

Ordinance
amending Chapter 57 of the Corpus Christi Code of Ordinances to establish
Article VI. - Transportation Network Companies; and providing for
severance, publication, penalty, and an effective date

Whereas, Article I, Section 4 of the City Charter provides that any fifty registered voters may commence initiative proceedings to propose ordinances to City Council;

Whereas, on April 15, 2016, the City Secretary was presented with a petition with at least 50 registered voters entitled "Statement of Intent to Circulate Petition Calling for Initiative";

Whereas, Article I, Section 4 of the City Charter provides that in the case of an initiative, the City Attorney shall draft an ordinance in legal form, consistent with the laws of the State and the United States, incorporating in substance the text submitted; and

Whereas, Article I, Section 4 of the City Charter provides that city secretary shall present the initiative to the city council at its next regular meeting.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI, TEXAS:

SECTION 1. Chapter 57 of the Corpus Christi Code of Ordinances is amended by adding Article VI – TRANSPORTATION NETWORK COMPANIES, as follows:

ARTICLE VI. - TRANSPORTATION NETWORK COMPANIES

Sec. 57-281. - Definitions.

For the purpose of this section, the following definitions shall apply, unless the context clearly indicates or requires a different meaning:

(1) Abnormal Market Disruptions mean any change in the ground transportation market, whether actual or imminently threatened, resulting from Acts of God, 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 transportation market resulting in a disaster or state of emergency declaration.

(2) Digital Network means any online-enabled application, software, website, or system offered or used by a transportation network company that enables a prearranged ride with a transportation network company driver.

(3) Operation of a Transportation Network Vehicle means offering, making available, or using a Transportation Network Vehicle to provide Transportation Network Service, including any time when a driver is logged onto the transportation network company's internet-enabled application or Digital Network showing that the driver is available to pick up riders; when a rider is on a trip in a Transportation Network Vehicle; or when the driver has accepted a request for transportation received through the TNC's Digital Network or software application and is en route to provide Transportation Network Service to a rider.

(4) Overcrowding means the driver or operator transports more people in the vehicle than recommended by the vehicle manufacturer or transports more people in the vehicle than the number of seatbelts.

(5) Personal Vehicle means a vehicle that is used by a transportation network company driver and is:

(a) Owned, leased, or otherwise authorized for use by the TNC Driver; and

(b) Not a taxicab, limousine, or similar for-hire vehicle.

(6) Prearranged Ride means transportation provided by a transportation network company driver to a transportation network company rider, beginning at the time a driver accepts a ride requested by a rider through a digital network controlled by a transportation network company and ending at the time the last requesting rider departs from the driver's personal vehicle. The term does not include:

(a) A shared expense carpool or vanpool arrangement or service; or

(b) Transportation provided using a taxicab, limousine, or similar for-hire vehicle.

(7) Transportation Network Company or TNC means any person, corporation, partnership, sole proprietorship, or other entity operating in this state using a digital network to connect a transportation network company rider to a transportation network company driver for a prearranged ride. A Transportation Network Company shall not be deemed to control, direct or manage the personal vehicles or transportation network company connecting to its digital network, except where agreed to by written contract. The term does not include an entity arranging nonemergency medical transportation under a contract with the state or a managed care organization for individuals qualifying for Medicaid or Medicare.

(8) TNC Driver or TNC Operator means a person who:

(a) Receives connections to potential transportation network company riders and related services from a transportation network company in exchange for payment of a fee to the company; and

(b) Uses a personal vehicle to offer or provide a prearranged ride to a transportation network company rider on connection with the rider through a digital network controlled by the company in exchange for compensation or payment of a fee.

(9) TNC Permit Holder means the holder of a valid permit issued by the City.

(10) Transportation Network Company Permit or permit means a valid permit issued by the City to any firm, business, corporation, or other entity related to Transportation Network Service.

(11) TNC Rider means an individual who uses a transportation network company's digital network to connect with a transportation network company driver who provides a prearranged ride to the individual in the driver's personal vehicle between points chosen by the individual.

