

No. 16-_____

**IN THE SUPREME COURT OF TEXAS
AUSTIN, TEXAS**

IN RE SAMANTHA PHELPS,

Relator.

ORIGINAL EMERGENCY PETITION FOR WRIT OF MANDAMUS

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STATEMENT OF THE CASE

This is an Original Petition for Writ of Mandamus brought on an emergency basis to challenge the sufficiency of the ballot description in a May 7, 2016, special election. Respondents are the City of Austin, the Austin City Mayor and the members of the Austin City Council.

Respondents' action from which Relator seeks relief was the approval of ballot language for the May 7, 2016, special election, which Relator contends does not substantially present the question at issue with such definiteness and certainty to ensure that the voters are not misled. This emergency mandamus petition has become necessary as Relator has no remedy by ordinary appeal to have legally sufficient ballot language submitted to the electorate on the May 7, 2016 ballot.¹ Given the extremely tight time-frame of the ballot preparation process, Relator is requesting an emergency stay of the ballot preparation, so as to allow Respondents time to cure the ballot language prior to submission to the voters.

¹ Counsel for Relator confirmed with Jenny Ballard of the Travis County Clerk's Elections Division that the following is the timing of the ballot preparation leading up to the May 7, 2016, election:

March 10, 2016 – Ballot proofing will begin.

March 14, 2016 – Ballot language will be “locked down.”

March 21, 2016 – Voting machines will be tested for accuracy.

March 23, 2016 – Vote by Mail ballots will be sent out.

STATEMENT OF JURISDICTION

This Court has jurisdiction to issue writs of mandamus under Texas Constitution article 5, section 6; Texas Government Code section 22.221(a); Texas Election Code section 273.061; and Texas Rule of Appellate Procedure 52.

Relator acknowledges that writs of mandamus are “ordinarily” brought, in this instance, to the Austin Court of Appeals under Texas Rule of Appellate Procedure 52.3(c); however, this is not an “ordinary” situation as the finalization process for the ballot will begin on March 10, 2016. Thus, time necessity requires the Relator to file its Petition for Writ of Mandamus directly with this Court. Furthermore, no issue of material fact exists to divest this Court of its original mandamus jurisdiction.

ISSUE PRESENTED

Texas common law requires that a ballot proposition identify the measure with definiteness and certainty, identifying the measure's chief features, character, and purpose. *Dacus v. Parker*, 466 S.W.3d 820, 826 (Tex. 2015). **Did Respondents violate this minimum standard for ballot language in drafting and approving Proposition 1's ballot language?**

INTRODUCTION

Relator brings this Original Emergency Petition for Writ of Mandamus to require Respondents (the City of Austin, Austin Mayor Steve Adler, and the members of the Austin City Council) to comply with Texas’s common-law prohibition on confusing and inaccurate ballot language in referendum propositions, and to comply with Respondents’ ministerial duties to draft and approve ballot language that complies with the well-established requirements of Texas common law and the Austin City Charter (the “Charter”).

This Court has staunchly defended the right of the people to reserve for themselves the powers of initiative and referendum. *Blum v. Lanier*, 997 S.W.2d 259, 262 (Tex. 1999). By reserving these powers for themselves and exercising them through Austin’s petition process, the people of Austin have “become in fact the legislative branch of the municipal government.” *Glass v. Smith*, 150 Tex. 632, 244 S.W.2d 645, 649 (1951).

Relator, along with approximately 23,000 other Austin citizen legislators, has exercised those powers by signing a petition proposing an ordinance on the governing transportation network companies (“TNCs”) like Uber and Lyft. That proposed ordinance would (1) repeal an ordinance that attempts to squeeze TNCs into a regulatory framework designed for taxicab companies and (2) *replace* it with reasonable regulations that protect TNC customers and enrich the City of Austin.

Although a special election on that measure (Proposition 1) is scheduled May 7, 2016, Respondents have preemptively usurped the petition signers' legislative power by approving confusing and inaccurate ballot language that will give Austin voters only a small part of the story: the part about removing certain restrictions on TNCs. While the ballot language gives concrete details about the restrictions it would remove, it gives only the vaguest acknowledgement to "other regulations" imposed by the Proposed Ordinance. For example, voting for Proposition 1 would require drivers with TNCs to pass a national criminal background check, ban convicted criminals from driving with TNCs and give the Austin Transportation Department the authority to enforce these rules. These are the "other regulations" that also effect substantial changes to chapter 13-2 of the City Code. But the current ballot language, written by the city council, only tells voters what would be repealed and NOT the effective safety measures that would replace it.

Texas common law strictly prohibits Respondents from depriving Relator of a fair vote on both the regulation-imposing and regulation-relieving facets of their proposed legislation. Since 1888, Texas common law has required that a ballot proposition identify the common law measure "with such definiteness and certainty that the voters are not misled." *Reynolds Land & Cattle Co. v. McCabe*, 12 S.W. 165, 165-66 (Tex. 1888). The ballot must achieve this definiteness and

certainty by “substantially identify[ing]” the measure’s “purpose, character, and chief features.” *Dacus v. Parker*, 466 S.W.3d 820, 826 (Tex. 2015). Respondents’ ballot language does not come close to satisfying that requirement.

Respondents’ violation of this minimum degree of ballot precision is an abuse of their discretion. This Court has held that where a city council has abused its discretion or failed to perform a ministerial duty, and there is no adequate remedy by appeal, mandamus may issue. *In re Williams*, 470 S.W.3d 819, 820 (Tex. 2015). Mandamus relief may be granted when the “defective wording can be corrected” prior to the May 7 election. *Id.* at 832. That election result carries significant consequences for the thousands of Austinites who depend on TNCs for their livelihoods and transportation needs. Relator respectfully requests that the writ be granted (conditionally).

STATEMENT OF FACTS

A. The parties.

Relator Samantha Phelps is a registered voter who resides in Travis County, Texas, and within the city limits of Austin, Texas. Relator signed the proposed ordinance submitted by RWA.

Respondents herein are Austin Mayor Steve Adler, the City of Austin, Texas, and each member of the Council of Austin, Texas (the “Council”).

