

Ordinance No. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, AMENDING TITLE 5 OF THE OLYMPIA MUNICIPAL CODE BY REPEALING CHAPTER 5.11 – TRANSPORTATION NETWORK COMPANIES

WHEREAS, Olympia Municipal Code (OMC) Chapter 5.11 relating to the regulation of transportation network companies (such as Uber and Lyft) was enacted by Ordinance No. 7019 on June 14, 2016; and

WHEREAS, in 2022, the Legislature enacted ESHB 2076, which related to the rights and obligations of transportation network company drivers and transportation network companies; and

WHEREAS, the Governor partially vetoed ESHB 2076 on March 31, 2022, as it related to section 16 which would exempt transportation network companies and drivers from the common carrier statutes, with the explanation that more work needed to be done in this sector to focus on consumer protections, and that section 16 adds ambiguity without adequate consumer protections in place. With the exception of section 16 of ESHB 2076, Governor Inslee signed ESHB 2076 on March 31, 2022; and

WHEREAS, ESHB 2076 subsequently became effective as Chapter 281, Laws of the 67th Legislature, 2022 Regular Session with the effective date of June 9, 2022, except for sections 8 through 13, which became effective on January 1, 2023, and sections 17 and 28, which will become effective on March 1, 2023; and

WHEREAS, section 32(1) of Chapter 281, Laws of 2022, except for certain exceptions which relate solely to Seattle and King County, the session law provided that “. . . as of the effective date of this section, the state preempts the field of regulating transportation network companies and drivers. No county, city, town, or other municipal corporation may regulate transportation network companies or drivers, or impose any tax, fee, or other charge, on a transportation network company or driver.” However, a county, city, town, or other municipal corporation may continue to impose generally applicable business, sales, use, excise, or property taxes; and

WHEREAS, since the state has preempted the field of regulation of transportation network companies and drivers, it is incumbent upon the Olympia City Council to enact an ordinance repealing OMC Chapter 5.11 relating to the regulation of transportation network companies;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Amendment of Title 5 OMC. Title 5 of the Olympia Municipal Code is here by amended by the repeal of Chapter 5.11 – Transportation Network Companies:

**Title 5
BUSINESS TAXES, LICENSES AND REGULATIONS**

Chapters:

- 5.02 Business Licenses**
- 5.04 Business and Occupations Tax**
- 5.05 Administrative Provisions for Certain Taxes**
- 5.10 Occupational Permits**
- ~~5.11 Transportation Network Companies~~**

- 5.15 Cable Communications Franchises**
- 5.16 Adult Oriented Businesses**
- 5.17 Community Events**
- 5.18 Farmers Market**
- 5.20 Gambling Activities**
- 5.24 Garage Sales**
- 5.48 Occult Arts**
- 5.50 Pet Shops**
- 5.52 Locksmiths**
- 5.55 Security Alarm Businesses**
- 5.60 Secondhand Dealers**
- 5.64 Solicitors**
- 5.68 For-Hire Vehicles**
- 5.72 Towing Services**
- 5.76 Miscellaneous Businesses**
- 5.80 Unfair Housing Practices**
- 5.82 Rental Housing Code**
- 5.84 Utility Services Tax**
- 5.86 Multi-Family Dwelling Tax Exemptions**

Chapter 5.11

TRANSPORTATION NETWORK COMPANIES

5.11.000 — Chapter Contents

Sections:

- 5.11.010 — Purpose.
- 5.11.020 — Definitions.
- 5.11.030 — Olympia business license required.
- 5.11.040 — TNC license required.
- 5.11.050 — TNC driver requirements.
- 5.11.060 — TNC requirements.
- 5.11.070 — Vehicle inspection and maintenance.
- 5.11.080 — Insurance requirements.
- 5.11.090 — Registered agent required.
- 5.11.100 — Audit.
- 5.11.110 — Operational Requirements.
- 5.11.120 — Non-Discrimination; Accessibility.
- 5.11.130 — Revocation, suspension, or denial of TNC license.
- 5.11.140 — Enforcement.
- 5.11.150 — Penalty.

