digital network to connect a TNC passenger to a TNC driver for a pearranged ride. The term does not include an entity arranging nonemergency medical transportation under a contract with the state or a managed care organization for individuals qualifying for Medicaid or Medicare.

Transportation Network Company Agent. The person or persons authorized and designated by a TNC to:

(a) Receive service of process;

(b) File applications, rates, payments or charges on behalf of the TNC;

(c) Receive and accept all correspondence and notices from the city pertaining to the TNC or any affiliated TNC driver operating within the City of Duluth; and

(d) Forward any correspondence, notices or legal process received by the TNC and intended for any affiliated TNC driver operating within the City of Duluth.

Transportation Network Company Digital Network or Digital Network. Any online-enabled application, website, or system offered or used by a transportation network company that enables a prearranged ride with a TNC driver.

Transportation Network Company Endorsed Driver or TNC Driver. An individual:

(a) Screened and authorized by a TNC; and

(b) Satisfying all applicable requirements of this Article to supply prearranged rides to TNC passengers using a personally owned, leased, or otherwise authorized for use TNC vehicle.

Transportation Network Company Passenger or TNC Passenger. An individual using a TNC's digital network to request and receive transportation via an authorized TNC vehicle.

Transportation Network Company Endorsed Vehicle or TNC Vehicle. A privately owned, leased, or otherwise authorized for use vehicle that satisfies all applicable requirements of this Article, that is authorized by a TNC to supply prearranged rides to TNC passengers, and that is not a taxicab, limousine, or similar for-hire vehicle.

Section 47-49. License required.

(a) No person or entity shall operate a TNC within the city without first having obtained a TNC license in accordance with this Article.

(b) No vehicle shall be used as a TNC vehicle within the city except by a TNC endorsed driver authorized by a licensed TNC.

(c) A TNC vehicle shall be in compliance with all applicable requirements of this Article at all times when its operator is active on the digital network.

(d) A TNC vehicle operated by a driver affiliated with a TNC not licensed by the city may enter the city to discharge passengers whose trip originated outside city limits.

(e) A TNC license issued pursuant to this Article is non-transferable and terminates upon the sale, transfer, change of ownership or bankruptcy of the TNC.

Section 47-49.1. Same – Application.

An application for a TNC license or renewal of a TNC license shall be filed with the city clerk upon forms provided by the city. Such applications shall be verified by the applicant or its duly authorized agent under oath and shall include, without limitation, the following information:

(a) If an individual or sole proprietorship: the name, address, telephone number and email address of the applicant.

(b) If a partnership, corporation, limited liability company or other entity: the name, business address, telephone number and email of the applicant, along with the name, address, telephone number and email for the applicant's authorized agent as defined by this Article.

(c) A description of the distinctive trade dress TNC vehicles shall display at all times while active on the TNC dispatch system, along with verification that the trade dress satisfies the requirements of Section 47-64 herein.

(d) Such further information as the chief of police or his or her licensing designee may reasonably require.

Section 47.49.2. Same – Issuance.

Before a TNC license is issued to any person or entity by the city clerk, the application shall first be submitted to the chief administrative officer for approval or denial. The chief administrative officer shall not deny a license except for good cause. If the application is denied by the chief administrative officer, the applicant may, within ten (10) days, appeal such denial to the city council, which may by resolution approve the issuance of the license.

Section 47-49.4. Same – License fees; expiration dates.

(a) Annual, non-proratable fees for each TNC license shall be set in accordance with Section 31-6(a) of this Code.

(b) All TNC licenses shall expire on December 31 of each year.

Section 47-50. Insurance required.

(a) TNC and TNC endorsed drivers shall be in compliance with the insurance requirements of Minn. Stat. § 65B.472, as may be amended, at all times while providing prearranged rides or operating pursuant to any TNC license issued by the city.

(b) Prior to issuance of any TNC license under this Chapter, the licensee shall submit proof of insurance to the licensing official showing satisfaction of the requirements of this section and applicable state law.