B. The undisputed facts.

The Council passed Austin Ordinance No. 20151217-075 in its Regular Council Meeting on December 17, 2015 (the “TNC Ordinance”). A true and correct certified copy of the TNC Ordinance is attached to the Record at Tab 1; [App. E]. Undisputedly, the Council’s passing of the TNC Ordinance was a hotly contested item for the Council and the citizenry of Austin, Texas. The TNC Ordinance amends chapter 13-2 (Ground Transportation Services) (“Chapter 13”) of the City Code to address the rise in popularity of TNCs, e.g., Uber and Lyft.

Since the Council passed the TNC Ordinance, certain individuals formed a grassroots campaign to challenge the TNC Ordinance. Relative to this Petition, an organization called Ridesharing Works for Austin (“RWA”) started a petition for initiated ordinance (the “Petition”) to repeal the TNC Ordinance and to amend the provisions of Chapter 13 to address the Council’s and Austinites’ concerns with TNCs.² On January 19, 2016, RWA delivered to the City Clerk approximately 23,000 valid signatures in support of its Petition. A true and correct certified copy of the Petition by RWA is attached to the Record at Tab 2; [App. C]. The Petition submission specifically stated that should the Council decide to hold an election on the Petition, RWA proposed the following ballot language:

² Ben Wear, *Group: 65,000 have Signed Petition to Overturn Austin Ride-Hailing Law*, AUSTIN AMERICAN STATESMAN, Jan. 19, 2016, available at <http://www.mystatesman.com/news/news/local/group-65000-have-signed-petition-to-overturn-austi/np7Qq/>.

Shall the City Code be amended to repeal Ordinance No. 20151217-075 regulating Transportation Network Companies (TNCs) and codify TNC rules contained in Ordinance No. 20141016-038, with the addition of an annual fee equal to 1% of the TNCs' gross revenue, an application process, and a process for notification and resolution of violations.

[RTab 2 at p. 1].

The City Clerk of Austin, Texas, verified that the Petition met the requirements of the City of Austin Charter and state law (the "Certificate"). A true and correct certified copy of the Certificate is attached to the Record at Tab 3. The City Clerk presented the Certificate to the Council on February 2, 2016. A true and correct certified copy of the Approved Work Session Minutes for February 2, 2016 is attached to the Record at Tab 4.

The Council first considered the Petition on February 2, 2016; however, except for receiving the Certificate, the Council did not take any action on the Petition at that time. [RTab 4]. Similarly, the Council considered the Petition on February 4, 2016; however, the Council again took no action on the Petition. A true and correct certified copy of the Approved Regular Council Minutes for February 4, 2016 is attached to the Record at Tab 5.

The Council took its first affirmative action on the Petition on February 11, 2016. On that date, the Council failed to pass the Petition, i.e., a citizen-initiated ordinance. A true and correct certified copy of the Approved Regular Council Minutes for February 11, 2016 is attached to the Record at Tab 6. By failing to

pass the Petition, under Article IV, § 4, of the City Charter, the Council was required to then “[o]rder an election and submit said initiated ordinance without amendment to a vote of the qualified voters of the city” [RTab7 at 1]. A true and correct certified copy of the City Charter, article IV is attached to the Record at Tab 7; [App. B].

On February 17, 2016, the Council had before it a draft Proposed Ordinance and the caption of the draft Proposed Ordinance stated,

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.

[RTab 9 (font normalized)]. Additionally, the draft Proposed Ordinance included language stating, “[Ballot language to be determined.]” (font normalized, brackets in original). A true and correct certified copy of the draft Proposed Ordinance presented to the Council on February 17, 2016, is attached to the Record at Tab 8.

As discussions began on the language of the ballot that would be used for the Special Election, Council Member Ann Kitchen proposed the following ballot language, which stated,

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?

[RTab 9 at 2]. A true and correct certified copy of the Approved Special Called Council Minutes for February 17, 2016 is attached to the Record at Tab 9. The Council tabled discussion on Council Member Kitchen's proposed ballot language pending the proposal and discussion of an amendment to Council Member Kitchen's proposed language, brought forth by Council Member Don Zimmerman, seconded by Council Member Ellen Troxclair.³ Council Member Zimmerman's proposed amended ballot language stated,

Shall the current city ordinance that regulates Transportation Network Companies ("TNCs") be repealed and replaced with an ordinance that requires the TNCs to pay 1% of their gross revenues, imposes safety regulations, and provides a penalty for violations?

[RTab 10]. A true and correct certified copy of the proposed amendment submitted by Michael Whellan is attached to the Record at Tab 10.

The Council debated the two proposals for close to ten minutes, with Council Members Zimmerman and Troxclair contesting and arguing that Council Member Kitchen's language conveyed a hidden intent⁴ by the Council for

³ For the record, this proposed language is labeled as a proposal by Michael Whellan, a third-party citizen.

⁴ In fact, Council Member Kitchen went on the record with the Austin American Statesman and said, "Kitchen said that the substitute ordinance from [RWA], aside from not requiring fingerprinting, would eliminate other elements of the ordinance passed by the council Dec. 17. Ride-hailing cars would no longer need to have 'trade dress' (signifies of what company the driver is working for), and a requirement that pickups and dropoffs occur at the curb rather than

Austinites to reject the Proposed Ordinance. Council Member Zimmerman stated in protest,

So to me, the problem with this language is it construes the negative things of what you're losing—you're losing a perceived fingerprinting benefit for safety. You're repealing or losing the potential trade dress or a mark that identifies the vehicle. There's a repeal. *In other words, this is cast as all of the negatives that are going to happen if you vote in favor of the ordinance. So I agree—I disagree with the way this is couched because this is—it's written to say you are going to lose this, lose this, lose this. You gain nothing. You don't even get a 1% fee.*

[2/17/16 transcript at 11:18:39 a.m. (emphasis added)]. A certified transcript of the February 17, 2016, as provided prepared by the City Clerk's office is attached to the Record at Tab 11.⁵

Unlike the negatives in the Proposed Ordinance as described in Council Member Kitchen's proposed language, the Proposed Ordinance included the following regulations that protected the City and the citizens of Austin:

- Establishes a fee against the TNC operating in the City in the amount of one (1) percent of the TNC's annual local gross revenues (§ 13-2-518);
- Establishes a requirement for drivers with TNCs to pass a national criminal background check, bans convicted criminals from driving

in a travel lane would also be eliminated. Requirements for what data the companies must report to the city also would be much scaled back, Kitchen said.” Ben Wear, *Group: 65,000 have Signed Petition to Overturn Austin Ride-Hailing Law*, available at <http://www.mystatesman.com/news/news/local/group-65000-have-signed-petition-to-overturn-austi/np7Qq/>.