5.11.010 — Purpose

The purpose of this chapter is to provide for and promote the safety and welfare of the general public and not to create or designate any particular class of persons who will or should be specially protected by its terms. Nothing contained in this chapter is intended, nor shall be construed, to create any liability on the part of the city or its employees for any injury or damage resulting from the failure of the licensee or

driver to comply with the provisions of this chapter, or by the city's or its employees' enforcement or failure to enforce any part of this chapter.

5.11.020—Definitions

For the purpose of this chapter, the following definitions apply:

A.—“Transportation Network Company” or “TNC” means an entity that uses a digital network to connect passengers to TNC drivers who use personal vehicles to transport passengers for compensation between geographical points chosen by the passenger.

B.—“Digital network” means an Internet-enabled platform or application used to connect passengers with TNC drivers.

C.—“TNC driver” means an individual who uses a personal vehicle to provide transportation services arranged through a TNC’s digital network.

D.—“TNC vehicle” means a personal vehicle used by a TNC driver to provide transportation services arranged through a TNC’s digital network.

E.—“Operate a TNC in the City of Olympia” means a TNC uses its digital network to connect a TNC driver to a passenger for a trip originating in the City of Olympia.

F.—“Operate as a TNC driver in the City of Olympia” means a TNC driver accepts a trip request over a TNC’s digital network that originates in the City of Olympia.

G.—“Person” means any natural person of either sex, firms, corporations, partnerships and associations either acting by themselves or by servant, agent or employee. The singular shall include the plural and words referring to a specific gender may be extended to any other gender.

H.—“Director” means the Director of the City of Olympia’s Administrative Services Department.

5.11.030—Olympia business license required

A.—It is a violation of this chapter for any TNC to operate in the City of Olympia without a current and valid City of Olympia business license.

B.—It is a violation of this chapter for any driver, who is an independent contractor affiliated with a TNC, to operate as a TNC driver in the City of Olympia without a current and valid Olympia business license. It is the responsibility of the TNC to communicate this requirement to TNC drivers.

C.—TNC drivers must keep a copy of their business license in their vehicle when logged on and accepting rides from the TNC’s digital network. It is the responsibility of the TNC to communicate this requirement to TNC drivers.

D.—Except as described in subsections B and C, the TNC shall have no obligations as to TNC driver business license requirements.

5.11.040—TNC license required

A.—It is a violation of this chapter for any TNC to operate in the City of Olympia without a current and valid City of Olympia TNC license.

B.—The Director or designee may issue a TNC license provided that the TNC applicant submits an affidavit sworn under penalty of perjury, on a form provided by the City, that to the best of the applicant’s knowledge, formed after a diligent inquiry into the facts, the TNC is in full compliance with this chapter, including, but not limited to, all driver, vehicle, insurance, and operational requirements.

C.—The TNC license shall be effective for one year.

D.—The annual TNC license fee shall be \$1,000 and shall be paid in full at the time of submitting all initial and renewal applications.

5.11.050—TNC driver requirements

A.—TNC drivers shall certify that they have no known physical or mental infirmity which jeopardizes their ability to safely operate as a TNC driver transporting the public.

B.—TNC drivers shall be at least twenty-one (21) years of age.

C.—TNC drivers shall possess a valid Washington State driver's license and shall have been continuously licensed as a driver by the State of Washington and/or another state for at least one (1) year immediately prior to operating as a TNC driver in Olympia. A home state Driver's License with active Military ID or Student ID with proof of full-time enrollment and nonresident status may be an acceptable alternative, subject to review and approval.

D.—TNC drivers shall certify that they have insurance that meets the minimum liability requirements for the State of Washington, including insurance coverage for use of the vehicle for transportation of passenger for hire as required by RCW Chapter 48.177 as enacted or subsequently amended.

E.—TNC drivers shall not have been convicted or found to have committed three or more moving violations during any twelve (12) month period during the three (3) years prior to operating as a TNC driver in Olympia.

F.—TNC drivers shall possess proof of motor vehicle registration and proof of current automobile liability insurance. The TNC shall certify that all drivers have insurance that meets the requirements of this chapter, including insurance coverage for use of the vehicle for transportation of passengers for hire as required by RCW Chapter 48.177 as enacted or subsequently amended.