(c) TNC drivers shall carry proof of insurance satisfying this section at all times while engaged in providing prearranged rides, and shall produce proof of said insurance upon demand of an officer of the law.

Section 47-51. Transportation Network Company Agent[s]; appointment of city clerk for service process.

(a) All TNC's must maintain a duly-authorized agent, as defined herein, for service of process and receipt of any required notices from the city.

(b) TNC's shall provide current and updated contact information for the designated agent or agents responsible for receiving service of process and official notices from the city, responding to service-related investigations or complaints, cooperating with law enforcement investigations or inquiries, and managing record or audit requests from the licensing official in accordance with this Chapter.

Section 47-52. Vehicle standards and inspection.

(a) Minimum vehicle standards; quality control. TNC's shall solicit feedback on vehicle quality after each trip. The TNC must implement a policy of evaluating and investigating negative feedback received about the condition of a vehicle and provide the licensing official with a copy of such policy. A TNC vehicle shall not be authorized or endorsed to provide prearranged rides within the city unless the vehicle is in compliance with all applicable local, state and federal laws respecting motor vehicles. All vehicles shall, without limitation, further comply with the following:

(1) Be in a thoroughly safe condition for the transportation of passengers. Every vehicle shall comply with all local, state and federal regulations relating to vehicle equipment, maintenance and safety. Further, all vehicles shall have a model year of ten (10) years or less or 150,000 miles (as measured from June 30 of the calendar year following the model year);

(2) Be equipped with the prominently displayed and distinctive trade

dress required by this Article;

(3) Be equipped with at least four (4) doors and meet all applicable Federal Motor Vehicle Safety standards for vehicles of its size, type and proposed use;

(4) Be equipped with a manufacturer's rated seated capacity of seven (7) persons or less, including the TNC driver;

(5) Be maintained in a clean and sanitary condition with regard to both the interior and exterior of the vehicle;

(6) Be substantially free from damage, dents, defects or unpainted or rusted metal. Any vehicle that is damaged, whether due to negligence, intentional conduct or other event, shall within thirty (30) days of such damaging event, be repaired and restored to the standards set forth herein;

(7) Be equipped with windows in the rear and side of the vehicle complying with all applicable state or federal laws regulating size, dimensions and clarity;

(8) Be equipped with seat belts for all seating positions, which seat belts shall be openly displayed and readily available for use by occupants; and

(9) Be in compliance with the vehicle safety requirements set forth in Minn. Stat. § 169.46-.75, if applicable and as may be amended.

(b) Annual inspection. Every TNC endorsed vehicle shall be inspected annually by an Automotive Service Excellence (ASE)-certified mechanic to ensure compliance with the requirements of this section.

(c) Inspection reports. The chief of police shall approve a TNC vehicle inspection report for use in completing the annual inspections required by this Section. The report shall designate a category of equipment and body defects as "out of service" defects. TNCs shall not permit the provision of prearranged rides in vehicles bearing "out of service" defects until the defects are corrected.

Section 47-53. Seating capacity; passengers to ride on seats only.

The passenger seating capacity of any TNC vehicle licensed under this Article shall be no more than seven. No TNC driver shall carry any passengers or permit any passengers to ride anywhere except on the seats of the vehicle.

Section 47-54. Maximum passenger load.

No person operating a TNC vehicle shall carry a greater number of passengers than the manufacturer's rated seating capacity for such vehicle.

Section 47-55. Receiving and discharging passengers.

No TNC vehicle shall take on or discharge passengers while in motion. All passengers shall be received and discharged at the curb or as near thereto as the vehicle can approach. Passengers shall be allowed to alight or board a TNC vehicle on the curb side only.

Section 47-56. Discrimination, refusal to transport orderly person prohibited; accessibility.

(a) No TNC driver shall refuse to transport any orderly person or persons.

(b) The TNC shall adopt a policy of non-discrimination on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation, or gender identity with respect to riders and potential riders and notify TNC drivers of such policy.

(c) TNC drivers shall comply with all applicable laws regarding non-discrimination

against riders or potential riders on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation, or gender identity.

(d) TNC drivers shall comply with all applicable laws relating to accommodation of service animals.

(e) A TNC shall not impose additional charges for providing services to persons with physical disabilities because of those disabilities.

Section 47-57. TNC vehicle; commercial advertising.

No TNC or TNC driver shall place commercial advertising material on or about any TNC vehicle in such a manner so as to obstruct the operator's vision or otherwise interfere with the safe operation of the vehicle.

Section 47-58. Solicitation prohibited.

No TNC driver shall solicit business for any hotel or motel, or attempt to divert patronage from one hotel or motel to another.

Section 47-59. Smoking, sale of liquor and use of TNC vehicle for prostitution prohibited.

At any time while engaged in providing a prearranged ride, no person operating a TNC vehicle shall:

(a) Smoke, or permit the smoking of, a pipe, cigar, cigarette or electronic cigarette (e-cigarette). "Smoking" means inhaling or exhaling smoke or vapor from any lighted pipe, cigar, cigarette, e-cigarette or any other lighted or vaporized liquid, tobacco or plant product. Smoking also includes carrying a lighted or active cigar, cigarette, pipe, e-cigarette or any other lighted or active liquid, tobacco or plant product intended for inhalation;

(b) Sell or offer to sell any alcoholic beverages to any person; and

(c) Solicit business for any house of ill repute or permit any person to occupy or use his or her vehicle for the purpose of prostitution, or direct or transport or offer to direct or transport any person with knowledge or having reasonable cause to know that such directing or transporting is for the purposes of prostitution.

Section 47-60. Street hails, use of taxicab stands prohibited.

TNC drivers shall not solicit or accept street hails or occupy or use taxicab stands established pursuant to Section 47-35 of the Code, as may be amended.

Section 47-61. Zero tolerance for drug or alcohol use.

(a) No TNC driver shall operate a TNC vehicle while under the influence of alcohol or a narcotic drug, and no TNC driver shall drink, ingest or be in possession of any alcoholic beverage or narcotic drug while engaged in such operation.

(b) The TNC shall implement a zero drug and alcohol tolerance policy regarding a TNC driver's activities while active on the TNC dispatch network or engaged in supplying prearranged rides. The zero tolerance policy shall address the use of drugs or alcohol while a TNC driver is providing prearranged rides or is logged onto the TNC's digital network but is not providing prearranged rides, and the TNC shall provide notice of this policy on its website, as well as procedures to report a complaint about a driver with whom a rider was matched and whom the rider reasonably suspects was under the influence of drugs or alcohol during the course of the trip.

(c) Upon receipt of a credible rider complaint alleging a violation of the zero tolerance policy, the TNC shall immediately suspend such TNC driver's access to its digital network, and shall conduct an investigation into the reported incident. The

suspension shall last the duration of the investigation and be made permanent upon a finding of any violation of this Section.

(d) The TNC shall maintain records relevant to the enforcement of this requirement for a period of at least three (3) years from the date that a rider complaint is received by the TNC.

Section 47-62. TNC driver requirements – license, identity and endorsement required prior to start.

No person shall drive a TNC vehicle, and no person or entity holding a TNC license or TNC vehicle license shall permit the TNC vehicle covered by such license to be driven, unless the driver of such TNC vehicle shall have then in force a valid driver's license.

Section 47-62.1. Same – Criminal background check; driving record and offenses.