⁵ The Court may also find an archived video of the February 17, 2016, hearing at: <http://austintx.swagit.com/play/02172016-629/0/>.

with TNCs, and gives the Austin Transportation Department the authority to enforce these rules (§ 13-2-513); and

- “Set[s] 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 area equivalent to those of other TNC rides” (§ 13-2-508).

The Proposed Ordinance also replaces the TNC Ordinance with similar language on certain safety issues, *for example*, Driver Hours, Driver Training, Zero Tolerance Policy, and Identification. Additionally, the Proposed Ordinance replaces the TNC Ordinance with similar language in respect to certain operating protections, *for example*, TNC Operating Authority Application Required, TNC Local Presence Required, Disclosure of Fare, Dynamic Pricing, Accessible Vehicle Service, Driver Enforcement, Outreach, Insurance, and Taxes.

Despite Council Members Zimmerman’s and Troxclair’s objections, on February 17, 2016, the Council voted in favor of Council Member Kitchen’s proposed language for the ballot measure. [RTab 9, 12]. A true and correct certified copy of Ordinance No. 20160217-001 is attached to the Record at Tab 12.; [App. D]. In doing so, the Council ordered a city-wide election on the Proposed Ordinance with the incomplete and misleading language that Austinites will rely upon in voting on the Proposed Ordinance. A true and correct certified copy of May 7, 2016 Special Election Ballot Language is attached to the Record at Tab 13; [App. A]. The City has set the ballot measure for May 7, 2016, in a

special municipal election, and the Relator was informed that the City will finalize the ballot language on March 10, 2016.

ARGUMENT & AUTHORITIES

A. A writ of mandamus is the proper remedy to address Respondents’ failure to comply with Texas election law.

1. Writ of mandamus authority of this Court.

The Texas Supreme Court’s constitutional and statutory grant of mandamus jurisdiction is broad, including its general original jurisdiction to issue writs of mandamus. *In re Reece*, 341 S.W.3d 360, 373-374 (Tex. 2011); *see* Tex. Const. art. V, § 3(a) (granting the Court the authority to issue writs of mandamus as specified by the legislature); Tex. Gov’t Code Ann. § 22.002(a) (permitting the Court to issue writs of mandamus “agreeable to the principles of law regulating those writs”). In the case of election law, the Court’s jurisdiction is expansive. The Texas Election Code confers jurisdiction on this Court to “issue a writ of mandamus to compel the performance of *any* duty imposed by law in connection with the holding of an election.” Tex. Elec. Code § 273.061 (emphasis added).

2. Mandamus standard of review.

Mandamus is an “extraordinary remedy, not issued as a matter of right, but at the discretion of the Court.” *In re Reece*, 341 S.W.3d at 374; *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 138 (Tex. 2004) (original proceeding). “Mandamus review of significant rulings in exceptional cases may be essential to

preserve important substantive rights from impairment or loss” *In re Prudential Ins.*, 148 S.W.3d at 136. Mandamus proceedings are not restricted by “rigid rules” that are “necessarily inconsistent with the flexibility that is the remedy’s principle virtue.” *Id.*; *see also In re McAllen Med. Ctr., Inc.*, 275 S.W.3d 458, 464 (Tex. 2008) (noting that whether a clear abuse of discretion can be remedied on appeal “depends heavily on circumstances, it must be guided by analysis of principles rather than the simple rules that treat cases as categories”). Mandamus is, therefore, a proper vehicle for this Court to correct blatant injustice that otherwise would elude review by the appellate courts. *See In re Prudential Ins.*, 148 S.W.3d at 138.

B. Respondents abused their discretion by drafting and approving misleading and incomplete ballot language that fails to identify the measure’s chief features and character and purpose.

Respondents abused their discretion by crafting and approving referendum ballot language that ignores Texas common law’s baseline degree of language precision. Mandamus relief is necessary to compel Respondents to adhere to that baseline, which protects the petition signers’ reserved powers to have the voters of Austin vote on their Proposed Ordinance.

The people of the City of Austin have reserved for themselves the powers of initiative and referendum. City Charter, art. IV, § 1. By signing the Petition, Relator and the other petition signers have “become in fact the legislative branch of

the municipal government.” *Glass*, S.W.2d 645 at 649. The petition proposed that the City Council (1) repeal City Ordinance No. 20151217-075, which imposed onerous restrictions on TNCs that threaten their ability to operate in Austin, and (2) replace it with an ordinance that imposes a number of alternative regulations on TNCs. The Petition obtained enough signatures to compel the Council to adopt the measure or submit it to a vote by the people. The Council opted to put the Petition’s proposal to a public vote in a special election.

Respondents do not enjoy unbridled discretion in crafting and approving the ballot language for the upcoming election. Texas common law requires Respondents to adhere to a “minimum standard for the ballot language” in presenting the measure to Austin’s voters. *Dacus*, 466 S.W.3d at 822. Respondents’ compliance with this minimum standard is indispensable to the very integrity of the upcoming May 7 special election.

That minimum standard is straightforward. For more than a century, Texas common law has required that the proposition language “substantially submit [] the question . . . with such definiteness and certainty that the voters are not misled.” *McCabe*, 12 S.W. at 165. To meet this requirement, the ballot language must “substantially identify the amendment’s purpose, character, and chief features.” *Dacus*, 466 S.W.3d at 826.

Respondents' ballot language is not even in *Dacus's* ballpark. *Dacus* holds that ballot language fails this minimum standard when it “*omit[s] certain chief feature that reflect its character and purpose.*” *Id.* (emphasis added). Here, Respondents have substantially identified the Proposed Ordinance's repealed regulations while omitting any substantial identification of the Proposed Ordinance's numerous replaced regulations or its City revenue provisions.

The contrast in Respondents' treatment of these issues could hardly be starker. Respondents' proposed ballot language gives recognizable descriptions of the regulations repealed by the Proposed Ordinance, but only the scantest vague reference to the regulations imposed by the Proposed Ordinance. The ballot language devotes 4.5 of its 5.5 lines to Part 1 of the Proposed Ordinance, which consists of a single sentence repealing Ordinance No. 2015217-075. The ballot language then summarizes over ten pages of regulations imposed by Part 2 of the Proposed Ordinance in a single cursory phrase: “other regulations for Transportation Network Companies.”