5.11.060—TNC requirements

A.—The TNC or its agent shall maintain accurate and up-to-date records for all TNC drivers accessing its digital network to provide TNC services in the City of Olympia. Said records shall include the driver's name, age, address, social security number, criminal history, driver's license, motor vehicle registration, vehicle safety inspection records, and proof of at least the minimum automobile liability insurance coverage required by the State of Washington, including insurance for use of the vehicle for transportation of passengers for hire as required by RCW Chapter 48.177 as enacted or subsequently amended.

B.—Prior to permitting a person to act as a TNC driver on its digital network, and annually thereafter, the TNC shall obtain and review a criminal background check report for such person. The criminal background check shall include a search of no less than five (5) years of database history, unless prohibited by law, in which case the duration of the search shall be the maximum number of years permitted by law. The criminal background check shall include local, state, and national criminal history databases and national and state sex offender registries. Any person who is on a sex offender registry or who has a criminal conviction, within the past five (5) years, of crimes involving driving under the influence of alcohol or controlled substances, felony fraud, sexual offenses, felony property damage or theft, acts of violence, acts of terror, reckless driving or negligent driving, or use of a motor vehicle to commit a felony, shall not be permitted to act as a TNC driver on the TNC's digital network. The TNC or its agents shall maintain records of such criminal background checks for a period of two (2) years. For purposes of this section, the term "criminal conviction" includes a "conviction or other disposition adverse to the subject" as defined under RCW 10.97.030, and bail forfeitures.

C.—The TNC shall only permit an individual to act as a TNC driver on its digital network if it finds that the standards set forth in this section are met by such individual. The TNC shall revoke a driver's authority to act as a TNC driver on its digital network if the standards set forth in this section are not met.

5.11.070—Vehicle inspection and maintenance

A.—TNC vehicles operating in the City of Olympia shall be no more than ten (10) years old.

B.—The TNC shall inspect or cause to be inspected annually and every year thereafter, every motor vehicle used by a TNC driver before allowing the driver to use the motor vehicle to provide transportation services.

C.—The inspection required in subsection B must include, without limitation, an inspection of the foot and emergency brakes, steering, windshield, rear window, other glass, windshield wipers, headlights, tail lights, turn indicator lights, braking lights, front seat adjustment mechanism, doors, horn, speedometer, bumpers, steering system, muffler, exhaust, tires, rear view mirrors, and safety belts. The inspection must ensure that all of the components listed are in proper functioning order.

D.—The TNC shall maintain vehicle safety inspection records for a minimum of three (3) years.

5.11.080—Insurance requirements

The TNC shall comply with the automobile liability insurance requirements contained in RCW Chapter 48.177 as enacted or subsequently amended.

5.11.090—Registered agent required

The TNC shall maintain a registered agent for service of process in the State of Washington. The name, telephone number, and physical address of the registered agent shall be submitted to the City of Olympia at the time of license application. The TNC shall notify the City of Olympia in writing of any changes to its registered agent during the term of the license.

5.11.100—Audit

A.—No more than twice per license year, the City may audit the TNC's records to review compliance with this chapter. Each audit shall be limited to records relating to no more than twenty randomly selected TNC drivers operating in the City of Olympia. In the event the audit reveals discrepancies in the records reviewed, the City reserves the right to audit all of the TNC's records related to TNC drivers operating in the City of Olympia.

B.—The audit shall occur at City Hall, 601 4th Avenue E, Olympia, Washington; provided that the City may in its discretion agree to an alternative location.

C.—Notwithstanding the foregoing, the City may require the TNC to produce records at any time to investigate a specific complaint regarding compliance with this chapter.

5.11.110—Operational Requirements

A.—While in service in the City, TNC drivers shall only transport passengers who have arranged transportation through a TNC's digital network and shall not solicit or accept street hails by persons seeking transportation.

B.—While in service in the City, each TNC vehicle shall display removable trade dress or marks which is visible from fifty (50) feet and clearly associates the vehicle with a licensed TNC company.

C.—The TNC's digital network or website shall display for the passenger the first name and photograph of the TNC driver as well as the make, model, and license plate number of the TNC vehicle.