(a) Before allowing a driver to accept trip requests through a TNC's digital network:

(1) The individual shall submit information to the TNC including, at a minimum, information regarding his or her past and present legal name or names, address, age, driver's license status, driving history, motor vehicle registration, automobile liability insurance, and any other information required by the TNC or the provisions of this Article;

(2) The TNC shall conduct, or have a third party conduct, a local and national criminal background check for each driver that shall include searches of:

(i) The offenses listed and described in Minn. Stat. § 299C.67, subd. 2, as may be amended;

(ii) The applicant's driving record in all states where the applicant has held a driver's license in the past five (5) years;

(iii) A Multi-State/Multi-Jurisdiction Criminal Records Locator or other similar commercial nationwide database with validation (primary source search); and

(iv) A National Sex Offender Registry database.

(3) The TNC shall obtain and review a driving history and criminal background check report or reports for all applying drivers reflecting the results of the above search(es).

(b) The TNC shall not permit an individual to act as a TNC driver on its digital network who:

(1) Has had more than three moving violations in the prior three-year period, or one major violation in the prior three-year period (including, but not limited to, attempting to evade the police, reckless driving, or driving on a suspended or revoked license);

(2) Has been convicted, within the past seven years, of driving under the influence of drugs or alcohol, fraud, sexual offenses, use of a motor vehicle to commit a felony, a crime involving property damage, and/or theft, acts of violence, or acts of terror;

(3) Is a match in the National Sex Offender Registry database;

(4) Does not possess a valid driver's license;

_____ (5) Does not possess proof of registration for the motor vehicle(s) used to provide prearranged rides;

_____ (6) Does not possess proof of automobile liability insurance for the motor vehicle(s) used to provide prearranged rides; or

_____ (7) Is not at least 19 years of age.

Section 47-63. Identification of TNC Vehicles and Drivers.

A TNC's mobile application or website shall display a picture of the TNC driver and identify the make and model of the TNC vehicle, including license plate number, that the TNC driver will use to supply the prearranged ride before the prearranged ride begins.

Section 47-64. Distinctive Trade Dress.

(a) A TNC vehicle shall display consistent and distinctive signage or emblem at all times while the driver is active on the TNC dispatch system or engaged in supplying prearranged rides. The distinctive signage or emblem shall be sufficiently large and color contrasted:

_____ (1) As to be readable during daylight hours at a distance of at least fifty (50) feet; and

_____ (2) Reflective, illuminated or otherwise patently visible so as to be seen in darkness.

(b) Acceptable forms of distinctive signage include, but are not limited to, symbols or signs on vehicle doors, roofs, windshield, or grilles. Magnetic or other removable distinctive signage is acceptable. Licensees shall file an illustration of their distinctive trade dress with the city clerk.

(c) No TNC or TNC driver shall operate or permit the operation of any TNC vehicle unless the trade dress satisfies the minimum requirements of this section and matches the information supplied with the TNC application.

(d) With the written approval of the city clerk, subject to review by the city's chief administrative officer, a TNC may amend its previous application form to update the information provided in satisfaction of the requirements of this section.

Section 47-65. TNC service charges and fare rates; receipts.

(a) Fares; pre-ride estimates. Transportation network vehicles shall be for hire at a fare rate or structure that is available to the passenger for review in advance of requesting the trip. The TNC must provide a passenger with the total fare, or a means to obtain a fare estimate under the current fare structure, inclusive of any dynamic pricing, that will be applied to the trip prior to the passenger's acceptance.

(b) Within a reasonable period of time following the completion of a trip, a TNC shall transmit an electronic receipt to the rider or riders listing:

_____ (1) The origin and destination of the trip;

_____ (2) The total time and distance of the trip;

_____ (3) An itemization of the total fare paid, including base fare and any additional charges, if applicable;

_____ (4) The driver's first name;

_____ (5) The vehicle license plate number; and

_____ (6) A means of contacting the TNC for customer service.

Section 47-66. Records, city authority to audit.