(12) Transportation Network Service or service means transportation of a passenger between points chosen by the passenger and prearranged with a TNC Driver through the use of a TNC digital network or software application. TNC Service shall begin when a TNC Driver accepts a request for transportation received through the TNC's Digital Network or software application, continue while the TNC Driver transports the passenger in the TNC Driver's vehicle, and end when the passenger exits the TNC Driver's vehicle. TNC Service is not taxicab or street hail service.

(13) Transportation Network Vehicle or vehicle means any passenger motor vehicle used to provide Transportation Network Services and which is not a taxicab.

Sec. 57-282. - Exclusion.

Specifically excluded from this definition are owners, operators and vehicles solely operating regulated under Chapter 57, Article II, Taxicabs, as amended.

Sec. 57-283. - Consequences of Criminal Convictions and Conduct of Drivers.

(1) Criminal Convictions. The City Council, in accordance with Chapter 53 of the Texas Occupations Code, has considered the following criteria in regards to criminal convictions of TNC Drivers or Operators regulated under this ordinance.

(a) The nature and seriousness of the crimes.

(b) The relationship of the crimes to the purposes for requiring a Permit to engage in a Transportation Network Service.

(c) The extent to which a Permit might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously has been involved.

(d) The relationship of the crimes to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of a Transportation Network Service; and has determined that the crimes listed in this ordinance are serious crimes that are directly related to the duties and responsibilities of Transportation Network Company drivers or operators whose job is to safely transport passengers for hire.

(2) Conduct of Drivers. Drivers at all times shall:

(a) Act in a reasonable, prudent and courteous manner.

- (b) Not inhale, inject or consume any alcoholic beverage, drug, or other substance adversely affecting his or her ability to operate a motor vehicle.

Sec. 57-284. - Transportation Network Company Permit.

(1) TNC Permit—Required. It shall be unlawful for any person, individual, firm, business or corporation or any other entity to drive or operate or cause to be driven or operated any Transportation Network Company Service or vehicle upon or over any street in the City, unless a permit issued by the City has been obtained and as provided in this ordinance; provided however, that a TNC vehicle operated by a driver which is permitted, licensed, or authorized by or in another jurisdiction, may operate in the City for the limited purpose of discharging a passenger whose trip originated outside of the City.

(2) TNC Permit—Application.

(a) Application Requirements. Application for TNC Permit within the City shall be filed with the taxicab inspector on a form provided by the City. The applicant must provide the following information for new and renewal permits:

- (i) TNC name, TNC owner's name and TNC permit applicant's name, if different.

- (ii) TNC physical address, mailing and URL addresses, TNC applicant or owner telephone numbers and email addresses.

- (iii) A sworn statement affirming the TNC has conducted background checks, pursuant to this ordinance. TNC shall not allow a TNC driver to provide TNC Services if found that a TNC driver has been convicted of any federal or state felony as amended or federal or state other offenses as amended involving moral turpitude within the seven (7) years prior to becoming a TNC driver, or other criminal offenses including but not limited to

- (1) Prostitution or related offenses.

- (2) Driving while intoxicated or under the influence of any drug.

- (3) Violations of the Controlled Substance Act.

- (4) Rape, murder, attempted murder or aggravated assault.

- (5) Theft over five hundred dollars (\$500.00).

- (6) A felony or other offense involving moral turpitude which may adversely affect the TNC Driver's ability to provide safe and reliable passenger transportation.

- (7) Or any other criminal offense that may adversely affects the TNC Driver's ability to provide safe and reliable passenger transportation.
- (iv) Proof of current valid insurance coverage required by Texas law.
- (v) A general description of the mobile or electronic means and methodology used to charge passengers for TNC services.
- (b) Sworn Statement. The application shall include a sworn statement by the applicant stating all information provided in the application is true and stating the TNC will conduct a criminal background checks on TNC Drivers or Operators before allowing the TNC Driver or Operator to accept trip requests through the TNC's Digital Network, and perform another criminal background checks a least annually thereafter.
- (c) TNC Permit Fee. For administration of permitting each application and each application renewal must be submitted with a non-refundable Permit fee based on the number of authorized drivers on the TNC digital network operating in the City at the time of application or renewal as shown below:
 - (i) \$300.00 for ten (10) or fewer drivers.
 - (ii) \$600.00 for eleven (11) to forty (40) drivers.
 - (iii) \$900.00 for forty-one (41) to seventy (70) drivers.
 - (iv) \$1,200.00 for seventy-one (71) or more drivers.