That meaningless phrase glosses over three chief regulatory features of the Proposed Ordinance, including:

- Establishes a fee against the TNC operating in the City in the amount of one (1) percent of the TNC's annual local gross revenues (§ 13-2-518);
- Establishes a requirement for drivers with TNCs to pass a national criminal background check, bans convicted criminals from driving

with TNCs, and gives the Austin Transportation Department the authority to enforce these rules (§ 13-2-513); and

- “Set[s] 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 area equivalent to those of other TNC rides” (§ 13-2-508).

These omissions will mislead Austin voters about the character and purpose of the Proposed Ordinance. The Council was required to “‘substantially submit the measure with definiteness and certainty by identifying the measure’s chief features and character and purpose.’” *In re Williams*, 470 S.W.3d at 822 (quoting *Dacus*, 466 S.W.3d at 826). But the adopted ballot language wholly fails to inform voters as to what they are voting for, i.e., the ballot language lists only what the Proposed Ordinance removes from the Code and not what provisions it adds. The Council falsely portrayed the Proposed Ordinance as something that only takes away and does not give.

That portrayal could not be further from the truth. Only five words of the Proposed Ordinance pertain to repeal—specifically, to enumerate the ordinance that would be replaced—every other provision of the Proposed Ordinance affirmatively describes a requirement, prohibition, or other regulation that would be enacted.

Texas common law’s minimum baseline for ballot language prohibits Respondents from crafting and approving ballot language that gives voters only

half (or, as here, significantly less than half) of the story. The approved ballot language is purposefully skewed to persuade the public to vote against the proposition. The stakes of such gamesmanship are high as the election result will impact hundreds of thousands of Austinites who rely on TNCs for their livelihoods and transportation needs.

Mandamus relief is necessary to compel Respondents to comply with this minimum baseline. Accordingly, Relator respectfully requests that this Court grant relief requiring Respondents to (1) draft and approve ballot language that “adequately describe the chief features—the character and purpose—of the charter amendment on the ballot,” *Dacus*, 446 S.W.3d at 829; and (2) substitute such proper ballot language in place of the ballot language currently approved.

Relator has no remedy by ordinary appeal to have legally appropriate ballot language replace the illegal and misleading ballot language that will be submitted to Austin’s voters on May 7. The Texas Supreme Court has held that if “defective wording can be corrected” prior to the election, then “a remedy will be provided that is not available through a subsequent election contest.” *Blum*, 997 S.W.2d at 264. For these reasons, Relator respectfully requests that this Court grant the petition for mandamus.

PRAYER

Relator prays that this Court grant this Original Emergency Petition for Writ of Mandamus and order:

- Austin Mayor Steve Adler; the City of Austin, Texas; and each member of the Council of Austin, Texas, to perform the following ministerial acts: (1) draft ballot language in a format that “adequately describe the chief features—the character and purpose—” of the Proposed Ordinance; (2) substitute such properly formatted ballot language in lieu of the proposed ballot language that the Council adopted on February 17, 2016; (3) include reference in such properly formatted ballot language that includes, at a minimum, the requirement that TNCs pay a 1% fee of their annual local gross revenue to the City; and (4) not to use any ballot language that fails to fairly portray the Proposed Ordinance; and
- Any and all other relief to which it is justly entitled.

Respectfully submitted,

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CERTIFICATION

Pursuant to Texas Rule of Appellate Procedure 52.3(j), I certify that I have reviewed the Petition for Writ of Mandamus and concluded that every factual statement in the Petition for Writ of Mandamus is supported by competent evidence included in the Appendix or Record for the Petition for Writ of Mandamus.

/s/ Andrew Weber

C. Andrew Weber

CERTIFICATE OF COMPLIANCE

1. This petition complies with the type-volume limitations of Texas Rule of Appellate Procedure 9.4(i)(2)(B) because it contains 3,712 words, excluding the parts of the petition exempted by Texas Rule of Appellate Procedure 9.4(i)(1).
2. This petition complies with the typeface requirements of Texas Rule of Procedure 9.4(e) because this petition has been prepared in a proportionally spaced typeface using “Microsoft Word 2010” in fourteen (14) point “Times New Roman” style font.

/s/ Andrew Weber

C. Andrew Weber

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Petition for Writ of Mandamus was served on all counsel of record by electronic filing on this 9th day of March, 2016:

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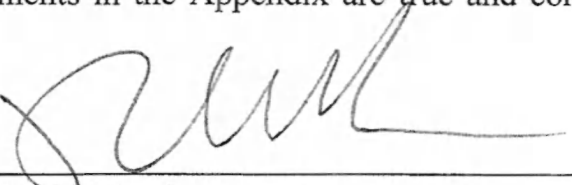
/s/ Andrew Weber

C. Andrew Weber

VERIFICATION

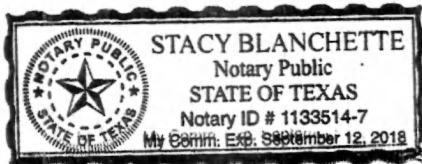
STATE OF TEXAS §
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COUNTY OF TARRANT §

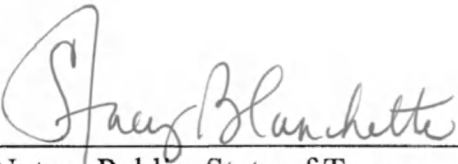
David Morales being duly sworn on his oath, says that he is counsel for Relator in the above-referenced action, that he has read the foregoing Petition for Writ of Mandamus, and that all facts therein are supported by competent evidence in the mandamus record and all documents in the Appendix are true and correct copies.



David Morales

SUBSCRIBED AND SWORN TO BEFORE ME on this 9th day of March, 2016.





Notary Public, State of Texas

No. 16-_____

**IN THE SUPREME COURT OF TEXAS
AUSTIN, TEXAS**

**IN RE SAMANTHA PHELPS,
Relator.**

**INDEX TO APPENDIX
TO ORIGINAL EMERGENCY PETITION FOR WRIT OF MANDAMUS**

- A. May 7, 2016 Special Election Ballot Language.
- B. City Charter, article IV.
- C. Petition filed by Ridesharing Works for Austin.
- D. Austin Ordinance No. 20160217-001.
- E. Austin Ordinance No. 20151217-075.