(a) A TNC shall maintain the following records applicable to the operation of its digital network within the city for a minimum of three (3) years:

(1) Individual trip records for prearranged rides originating within the city;

(2) TNC vehicle inspection reports obtained from ASE certified mechanics pursuant to the requirements of this Article;

(3) Documentation evidencing insurance coverage obtained pursuant to the requirements of this Article;

(4) Records reflecting complaints received by the TNC in relation to any of its affiliated drivers supplying a majority of his or her prearranged rides within the city including, without limitation, complaints resulting in an investigation in according with Section 47-68 of this Article, temporary or permanent removal of the driver from the TNC's network, or other corrective action; and

(5) Records reflecting the TNC's suspension or termination of its relationship with any affiliated drivers supplying a majority of his or her prearranged rides within the city for violations of any of the provisions of this Chapter or any other applicable local, state or federal law.

(b) A TNC shall maintain records obtained pursuant to the requirements of Section 47-62 and 47-62.1 at all times during a TNC driver's affiliation with the TNC and, thereafter, for a minimum of three (3) years following the date on which the driver's affiliation with the TNC ends.

(c) Upon request, any or all records listed herein shall be submitted for inspection to the city's designated licensing official at such times, and in such format and manner, as may be prescribed by the licensing official.

(d) The licensee agrees to provide the city, with ten (10) business days from the date of request or appropriate service of process, if applicable, any and all records pertaining to specific complaints, criminal or administrative proceedings arising out of the TNC's, or affiliated TNC driver's, operations within the city.

(e) Data provided to the city pursuant to this Section is governed by the provisions of the Minnesota Government Data Practices Act, Minn. Stat. ch. 13. To the extent permitted by law, data provided by the licensee to the city pursuant to this Section shall be deemed not public data.

Section 47-67. License Suspension and revocation.

The chief administrative officer of the city is hereby given authority to suspend any license issued under this Article for cause for a period of not more than 30 days. A hearing upon five days' notice to the licensee shall be required prior to such a suspension.

The chief administrative officer of the city is hereby given authority to revoke any license issued under this Article for cause after hearing upon five days' notice to the licensee. The licensee may, within 30 days, appeal the revocation to the city council, which shall give the licensee an opportunity to be heard at its next regular meeting following the appeal. The council may, at such meeting, reinstate the license by resolution.

Sufficient cause for suspension or revocation shall include, but not be limited to, the following:

(a) Violation of any of the provisions of this Article by a TNC.

(b) Violation of any other local, state or federal law that relates to the licensed business by a TNC.

Section 47-68. Complaint Investigation.

(a) Prior to TNC license suspension or revocation affecting all TNC endorsed drivers operating in the city, the chief administrative officer may, but is not required to, at his or her discretion, request a licensee to investigate whether a complaint or service-related issue may be resolved, in accordance with the provisions of this Article or a TNC's own internal policies and procedures, by suspending the access of one or more affiliated drivers from the TNC's digital network or other appropriate means.

(b) Within ten (10) business days from receipt of a complaint or request from the city's chief administrative officer seeking investigation pursuant to this Section, a TNC shall provide the city with written notice of its determination.

(c) Each TNC shall provide the city with contact information for the duly-authorized agent designated to receive and respond to requests under this Section.

Section 47-69. Enforcement.

(a) Any person violating any section of this Chapter, shall be guilty of a misdemeanor and may be fined as provided in Section 1-7 or Section 12-6 of this Code. All city approvals and licenses shall be suspended until the violation(s) of this Chapter are corrected. Nothing in this Section shall preclude the city from concurrently seeking the enforcement of the provisions of this Chapter in a court of competent jurisdiction by civil action to enjoin any continuing violation(s) in accordance with subsection (b) below;

(b) A violation of this Chapter is deemed a per se public nuisance authorizing the city to seek abatement through injunctive relief or any other appropriate remedy from a court of competent jurisdiction. All city approvals and licenses shall be suspended until abatement of the nuisance condition(s). Nothing in this Section shall preclude the city from concurrently seeking the enforcement of the provisions of this Chapter by criminal prosecution or administrative fine.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

..Statement of Purpose

The purpose of this ordinance is to establish orderly rules and regulations governing the operation of Transportation Network Companies (TNCs) operating within the city of Duluth.