Sec. 57-285. - TNC Driver Requirements.

- (1) Before a TNC permits or allows a person to operate as TNC driver on its digital network, the TNC shall:
 - (a) Require the person to submit an application or sign up with relevant information to the TNC including their address, age, social security number, driver's license, driving history, motor vehicle registration, automobile liability insurance, and other information required by the TNC.
- (2) Conduct, or have a reliable third party conduct, a local, state and national criminal background check for each applicant including:
 - (a) Multi-state/Multi-jurisdiction criminal records locator or other similar commercial nationwide database with validation, primary source search.
 - (b) National Sex Offender Registry database.
 - (c) Obtain and review a driving history research report for the applicant.

(3) The TNC shall not permit or allow a person to act or operate as a TNC driver on its digital platform who:

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

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

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

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

(e) Does not possess proof of registration for the motor vehicle(s) used to provide TNC services;

(f) Is not at least 19 years of age;

(g) Has been convicted, within the past seven years, of a felony or other offense involving moral turpitude which may adversely affect the TNC Driver's ability to provide safe and reliable passenger transportation.

(h) Or has been convicted, within the past seven years, of any other offense that may adversely affect the TNC Driver's ability to provide safe and reliable passenger transportation.

(4) Notification. In the event that a TNC becomes aware of a driver being involved in criminal conduct or driving violations or otherwise becomes ineligible to serve as a driver by virtue of no longer meeting the criteria listed above, the TNC shall immediately terminate the driver's ability to access the TNC's digital network.

Sec. 57-286. - Insurance Requirements for TNC and Registered Agent.

(1) All TNC Permit Holders, Drivers or Operators must at all times comply and show proof of compliance with Texas Insurance Code Chapter 1954 "Insurance for Transportation Network Company Drivers", as amended and any other Texas minimum insurance requirements as required by the Texas Transportation Code, as amended.

(2) TNC Permit Holder must have a registered agent in the State of Texas for service of process.

Sec. 57-287. - Issuance of TNC Permit, Term and Renewal.

(1) Issuing Permit. The applicant must submit the Permit fee and application to the Police Department. The Chief of Police shall issue a TNC Permit stating the TNC's name, address, term and permit number if the Chief of Police finds the permit application requirements are reasonably satisfied. If the Chief of Police determines any of the application requirements are not met then the application must be denied. The TNC applicant may reapply to the Police Department and submit an additional fee with new information for consideration.

(2) Term. The Permit will be issued for the period beginning the date of the issuance and will expire one (1) calendar year after issue of the Permit. The Permit must state the year for which it is valid.

(3) Renewal. At least thirty (30) days before permit expiration a permitted TNC not in violation of this ordinance may renew its Permit by providing a written request on a form provided by the City for renewal and attaching and submitting the following to the Police Department:

- (a) Permit Fees.
- (b) Proof of insurance required by the Texas Insurance Code.
- (c) TNC Application provided by the City.

Sec. 57-288. - Transportation Network Vehicle Inspections.

A Transportation Network Vehicle must have a valid State of Texas registration sticker.

Sec. 57-289. - Display of Rates and Fares.

(1) Posted Amounts On Digital Network. The TNC must post rates and other charges or fees on its internet enabled application or digital network in a manner readily accessible to passengers before the service is provided. The TNC may not allow Drivers to charge or collect a rate higher than the one (1) specified on the internet enabled application or digital network.

(2) Dynamic Pricing. If a TNC uses dynamic pricing to maximize the supply of available TNC drivers on the network to match the demand for rides and increase reliability, the software application must:

- (a) Provide clear and visible indication that dynamic pricing is in effect before a ride is requested.
- (b) Include a feature requiring riders to confirm understanding that dynamic pricing will be applied for their ride.

(c) Provide a fare estimator enabling the rider to estimate dynamic pricing cost before requesting the ride.

(d) Dynamic pricing is prohibited during abnormal market disruptions.

Sec. 57-290 - TNC Operating Requirements.

(1) Identifying Information. The TNC internet enabled application or digital network accessed by potential passengers shall display after a ride is accepted:

(a) An accurate picture of the Transportation Network Driver including readable text stating the driver's first name.

(b) A picture or description of the Transportation Network Vehicle including the make and model of the vehicle, and the vehicle license plate number.

(2) Receipt and Contact Information. Passengers must be able to request receipts via email or other electronic format. The TNC shall make available on their internet-enabled application or digital network and website a receipt providing:

(a) The origin and destination of the trip.

(b) The total time and distance of the trip.

(c) An itemization of the total fare paid.

(d) Access to contact information for the TNC's customer service team or liaison.

(3) Request for Service. All requests for service must be placed and accepted only through the internet-enabled application or digital network or website. The TNC may not permit TNC drivers to accept street hails for passenger transportation.

(4) Route. Drivers must take the most direct, expeditious and safe route, unless specifically requested by the passenger.

(5) Loading or Unloading. It shall be the duty of each driver to pull the Transportation Network Vehicle lawfully to the curb when loading or unloading passengers.

(6) No Cash Payments. Any payment for TNC services must be made using the TNC's digital network or software application. No cash may be exchanged for TNC services. The TNC shall adopt a policy prohibiting solicitation or acceptance of cash payments from passengers and notify TNC drivers of such policy. TNC drivers will not solicit or accept cash payments from passengers as payment for TNC services.

(7) Overcrowding. A TNC driver or operator shall not allow Overcrowding of the TNC vehicle while transporting passengers or riders.

(8) Non-discrimination and Accessibility.

- (a) A TNC and TNC Drivers shall comply with all applicable laws concerning non-discrimination and accessibility.
 - (b) TNC drivers shall comply with all applicable laws relating to accommodation of service animals.
 - (c) A TNC shall not impose additional charges for providing services to persons with physical disabilities because of those disabilities.
 - (d) A TNC shall provide passengers an opportunity to indicate whether they require a wheelchair-accessible vehicle. If a TNC cannot arrange wheelchair-accessible TNC service in any instance, it shall direct the passenger to an alternate provider of wheelchair-accessible service, if available.
- (9) Background Check Audits and Driver Information.
- (a) Records and Books. Each TNC shall maintain:
 - 1. Individual trip records of passenger customers for at least one (1) year from the date each trip was provided; and
 - 2. Individual records of TNC drivers at least until the one (1) year anniversary of the date on which a TNC driver's relationship with the TNC has ended.
 - (b) Audit. The TNC shall permit the City to conduct an audit and examine a reasonable sample of books and records relating to TNC's performance of its obligations under this Agreement at a mutually agreed upon third-party location. The City shall provide notice of the books and records requested for inspection in writing at least seven (7) days before the scheduled examination.
 - (c) Emergency Situations. Any law enforcement officer investigating a criminal case may request TNC driver or operator information from the TNC in emergency situations where a person is in danger of bodily injury, serious bodily injury or death. The TNC must respond immediately. This information must include all information relevant to the investigation. The law enforcement agency will follow up with a warrant or subpoena when practical.
 - (d) Other Criminal Cases. In other criminal cases not involving emergency situations law enforcement will provide the correct means to gather the information and the TNC must respond either verbally or in writing within twenty-four (24) hours.
- (10) No transportation network driver shall pick up or discharge a passenger on any portion of Corpus Christi International Airport (CCIA) without proper authorization pursuant to chapter 9 of this Code. A transportation network driver carrying a passenger or passengers from CCIA shall pay quarterly the airport use fee established by Chapter 9 of this Code. Additionally, no transportation network

driver shall pick up or discharge any passenger in any designated taxicab stands or loading zones.

Sec. 57-291 - Suspension or Revocation of TNC Permit of Registration and Appeal.

(1) Suspension by Chief of Police. The Chief of Police may suspend or revoke any Permit issued under this ordinance.

(2) Notice. Suspension or revocation is effective upon delivery of written notice to the permit holder or by email, fax, hand delivery, regular mail or certified mail.

(3) Criteria for Revocation or Suspension. A Permit may be revoked or suspended by the by the Chief of Police upon verification of any of the following:

(a) A driver or operator has been convicted of a felony or other offense involving moral turpitude or any offense which may adversely affect the driver or operator's ability to provide safe and reliable passenger transportation to the public.

(b) The Permit was obtained based on information in an application in which any material fact was intentionally omitted or falsely stated.

(c) The Permit Holder has violated or failed to comply with any of the provisions in this ordinance, any other City ordinance or federal or state law.

(d) The Permit Holder has allowed required insurance to be canceled, withdrawn, terminated or to fall below the minimum limits of liability prescribed in this ordinance.

(e) The Permit Holder is delinquent on any taxes owed to the City or fails to show financial ability to maintain services in compliance with this ordinance.

(f) The Permit Holder has altered, or caused to be altered, the Permit.

(g) Discontinuing operations more than ten (10) days.

(4) Appeal. The Permit Holder shall have the right to appeal to the City Manager any revocation or suspension action from the Police Chief by delivering the written appeal to the City Secretary within ten (10) days after notice suspension or revocation is received. In the event the Permit Holder fails to deliver the appeal to the City Secretary within the time prescribed, the revocation or suspension by the Police Chief City is final. If the Permit holder timely delivers the notice to the City Secretary, then the City Manager or his designee, shall hear the appeal within twenty (20) days after the filing of the appeal with the City Secretary. City Manager or his designee's decision is final.

Sec. 57-292 - Offenses.

(1) It shall be unlawful for any person, Permit Holder, driver or operator to solicit potential passengers for Transportation Network Services at, in or near any passenger depot, hotel, airport, bus stop or station, or upon any sidewalk or street or any other place in the City, or use any words or gestures that could be construed as soliciting a passenger for Transportation Network Services.

(2) It shall be unlawful for any person to accept or respond to a passenger or potential passenger request for service by traditional street hail, including hand gestures and verbal statements.

(3) It shall be unlawful for any person, driver or operator to provide their direct or personal phone number or email address to passengers or potential passengers to enable requests for Transportation Network Services.

(4) It shall be unlawful for any person, driver or operator or Permit Holder to violate any part of this ordinance.

SECTION 2. If for any reason any section paragraph subdivision clause phrase word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction it shall not affect any other section paragraph subdivision clause phrase word or provision of this ordinance for it is the definite intent of this City Council that every section paragraph subdivision clause phrase word or provision hereof be given full force and effect for its purpose.

SECTION 3. Publication shall be made one time in the official publication of the City of Corpus Christi as required by the City Charter of the City of Corpus Christi.

SECTION 4. Penalties are as provided in Section 1-6 of the Code of Ordinances.

SECTION 5. This ordinance takes effect after official publication

That the foregoing ordinance was read for the first time and passed to its second reading on this the _____ day of _____, _____, by the following vote:

Nelda Martinez	_____	Brian Rosas	_____
Rudy Garza	_____	Lucy Rubio	_____
Michael Hunter	_____	Mark Scott	_____
Chad Magill	_____	Carolyn Vaughn	_____
Colleen McIntyre	_____		

That the foregoing ordinance was read for the second time and passed finally on this the _____ day of _____, _____, by the following vote:

Nelda Martinez	_____	Brian Rosas	_____
Rudy Garza	_____	Lucy Rubio	_____
Michael Hunter	_____	Mark Scott	_____
Chad Magill	_____	Carolyn Vaughn	_____
Colleen McIntyre	_____		

PASSED AND APPROVED, this the _____th day of _____, _____.

ATTEST:

Rebecca Huerta
City Secretary

Nelda Martinez
Mayor