

**ORDINANCE NO. 2145**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS, AMENDING CHAPTER 126, “VEHICLES FOR HIRE” OF THE CODE OF ORDINANCES, CITY OF BRYAN, TEXAS, BY REVISING ARTICLE I “IN GENERAL”, REVISING ARTICLE II “HORSE-DRAWN CARRIAGES”, REVISING ARTICLE III “TAXICABS”, REVISING ARTICLE V “PEDICABS”, AND ADDING ARTICLE VI “TRANSPORTATION NETWORK COMPANIES”; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR CODIFICATION; PROVIDING FOR PUBLICATION; PROVIDING FOR A PENALTY; FINDING AND DETERMINING THAT THE MEETINGS AT WHICH THE ORDINANCE IS PASSED ARE OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Council has determined that Chapter 126 “Vehicles For Hire” of the Code of Ordinances of the City of Bryan is in need of revision to update certain provisions, resolve inconsistencies between articles, and to improve the enforceability of some of the existing provisions; and

**WHEREAS**, the City Council finds that there is a new type of vehicle for hire services that has been created by the development of transportation network companies that provide digital, peer-to-peer platforms for obtaining and providing vehicle for hire services; and

**WHEREAS**, the City Council finds that transportation network companies are enabling services that are comparable to traditional vehicle for hire services, but which do not fit within the current regulations; and

**WHEREAS**, the City Council determines that the safety of the traveling public requires that transportation network companies submit to the same, or substantially similar scrutiny and that they carry the same level of protection as other vehicle for hire services; and

**WHEREAS**, the City Council determines that transportation network companies should be prohibited from operating within the City until TNC drivers have passed background checks, TNC vehicles have been inspected and insured, and TNC services are conducted fairly; and

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS, THAT:**

1.

Chapter 126 “Vehicles for Hire”; Article I “In General” is amended as follows:

**ARTICLE I. IN GENERAL**

**Sec. 126-1. Definitions.**

For the purposes of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*Applicant* shall mean any individual, partnership, corporation, or other business entity in the process of attaining a permit under this Chapter.

*Driver* shall mean the person physically driving or operating the vehicle for hire.

*Overcrowding* shall mean that the driver is transporting a greater number of people in the vehicle than has been recommended by the manufacturer of the vehicle or for whom there is no seat belt, inclusive of the driver.

*Permit Holder* shall mean the person or entity that has been issued a permit under this Chapter.

*Transportation Network Company or TNC* shall mean any person, partnership, corporation, or other business entity operating in this state that enables TNC Riders to request a prearranged ride, and enables TNC Drivers to accept those fares, over a Digital Network. The term does not include:

- (1) Vehicles being operated by or for a governmental entity;
- (2) Ambulances operated under state law;
- (3) Limousines;
- (4) Courtesy vehicles operated as an accessory to some other service (e.g. transportation to or from the airport to hotels, motels, parking lots, or car rental agencies); or
- (5) Taxicab service operators.

#### **126-2. Criminal Convictions; Background Checks.**

- (a) A Driver may not, and a Permit Holder may not allow a Driver to, operate a vehicle for hire if the Driver has been found guilty by a court of any jurisdiction of any felony offense or for any misdemeanor for a crime of moral turpitude, an offense requiring registration as a sex offender, possession or sale of any controlled substance, or driving while under the influence for drugs or alcohol within the past seven (7) years.
- (b) Permit Holders must conduct, or have a reliable third party conduct, annual background checks of anyone authorized to act as a Driver on the Permit Holder's behalf, prior to allowing the Driver to operate a vehicle for hire. It is a defense to prosecution under subsection (a) above if the Permit Holder can provide evidence of a properly conducted background check that is less than twelve (12) months old. The background check must be a local, state and national criminal background check including a multi-state/multi-jurisdiction criminal records locator or other similar commercial nationwide database with validation through a primary source search, as well as the National Sex Offender Registry database.
- (c) A person may not be a Driver of a taxicab or a TNC vehicle, and a Permit Holder may not allow a person to be a Driver, if they have been convicted of, or placed on supervision for, three (3) or more of the following offenses within the past three (3) years:
  - (1) any traffic regulation governing the movement of vehicles;
  - (2) failure to maintain financial responsibility (e.g. insurance); or
  - (3) driving without a license or while license is invalid.
- (d) Permit Holders must conduct, or have a reliable third party conduct, annual driving history checks of anyone authorized to act as a driver on the Permit Holder's behalf, prior to allowing the Driver to operate a vehicle for hire. It is a defense to prosecution under subsection (c) above if the Permit Holder can provide evidence of a properly conducted driving history check that is less than twelve (12) months old.
- (e) The City Council, in accordance with Chapter 53 of the Texas Occupations Code, has considered the following criteria in regards to criminal convictions that bar issuance of permits under this Chapter:
  - (1) The nature and seriousness of the crimes.
  - (2) The relationship of the crimes to the purposes for requiring permits.