D.—The TNC's digital network or website shall display for the passenger the applicable rates being charged and the option to receive an estimated fare before the passenger enters the TNC vehicle.

E.—The TNC shall implement a zero tolerance policy on the use of drugs or alcohol applicable to any TNC driver on its digital network. The TNC shall provide notice of the zero tolerance policy on its website, as well as the procedures to report a complaint about a TNC driver with whom the passenger was

~~matched and for whom the passenger reasonably suspects was under the influence of drugs or alcohol during the course of the ride. The TNC shall immediately suspend a driver upon receipt of a passenger complaint alleging a violation of the zero tolerance policy. The suspension shall last the duration of the investigation.~~

5.11.120—Non-Discrimination; Accessibility

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

~~B.— TNC drivers shall comply with all applicable laws regarding non-discrimination against riders or potential riders on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation, or gender identity.~~

~~C.— TNC Drivers shall comply with all applicable laws relating to accommodation of service animals.~~

~~D.— A TNC shall not impose additional charges for providing services to persons with physical disabilities because of those disabilities.~~

5.11.130—Revocation, suspension, or denial of TNC license

~~A.— A TNC license may be revoked, suspended, or denied by the Director for any of the following reasons:~~

- ~~1.— Failure to meet or maintain any of the requirements or qualifications set forth in this chapter for obtaining a TNC license.~~
- ~~2.— A materially false statement contained in the application for the license.~~
- ~~3.— Any violation of this chapter.~~

~~B.— Prior to any revocation, suspension or denial of any TNC license, the City shall inform the TNC of their right to a hearing thereon. Such hearing, if requested, shall be conducted before the City prior to the implementation of any revocation, suspension or denial.~~

5.11.140—Enforcement

~~The Director shall have the administrative authority to implement and enforce this ordinance. The Director may adopt rules and regulations for its administration, not inconsistent with this chapter. This provision shall not be construed to abrogate or limit the jurisdiction of the Olympia Police Department to enforce any provisions of this chapter or of any other city ordinance relating to motor vehicles or the operation of taxicabs or TNC vehicles.~~

5.11.150—Penalty

~~A.— In addition to all other provisions and standards of this ordinance, the acts or omissions set forth in this section are prohibited. Any TNC or TNC driver who shall fail to comply with any provision or standard of this ordinance shall be in violation of this ordinance. A TNC may be held responsible for violations by TNC drivers if the TNC is provided notice of the violation and fails to cure it within a reasonable period. Any special license granted to a TNC may be suspended or revoked by the Director or designee for such violation.~~

~~B.— Submitting a materially false affidavit or attestation. Any TNC submitting a materially false affidavit as provided for under OMC 5.11.040 shall be deemed to have committed a misdemeanor, and if found guilty, shall be subject to a fine not to exceed One Thousand Dollars (\$1,000), and/or to imprisonment not to exceed ninety (90) days or to both such fine and imprisonment. Each day shall be a separate offense. In the event of a continuing violation or failure to comply, the second and subsequent days shall constitute a gross misdemeanor punishable by a fine not to exceed Five Thousand Dollars (\$5,000)~~

~~and/or imprisonment not to exceed three hundred and sixty four (364) days or both such fine and imprisonment. Continuing violation shall mean the same type of violation which is committed within a year of the initial violation.~~

~~C.— Operating without a TNC license. Any TNC affiliating with a driver who is picking up a passenger in the City of Olympia without having first obtained a TNC license shall be subject to a civil infraction as provided in OMC Chapter 4.50 and the penalties in OMC 4.50.060.~~

~~D.— While in service, any TNC driver picking up a passenger in the City of Olympia without having a current contract with a special licensed TNC shall be subject to a civil infraction as provided in OMC Chapter 4.50 and the penalties in OMC 4.50.060.~~

~~E.— Any independent contractor TNC driver who picks up a passenger in the City of Olympia and who has not obtained a business license under OMC 5.02.005 or determination of exemption under OMC 5.02.040 shall be subject to penalties as stated in OMC 5.02.070.~~

Section 2. Corrections. The City Clerk and codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 3. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

Section 4. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 5. Effective Date. This Ordinance shall take effect five (5) days after passage and publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Mark Barber
CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED: