

## Ordinance 18-005

### An Ordinance Amending Division 5 of Chapter 26 of the Ordinances of the City of Brookings and Pertaining to Transportation Network Companies in the City of Brookings.

Be It Ordained and Enacted by the Council of the City of Brookings, State of South Dakota, as follows:

I.

#### **DIVISION 5. - TRANSPORTATION NETWORK COMPANIES (TNC)**

##### **Sec. 26-280. - Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Digital network* means any online-enabled application, software, website, or system offered or utilized by a TNC that enables the prearrangement of rides with TNC drivers.

*TNC driver* means a person who drives a vehicle for a transportation network company.

*Personal vehicle* means a vehicle that is used by a TNC driver and is: owned, leased, or otherwise authorized for use by the TNC driver; and which is not a taxicab, limousine or vehicle for hire.

*Prearranged ride* means the provision of transportation by a driver to a rider, beginning when a driver accepts a ride requested by a rider through a digital network controlled by a TNC, continuing while the driver transports a requesting rider, and ending when the last requesting rider departs from the personal vehicle. A prearranged ride does not include transportation provided by a taxicab or vehicle for hire.

*Transportation network company* or *TNC* means an entity licensed pursuant to this chapter that uses a digital network to connect passengers to transportation network company services provided by transportation network company drivers. A TNC shall not be deemed to control, direct or manage the personal vehicles or TNC drivers, except where agreed to by written contract.

*Transportation network company driver* or *TNC driver* means an individual who operates a personal vehicle who:

- (a) Receives connections to potential passengers and related services from a TNC in exchange for payment of a fee to the TNC; and
- (b) Uses a personal vehicle to offer or provide a prearranged ride to riders upon connection through a digital network controlled by a transportation network company in return for compensation or payment of a fee.

##### **Sec. 26-281. - Requirements for a transportation network company.**

- (a) *Compliance with State vehicle equipment laws.* A transportation network company shall require that a personal vehicle used to provide any prearranged ride shall comply with all applicable laws and rules concerning vehicle equipment as required by SDCL 32-40-6. It is the duty of each TNC driver to submit to the chief of police

for inspection each vehicle at any time upon complaint, and the police department may also inspect such TNC vehicles at other times as it deems necessary.

- (b) *No street hails.* A TNC driver shall not solicit or accept street hails.
- (c) *No cash trips.* The TNC shall adopt a policy prohibiting solicitation or acceptance of cash payments or other compensation directly from passengers and notify TNC drivers of such policy. TNC drivers shall not solicit or accept cash payments or other compensation directly from passengers. Any payment for TNC services shall be made only electronically using the TNC's digital network or software application.
- (d) *Fare collected for services.* On behalf of a TNC driver, a TNC may charge a fare for the services provided to passengers; provided that, if a fare is collected from a passenger, the TNC shall disclose to passengers the fare calculation method on its website or within the software application service. The TNC shall also provide passengers with the applicable rates being charged and the option to receive an estimated fare before the passenger enters the TNC driver's vehicle.
- (e) *Identification of TNC vehicles and drivers.* The TNC's software application or website shall display a picture of the TNC driver, and the license plate number of the motor vehicle utilized for providing the TNC service before the passenger enters the TNC driver's vehicle.
- (f) *Electronic receipt.* Within a reasonable period of time following the completion of a trip, a TNC shall transmit an electronic receipt to the passenger on behalf of the TNC driver that lists:
  - a. The origin and destination of the trip;
  - b. The total time and distance of the trip; and
  - c. An itemization of the total fare paid, if any.
- (g) *Records.* A TNC shall maintain the following records:
  - a. Individual trip records of passenger customers for at least one year from the date each trip was provided; and
  - b. Individual records of TNC driver customers at least until the one-year anniversary of the date on which a TNC driver's customer relationship with the TNC has ended.
- (h) *Record inspection authority.*
  - a. The city has the authority to inspect the records of the TNC as necessary to investigate an alleged crime or violation of this chapter; accident involving a TNC driver; or for other good cause. The TNC shall cooperate with the city to facilitate the exchange of relevant information required in an investigation. The city shall provide advance written notice at least seven days prior to any inspection, which shall be conducted at a mutually agreed upon third-party location, or pursuant to court order, grand jury, or investigative subpoena.
  - b. Any record or information made available by the TNC to the city pursuant to this chapter is confidential and proprietary, and shall not be made public without TNC's express written permission. If the city is required to disclose confidential information under court order or other applicable law, the city shall promptly notify the TNC of such requirement, prior to disclosure, and shall make diligent efforts to limit disclosure pursuant to any available basis in South Dakota open records law or other applicable law.

**Sec. 26-282. - Application for transportation network company license-**

- (a) *License required.* A person shall not operate a TNC in Brookings without first having obtained a license from the city clerk. The city shall grant a TNC license if satisfied that the applicant has complied with all of the terms and provisions of this chapter and if the evidence submitted in support of the application meets the conditions precedent to granting the license.
- (b) *License issuance.* The city clerk shall issue a license to each applicant that meets the requirements for a TNC set forth in this chapter, and pays to the city an annual permit fee as established by resolution of the city. A licensing year, for the purposes of this section, begins January 1 and ends December 31 of the next year.
- (c) *Application requirements.* The application shall include:
- (1) The name and address of applicant;
  - (2) Trade name if any under which the license is to be exercised;
  - (3) If a partnership, the name and address of each partner;
  - (4) If a corporation, the names and addresses of the officers;
  - (5) Description of the activity to be carried on under the license;
  - (6) The name and contact information for an agent to be maintained for service of process in the State of South Dakota.
  - (7) The applicant provides proof of sales tax license if applicable.
- (d) *Identification of TNC drivers.* At the time of initial licensing and on a quarterly basis, a TNC shall submit to the city a list of driver's license numbers and the state of issuance for each active driver.

**Sec. 26-283. - Insurance requirements—Transportation network company.**

A TNC driver, or a TNC on the behalf of the TNC driver, shall maintain automobile insurance pursuant to chapter 40 of Title 32 of the South Dakota Codified Laws.

**Sec. 26-284. - Transportation network company driver requirements.**

- (a) Before allowing an individual to accept trip requests through a TNC's digital platform:
- (1) The individual shall submit an application to the TNC, which includes information regarding the proposed TNC driver's address, age, driver's license, driving history, motor vehicle registration, automobile liability insurance, and other information required by the TNC;
  - (2) The TNC shall have a third party conduct a local and national criminal background check for each applicant that shall include:
    - a. Multi-state/multi-jurisdiction criminal records locator or other similar commercial nationwide database with validation (primary source search); and
    - b. National Sex Offender Registry database;
    - c. The TNC shall review the results of (2a) and (2b) above for such individual prior to allowing an individual to accept trip requests.
  - (3) The TNC shall obtain and review a driving history research report for such individual prior to allowing an individual to accept trip requests.

- (b) The TNC shall not permit an individual to act as a TNC driver on its digital platform who:
- (1) Has had more than three traffic offenses in the prior three-year period, or one major violation in the prior three-year period (including, but not limited to, attempting to elude the police, reckless driving, hit/run or leaving the scene, or driving on a suspended or revoked license);
  - (2) Has been convicted, within the past seven years, of driving under the influence of drugs or alcohol, fraud, sexual offenses, indecent exposure (class 1 misdemeanor), use of a motor vehicle to commit a felony, a crime involving property damage, and/or theft, crimes of violence, felony possession/distribution of controlled substances or acts of terror;
  - (3) Is a match in the National Sex Offender Registry database;
  - (4) Does not possess a valid driver's license;
  - (5) Does not possess proof of registration for the motor vehicle(s) used to provide TNC services;
  - (6) Does not possess proof of automobile liability insurance for the motor vehicle(s) used to provide TNC services; or
  - (7) Is not at least 18 years of age.
- (c) The TNC shall prohibit the use or influence of drugs or alcohol by a driver while providing TNC services requested through the TNC's digital platform. If a TNC receives a complaint of such drug or alcohol influence or other activity prohibited in section 26-284, the TNC shall:
- (1) Immediately revoke the driver's access to the TNC's digital platform until the duration of the investigation; and
  - (2) If the complaint is found to be true, the TNC shall permanently revoke the driver's access to the TNC's digital platform. If the complaint is found to be untrue, the driver's access to the TNC's digital platform may be immediately reinstalled.

**Secs. 26-285—26-310. - Reserved.**

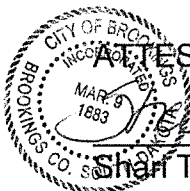
II.

Any or all ordinances in conflict herewith are hereby repealed.

First Reading:        March 13, 2018  
 Second Reading:    March 27, 2018  
 Published:            March 30, 2018

CITY OF BROOKINGS, SD

*Keith W. Corbett*  
 \_\_\_\_\_  
 Keith W. Corbett, Mayor



ATTEST:

*Shari Thorne*  
 \_\_\_\_\_  
 Shari Thorne, City Clerk