Appendix A

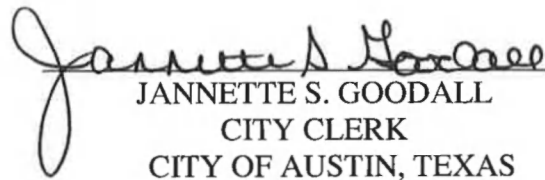


THE STATE OF TEXAS §

COUNTY OF TRAVIS §

I, Jannette S. Goodall, City Clerk of the City of Austin, Texas, do hereby certify that the foregoing instrument is a true and correct copy of the May 7, 2016 Special Election Ballot Language, and consisting of one page, as on file in the Office of the City Clerk.

WITNESS my hand and official seal of the City of Austin at Austin, Texas, this 9th day of March, 2016.


JANNETTE S. GOODALL
CITY CLERK
CITY OF AUSTIN, TEXAS



- **Title of Election:**

SPECIAL MUNICIPAL ELECTION
(ELECCIÓN MUNICIPAL ESPECIAL)

CITY OF AUSTIN
(CIUDAD DE AUSTIN)

MAY 7, 2016
(7de mayo de 2016)

- **Directions for voting:**

For the Ordinance
A Favor de la Ordenanza

Against the Ordinance
En Contra de la Ordenanza

- **Wording for the proposition:**

CITY OF AUSTIN PROPOSITION. 1

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?

PROPOSICIÓN 1 DE LA CIUDAD DE AUSTIN

“¿Será el Código de la Ciudad enmendado para revocar la Ordenanza de la Ciudad No. 20151217-075 referente a Compañías de Redes de Transporte (Transportation Network Companies); y reemplazarla con una ordenanza para revocar y prohibir el requisito de toma de huellas digitales, revocar el requisito de identificar el vehículo con emblema distintivo, revocar la prohibición de cargar y descargar pasajeros en un carril de tránsito, y requerir otras regulaciones para Compañías de Redes de Transporte (Transportation Network Companies)?”

Appendix B



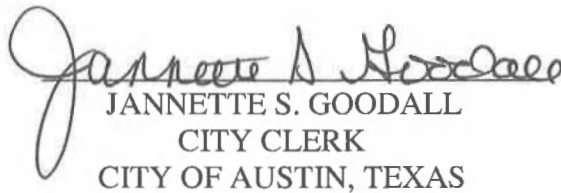
THE STATE OF TEXAS §

COUNTY OF TRAVIS §

I, Jannette S. Goodall, City Clerk of the City of Austin, Texas, do hereby certify that the foregoing instrument is a true and correct copy of Article IV (*Initiative, Referendum, and Recall*), of the City Charter, most recently amended at the election of November 6, 2012, as on file in the Office of the City Clerk.

WITNESS my hand and official seal of the City of Austin at Austin, Texas, this 9th day of March, 2016.




JANNETTE S. GOODALL
CITY CLERK
CITY OF AUSTIN, TEXAS

ARTICLE IV. - INITIATIVE, REFERENDUM, AND RECALL.

§ 1. - POWER OF INITIATIVE.

The people of the city reserve the power of direct legislation by initiative, and in the exercise of such power may propose any ordinance, not in conflict with this Charter, the state constitution, or the state laws except an ordinance appropriating money or authorizing the levy of taxes. Any initiated ordinance may be submitted to the council by a petition signed by qualified voters of the city equal in number to the number of signatures required by state law to initiate an amendment to this Charter.

Amendment note: Section 1 appears as amended at the election of November 6, 2012.

§ 2. - POWER OF REFERENDUM.

The people reserve the power to approve or reject at the polls any legislation enacted by the council which is subject to the initiative process under this Charter, except an ordinance which is enacted for the immediate preservation of the public peace, health or safety, which contains a statement of its urgency, and which is adopted by the favorable votes of five (5) or more of the councilmembers. Prior to the effective date of any ordinance which is subject to referendum, a petition signed by qualified voters of the city equal in number to the number of signatures required by state law to initiate an amendment to this Charter may be filed with the city clerk requesting that any such ordinance be either repealed or submitted to a vote of the people. When such a petition has been certified as sufficient by the city clerk, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided.

Amendment note: Section 2 appears as amended at the election of November 6, 2012. The section had previously been amended at the election of April 1, 1967.

§ 3. - FORM AND VALIDATION OF A PETITION.

A petition under Section 1 or Section 2 of this article is subject to the requirements prescribed by state law for a petition to initiate an amendment to this Charter, and shall be in the form and validated in the manner prescribed by state law for a petition to initiate an amendment to this Charter.

Amendment note: Section 3 appears as amended at the election of November 6, 2012.

§ 4. - COUNCIL CONSIDERATION AND SUBMISSION TO VOTERS.

When the council receives an authorized initiative petition certified by the city clerk to be sufficient, the council shall either:

- (a) Pass the initiated ordinance without amendment within ten (10) days after the date of the certification to the council; or
- (b) Order an election and submit said initiated ordinance without amendment to a vote of the qualified voters of the city at a regular or special election to be held on the next allowable election date authorized by state law after the certification to the council.

When the council receives an authorized referendum petition certified by the city clerk to be sufficient, the council shall reconsider the referred ordinance, and if upon such reconsideration such ordinance is not repealed, it shall be submitted to the voters at a regular or special election to be held on

the next allowable election date authorized by state law after the date of the certification to the council. Special elections on initiated or referred ordinances shall not be held more frequently than once each six (6) months, and no ordinance on the same subject as an initiated ordinance which has been defeated at any election may be initiated by the voters within two (2) years from the date of such election.

Amendment note: Section 4 appears as renumbered by Ord. 20121213-004. The section had previously been amended at the election of May 7, 1994. A former § 4, which concerned the filing, examination, and certification of petitions, was repealed at the election of November 6, 2012.

§ 5. - BALLOT FORM AND RESULTS OF ELECTION.

The ballot used in voting upon an initiated or referred ordinance shall state the caption of the ordinance and below the caption shall set forth on separate lines the words, "For the Ordinance" and "Against the Ordinance."

Any number of ordinances may be voted on at the same election in accordance with the provisions of this article. If a majority of the votes cast is in favor of a submitted ordinance, it shall thereupon be effective as an ordinance of the city. An ordinance so adopted may be repealed or amended at any time after the expiration of two (2) years by favorable vote of at least three- fourths of the council. A referred ordinance which is not approved by a majority of the votes cast shall be deemed thereupon repealed.

Amendment note: Section 5 appears as amended at the election of November 6, 2012, and later renumbered by Ord. 20121213-004. As former § 6, the section had previously been amended at the elections of May 7, 1994, and April 1, 1967.

§ 6. - POWER OF RECALL.

The people of the city reserve the power to recall any member of the council and may exercise such power by filing with the city clerk a petition, signed by qualified voters of the territory from which the council member is elected equal in number to at least 10 percent of the qualified voters of the territory from which the council member is elected, demanding the removal of a councilmember. The petition shall be signed and verified in the manner required for an initiative petition, shall contain a general statement of the grounds for which the removal is sought, and one of the signers of each petition paper shall make an affidavit that the statements therein made are true.

Amendment note: Section 6 appears as amended at the election of November 6, 2012, and later renumbered by Ord. 20121213-004.

§ 7. - RECALL ELECTION.

Within 20 days after a recall petition is filed, the city clerk shall examine the same. The provisions regulating examination, certification and amendment of initiative petitions shall apply to recall petitions. If the petition is certified by the city clerk to be sufficient and the councilmember whose removal is sought does not resign within five days after the certification to the council, the council shall order and hold a recall election in the territory from which the council member is elected on the first authorized election date that allows sufficient time to comply with other requirements of law.

Amendment note: Section 7 appears as amended at the election of November 6, 2012, and later renumbered by Ord. 20121213-004.

§ 8. - RECALL BALLOT.

Ballots used at recall elections shall conform to the following requirements:

- (1) With respect to each person whose removal is sought the question shall be submitted "Shall (name of Councilmember) be removed from the office of City Councilmember?"
- (2) Immediately below each such question there shall be printed the two (2) following propositions, one above the other, in the order indicated:

"For the recall of (name of Councilmember)"

"Against the recall of (name of Councilmember)."

Amendment note: Section 8 appears as renumbered by Ord. 20121213-004.

§ 9. - RESULTS OF RECALL ELECTION.

If a majority of the votes cast at a recall election shall be against removal of the councilmember named on the ballot, he or she shall continue in office. If the majority of the votes cast at such election be for the removal of the councilmember named on the ballot, the council shall immediately declare his or her office vacant and such vacancy shall be filled in accordance with the provisions of this Charter for the filling of vacancies. A councilmember thus removed shall not be candidate to succeed himself or herself in an election called to fill the vacancy thereby created.

Amendment note: Section 9 appears as renumbered by Ord. 20121213-004.

§ 10. - LIMITATION ON RECALL.

No recall petition shall be filed against a councilmember within six (6) months after he or she takes office, and no councilmember shall be subject to more than one recall election during a term of office.

Amendment note: Section 10 appears as renumbered by Ord. 20121213-004.

Appendix C



THE STATE OF TEXAS §

COUNTY OF TRAVIS §

I, Jannette S. Goodall, City Clerk of the City of Austin, Texas, do hereby certify that the foregoing instrument is a true and correct copy of the Petition "Ridesharing Works for Austin" filed on January 19, 2016, and consisting of the seven pages of the Petition, and a one-page cover sheet, for a total of eight pages, as on file in the Office of the City Clerk.

WITNESS my hand and official seal of the City of Austin at Austin, Texas, this 9th day of March, 2016.


JANNETTE S. GOODALL
CITY CLERK
CITY OF AUSTIN, TEXAS



AUSTIN CITY CLERK
RECEIVED

2016 JAN 19 AM 9 50

PETITION COVER SHEET

Name of Petition: Ridesharing Works for Austin

Who Filed the Petition: Caroline Joiner CMT

Date Petition was Filed: January 19, 2016

Time Petition was Filed: _____

Received by: Jannette S. Goodale
(Printed name of Office of City Clerk staff member)

Jannette S. Goodale
(Signature of staff member)

RIDESHARING WORKS FOR AUSTIN



MEMORANDUM

TO: Jannette Goodall, Austin City Clerk
CC: Mayor and City Council
FR: Ridesharing Works for Austin
RE: Filing of Petitions for Initiated Ordinance
DATE: January 19, 2016

We are delivering to your office today approximately 23,000 valid signatures in support of the Ridesharing Works for Austin initiated ordinance, attached.

We have blotted out the printed names and signatures of individuals we were unable to find in the voter database provided to us by the Travis County Voter Registration office. We are only submitting the data for 23,000 signers that have been verified, and expect the random sample to come from this pool of verified signatures.

To assist with your effort, we have provided the voter identification number for the valid signatures.

It is our hope that all of our work to carefully review these signatures ahead of time and provide the voter identification number will expedite the review of these petition signatures, especially since the petition signatures submitted in 2012 with the Petition for Geographic Representation (10-1 City Charter amendment) did not have the voter identification numbers and still only took 10 days to review.

If, after you have validated the petition, the City Council decides to hold an election, Ridesharing Works for Austin proposes the following ballot language:

"Shall the City Code be amended to repeal Ordinance No. 20151217-075 regulating Transportation Network Companies (TNCs) and codify TNC rules contained in Ordinance No. 20141016-038, with the addition of an annual fee equal to 1% of the TNCs' gross revenue, an application process, and a process for notification and resolution of violations."

Thank you Janette, and please do not hesitate to contact us for anything you need, although we know your office is well qualified and organized to conduct an expeditious review.

AUSTIN CITY CLERK
RECEIVED
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

§
§
§

Steve Adler
Mayor

APPROVED: _____
Anne L. Morgan
City Attorney

ATTEST: _____
Jannette S. Goodall
City Clerk

Appendix D

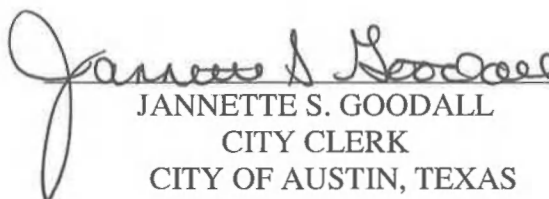


THE STATE OF TEXAS §

COUNTY OF TRAVIS §

I, Jannette S. Goodall, City Clerk of the City of Austin, Texas, do hereby certify that the foregoing instrument is a true and correct copy of Ordinance Number 20160217-001, consisting of eleven pages, as approved by the City Council of Austin, Texas, at a Special Called Meeting on the 17th day of February, 2016, as on file in the Office of the City Clerk.

WITNESS my hand and official seal of the City of Austin at Austin, Texas, this 9th day of March, 2016.


JANNETTE S. GOODALL
CITY CLERK
CITY OF AUSTIN, TEXAS



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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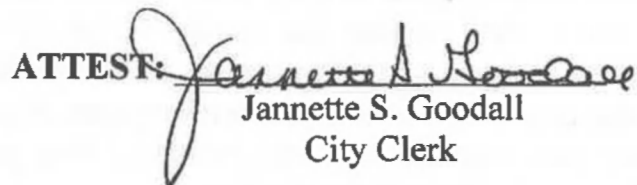
Steve Adler
Mayor

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*

Appendix E

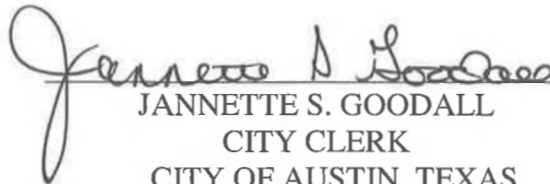


THE STATE OF TEXAS §

COUNTY OF TRAVIS §

I, Jannette S. Goodall, City Clerk of the City of Austin, Texas, do hereby certify that the foregoing instrument is a true and correct copy of Ordinance Number 20151217-075, consisting of twelve pages, as approved by the City Council of Austin, Texas, at a Regular Called Meeting on the 17th day of December, 2015, as on file in the Office of the City Clerk.

WITNESS my hand and official seal of the City of Austin at Austin, Texas, this 9th day of March, 2016.


JANNETTE S. GOODALL
CITY CLERK
CITY OF AUSTIN, TEXAS



ORDINANCE NO. 20151217-075

AN ORDINANCE AMENDING CITY CODE CHAPTER 13-2 RELATING TO TRANSPORTATION NETWORK COMPANIES (TNCs) AND TERMINATING TNC OPERATING AGREEMENTS.

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

PART 1. 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.

§ 13-2-509 DEFINITIONS.

In this Article:

- (1) **COMPLIANT DRIVER** means a Transportation Network Company driver who has passed a driver history check and a fingerprint-based criminal background check.
- (2) **DYNAMIC PRICING** means a software application or other method used to maximize the supply of available vehicles on the network to match the demand for rides, including for the purpose of increasing reliability or incentivizing drivers.
- (3) **TRANSPORTATION NETWORK COMPANY (TNC)** means an organization, whether a corporation, partnership, sole proprietor, or other form, which provides on-demand transportation services for compensation using an online-enabled application (app) or platform to connect passengers with drivers.

§ 13-2-510 PENALTY.

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

Division 1 – Operations.

§ 13-2-511 TNC OPERATING AUTHORITY REQUIRED.

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

§ 13-2-512 TNC LOCAL PRESENCE REQUIRED.

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

§13-2-513 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.

§ 13-2-514 DYNAMIC PRICING.

- (A) If a TNC utilizes dynamic pricing, 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" includes 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.

§ 13-2-515 IDENTIFICATION.

A TNC application 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.

§ 13-2-516 DATA REPORTING REQUIREMENTS.

- (A) A TNC must comply with the reporting requirements of this section as a condition of its TNC operating authority for the purpose of supporting public safety and transportation planning including prevention of driving while intoxicated.
- (B) A TNC shall provide the following data, recorded in four-hour blocks, to the director on the last day of each month:
- (1) number of trips requested for service;
 - (2) number of trips requested, but not serviced, according to zip code;

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

§ 13-2-517 ACCESSIBLE VEHICLE SERVICE.

- (A) Within six months of obtaining a TNC operating authority, a TNC shall implement an accessibility plan approved by the director. If a TNC has an existing accessibility plan on file in another jurisdiction, the TNC must adapt that plan for use in the City.
- (B) Within three months of obtaining a TNC operating authority, an accessible service request indicator must be available on the app. If a driver cannot provide a passenger a requested accessible ride, the TNC must identify an alternative transportation arrangement for the passenger.

- (C) 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.
- (D) 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.
- (E) 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 the results of this outreach quarterly.
- (F) A TNC shall conduct outreach events to communities that are of lower social economic 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.

§ 13-2-518 GEOFENCING.

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

§ 13-2-519 TRAVEL LANES.

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

§ 13-2-520 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.

Division 2. – TNC Vehicle Requirements.

§ 13-2-521 INSPECTIONS.

- (A) Before operating a vehicle under a TNC platform, a vehicle must successfully pass an inspection by a mechanic certified by the State of Texas, and approved by the director, to perform state inspections. Inspection stickers must be displayed on the vehicle.
- (B) The safety inspections will certify a list of items established by separate ordinance and shall be equitable as between TNCs and other vehicles for hire.

§ 13-2-522 TRADE DRESS.

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

§ 13-2-523 TAXES.

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

Division 3. – Insurance Requirements.

§ 13-2-524 INSURANCE.

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

§ 13-2-525 DRIVER NOTIFICATION.

- (A) Pursuant to Texas Insurance Code Chapter 1954, a TNC shall disclose in writing to participating drivers, as part of its agreement with those drivers, the insurance coverage and limits of liability that the TNC provides while the driver uses a vehicle in connection with a transportation network company's online-enabled application or platform.
- (B) A TNC shall also disclose in writing to participating drivers, as part of its agreement with those drivers, that the driver's personal automobile insurance policy may not provide collision or comprehensive coverage

for damage to the vehicle used by the driver from the moment the driver logs on to the TNC's online-enabled application or platform to the moment the driver logs off the TNC's online-enabled application or platform.

Division 4. – Drivers.

§ 13-2-526 DRIVER REQUIREMENTS.

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 in compliance with this Chapter.

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

- (A) In accordance with the schedule set forth in (B) below, a person must pass a driver history check and a fingerprint-based criminal background check under the provisions of this section to be eligible to drive for a TNC.
- (B) The department will implement procedures for drivers to obtain driver history and finger-print based background checks in order to assist TNCs to meet the following benchmarks. The department is authorized to calculate benchmarks using data reported by TNCs under Section 13-2-516, and other data available to the department. Benchmarks are calculated as the percentage of hours or miles driven by compliant drivers of the total hours or miles driven by other drivers for the TNC during the benchmark time period. TNCs that fail to meet the following benchmarks shall be subject to penalties established by separate ordinance.
 - (1) 25% compliance by May 1, 2016
 - (2) 50% compliance by August 1, 2016
 - (3) 85% compliance by December 1, 2016
 - (4) 99% compliance by February 1, 2017

- (C) If the driving history check required by this section indicates that, within the three-year period prior to the history check, a person has had more than three moving violations or has been charged with driving without insurance or a suspended license, that person is prohibited from driving for a TNC.
- (D) To meet the requirements of this section, a criminal background check must be national in scope and comply with the requirements in Subsection (E) of this section. If the criminal background check indicates that a person has been convicted of certain offenses, to be specified by separate ordinance, that person is prohibited from driving for a TNC.
- (E) Consistent with the requirements of Texas Government Code Sections 411.122 and 411.087, which authorizes the City to obtain criminal history record information maintained or indexed by the Federal Bureau of Investigation (FBI) through the Texas Department of Public Safety (DPS).
- (1) Each individual whose application for a license, permit or authorization or any renewal thereof is subject to subsection (a) shall be required to provide a complete set of fingerprints and other identifying information to the official designated by the permitting, licensing or authorizing department, along with any applicable fee and any release or waiver forms required in order for the official to conduct a national background check through the FBI.
 - (2) Upon receipt of the fingerprints and any applicable fee, the City, or City approved third-party, is authorized to submit the fingerprints to the DPS for a search of the State's criminal history record, and the DPS is authorized to forward a set of the fingerprints to the FBI for a national criminal history check. The results of the FBI check will be returned to the DPS, which will disseminate the results of state and national criminal history checks to the City.
 - (3) The criminal history record information obtained through the FBI will be used by the Austin Transportation Department to determine whether an individual is prohibited from driving for a TNC under Subsection (C).
 - (4) An individual may request and obtain a copy of his or her criminal history and related information from Austin Transportation Department. Any requests to amend or correct an individual's

criminal history must be submitted to and approved by the Texas Department of Public Safety, for a Texas state record, or the Federal Bureau of Investigation for records from other jurisdictions maintained in its file.

- (F) After obtaining a TNC operating authority, a TNC that meets the requirements in Subsection (G) of this section may elect to participate in a Safety Assurance Program. The program shall be administered by the Austin Transportation Department consistent with the requirements of this subsection.
- (1) If a TNC opts to participate in the program, the Austin Transportation Department shall assist the TNC in obtaining fingerprint-based criminal background checks for all drivers, as required by this section.
 - (2) In providing assistance to TNCs participating in this Program, the Austin Transportation Department shall:
 - (a) develop processes that mitigate perceived or actual barriers for drivers obtaining fingerprints, including use of best practices for app and other technology functionality;
 - (b) facilitate driver completion of fingerprint checks through driver fairs and other activities;
 - (c) contract with a third party, if necessary at the department's determination, to manage the fingerprint collection and background check process so that the process is completed quickly, does not create barriers for onboarding drivers, and supports the processes developed under Subsection (E) of this section; and
 - (d) implement incentives designed to assist the TNCs to achieve the city's goal of 100% hours or miles driven by compliant drivers.
 - (3) The Austin Transportation Department may provide assistance to drivers with the cost of fingerprint collection
 - (4) The Austin Transportation Department may develop innovative processes and initiatives, in conjunction with community organizations and the TNCs participating in this Program to

enhance the availability of services to prevent driving while intoxicated. The Austin Transportation Department may assess the processes developed with the TNCs for effectiveness in mitigating perceived or actual barriers for drivers obtaining fingerprints, and their impact on public safety including driving while intoxicated.

- (G) To be eligible to participate in the Safety Assurance Program authorized under Subsection (E), a TNC must commit to a driver onboarding process that:
 - (a) reflects best practices for public safety;
 - (b) includes face-to-face interviews with all drivers to be onboarded;
 - (c) requires potential drivers to demonstrate the ability to drive safely; and
 - (d) demonstrates good-faith efforts to onboard drivers who have completed the fingerprint-based background check process as measured by the Austin Transportation Department and measured by percentages of drivers.
- (H) Council will establish by separate ordinance programs, processes and procedures to incentivize drivers to become compliant drivers under subsection (A), incentivize consumers to use compliant drivers, and incentivize TNCs to utilize compliant drivers.

§ 13-2-528 DRIVER HOURS.

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

§ 13-2-529 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.

§ 13-2-530 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.

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

- (A) TNC drivers shall only accept rides booked through the digital platform and shall not solicit or accept street-hails.
- (B) In addition to criminal penalties, any TNC driver who provides rides without using the TNC digital application shall face suspension of their chauffeur permit.

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

Division 5 – Fees.

§ 13-2-532 TNC FEES.

- (A) Each TNC operating in the City of Austin shall pay an annual fee calculated by the department based on one of the following methods of that TNC's choosing:
 - (1) The total of the permit fee paid by taxicab companies times the number of persons driving for the TNC;
 - (2) One (1) percent of the TNC's annual local gross revenues, or a comparable percentage of a TNC's portion of driver fares; or

- (3) Based on total miles driven.
- (B) Except for any TNC participating in the Safety Assurance Program, each TNC shall pay an additional fee of one (1) percent of the TNC's annual local gross revenue for the Compliant Driver Education Fund to be used to assist and incent drivers to become compliant.
- (C) Subsection (B) shall not take effect until the incentives referenced in Section 13-2-527 (H) (*Driver Eligibility – Criminal Background and Driver History Checks*) have been established by Council.

§ 13-2-533 GRADUATED FEES.

TNCs with a total number of drivers that is less than the number of taxicab permits for the smallest taxicab company may elect to pay a fee according to a graduated per driver fee schedule determined by the Transportation Department that is less than the permit fee paid by taxicab companies.

§ 13-2-534 MAXIMUM FEE.

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

PART 3. All TNC operating agreements executed under the authority of Ordinance No. 20141016-038 by the City are hereby terminated as of the effective date of this ordinance.

PART 4. This ordinance takes effect on February 1, 2016.

PASSED AND APPROVED

December 17, 2015

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Steve Adler
Mayor

APPROVED:

Anne L. Morgan
City Attorney

ATTEST:

Jannette S. Goodall
City Clerk