- (3) The extent to which vehicle for hire services present opportunities for further criminal activity of the same type.
- (4) The relationship of the crimes to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities set forth in this Chapter.

**Secs. 126-3 – 126-18. Reserved**

2.

Chapter 126 “Vehicles for Hire”; Article II “Horse-Drawn Carriages” is amended as follows:

**Sec. 126-19. Permit.**

- (a) It shall be unlawful to operate a horse-drawn carriage or other touring vehicle employing the use of draft animals for locomotion without first being issued a City carriage permit. The City Secretary shall issue a carriage permit only if the following requirements have been satisfied:
  - (1) The proposed route of the service does not operate on any hike-and-bike trail or footpath within the City.
  - (2) The carriages and equipment proposed to be used in the service are in safe and presentable condition.
  - (3) The applicant has agreed to operate only on a schedule and route and over the designated traffic lanes approved by the Chief of Police and to park said carriages or vehicles only at such locations approved by the Chief of Police.
  - (4) The carriage wheels shall have all steel or iron outer rims adequately sheathed in rubber or other synthetic material to prevent damages to the street pavement.
  - (5) Documentation of current rabies vaccination shall be on file with the City Secretary at all times.
  - (6) All horseshoes used shall be of a type approved by the Chief of Police.
  - (7) The applicant has agreed to maintain all barns, stables, or other housing for horses and carriages in a safe and sanitary condition, and has agreed to permit the City to inspect such facilities at any time.
  - (8) The applicant has agreed to keep all carriage routes clear and free of animal void and excrement and to maintain all permitted stands in a clean and sanitary matter. Each animal shall wear a bag capable of holding animal feces or in the alternative, the carriage shall be equipped with a shovel and receptacle and the carriage driver shall promptly remove all feces from the ground.
  - (9) The applicant has agreed to post the fares for each ride or trip so that they are visible to the public. This section shall not apply to the exclusive, one-time rental of the carriage by a party by separate agreement, entered into more than twenty-four (24) hours prior to such trip.
  - (10) Lanterns shall be affixed to either side of the carriage and must be illuminated after dusk.
  - (11) The applicant has agreed that in order to protect the health and well-being of each animal employed in this service, the applicant shall specifically covenant and agree:
    - a. Each animal shall be inspected and certified as to its good health annually by a permitted veterinarian. The applicant will provide the City with Coggins paperwork, showing a negative result, upon request.
    - b. No animal shall be worked longer than four (4) continuous hours without feeding and rest.
    - c. Each animal shall be provided water at each carriage stand.
    - d. Animals shall not be whipped unless necessary for the safety of the animal or carriage passengers.
    - e. Animals shall not be overworked.
    - f. Each animal shall be provided with its own custom fit harness.

- g. No animal with an open sore or wound, or any animal which is lame or has any other ailment shall be worked without specific written authorization from a veterinarian that such work will not endanger the health or well-being of the animal.
  - h. Each animal shall be groomed daily.
  - i. No animal shall be allowed to pull more than seven (7) people, including the driver.
  - j. No animal shall be worked during time when the combined temperature and humidity index exceeds a numerical value of 150.
- (12) The applicant has paid a nonrefundable permit fee of \$50.00 per carriage to defray the expense of carrying out the provisions of this article.
- (13) The application shall include a sworn statement by the applicant that all information provided in the application is true and correct and shall further state that the applicant has conducted the annual background check required by this Chapter for each Driver authorized to operate a horse-drawn carriage on their behalf. The application shall also include a sworn statement that the applicant has not been convicted of an offense listed under Section 126-2(a).
- (b) Upon finding that the applicant meets the qualifications stated herein, the City Secretary shall issue the carriage permit. The permit expires at the end of the calendar year, unless the application is for a new permit and is filed after September 30<sup>th</sup>, in which case it is valid through the end of the following calendar year.
- (c) A Driver of a horse-drawn carriage must be at least sixteen (16) years of age and possess a valid driver's license for motor vehicles.

**Sec. 126-20. Insurance.**

Any applicant for a carriage permit under this article shall, before the permit can be issued, deliver to the City Secretary a certificate of insurance reflecting insurance coverage as herein prescribed. Said applicant shall keep in full force and effect during the term of the carriage permit a policy of public liability insurance, issued by an insurance company fully authorized to do business in this state and performable in this county, ensuring the public against any loss or damage that may result to any person or property from the operation of such vehicle or vehicles.

General liability insurance shall be maintained in the amount of combined single limit of not less than \$500,000.00 per occurrence, with an aggregate amount of not less than \$1,000,000.00, covering property damage, bodily injury and personal injury; to secure payment of all lawful and proper claims arising out of the operations of the vehicle for hire service authorized hereunder. The permit holder shall continually maintain insurance coverage during the term of the permit. If insurance lapses, is cancelled, or is non-renewed and evidence of new insurance is not provided before the cancellation date, the permit shall be automatically revoked.

**Sec. 126-21. Revocation or suspension of permit.**

Operation of a carriage permit shall be conditioned upon continued compliance by the permittee with each of the requirements of this article. The Chief of Police is hereby authorized and empowered to revoke or suspend any permit issued hereunder upon his or her finding that any carriage permit holder has violated any of the provisions of this article. Such revocation or suspension shall take effect upon delivery of written notice thereof to the carriage permit holder, with such delivery being made in person or by certified mail through the United States Postal Service; provided, however, that the carriage permit holder shall have the right to appeal to the City Manager, or his or her designee, from any such action of the Chief of Police by delivering such appeal to the City Secretary, with a copy delivered to the Chief of Police, not more than five (5) business days after receiving notice of revocation or suspension. In the event the carriage permit holder shall fail to deliver such notice to the City Secretary within the time

prescribed, the action of the Chief of Police in revoking or suspending the permit shall be final. If the carriage permit holder timely delivers the notice to the City Secretary, the City Manager or his or her designee shall hear the appeal not more than twenty (20) business days after the filing of the notice of appeal with the City Secretary.

**Secs. 126-22 - 126-45. Reserved.**

3.

Chapter 126 “Vehicles for Hire”; Article III “Taxicabs” is amended as follows:

**Sec. 126-46. Definitions.**

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

*Limousine* shall mean a luxury vehicle that typically employs a partition between the driver and passenger compartments and often has a lengthened wheel base, which is chartered or reserved by the customer a minimum of twenty-four hours in advance of the time the service is rendered.

*Taxicab* shall mean an automobile or motor-propelled vehicle designed for carrying no more than eight (8) passengers, used for the transportation of passengers for hire over the public streets of the City, irrespective of whether or not the operation extends beyond the City limits at rates for distance traveled and/or for when such vehicle is routed to passengers by a Taxicab Service Operator with the following exceptions:

- (1) Vehicles being operated by or for a governmental entity;
- (2) Ambulances operating under state law;
- (3) Limousines;
- (4) Courtesy vehicles operated as an accessory to some other service (e.g. transportation to or from the airport to hotels, motels, parking lots, or car rental agencies); or
- (5) Vehicles being operated pursuant to a Transportation Network Company Permit.

*Taxicab service operator* shall mean any person who has the control, direction, maintenance and the benefit of revenue derived from the operation of taxicabs on or over the streets of the City, whether as owner or otherwise.

*Terminal* shall mean the depot at which place the taxicabs shall be housed or parked, and at which place the telephone calls and requests for service shall be made, and at which place a dispatcher shall control the movements of the taxicabs to the points of request for taxicab service; this term shall likewise be synonymous with taxi terminal and shall mean and embrace that space and area of land and buildings off of the streets of the City, and upon private property, and shall be and constitute the main office of the owner and taxicab operator.

**Sec. 126-47. Terminals.**

Every taxicab service operator shall maintain an off-street terminal of sufficient size to accommodate all of the taxicabs utilized in the service. A terminal may not be located on a property used primarily for residential dwelling purposes unless it can be operated as a lawful home occupation in compliance with City ordinances, in which case only two (2) taxicabs may be housed or parked at that terminal.

**Sec. 126-48. Standards and requirements for vehicles and equipment; age of driver.**

No taxicab shall be operated on City streets that does not comply with the following minimum standards:

- (1) Each taxicab must have affixed thereto a valid state certificate of registration and be able to provide proof of current state inspection;
- (2) The vehicle identification number and the permit number of each taxicab must match the numbers listed for that taxicab on the permit application;
- (3) Each vehicle shall have the business name and phone number affixed to the door; and
- (4) Each Driver must be at least nineteen (19) years of age and possess a valid driver's license.

**Sec. 126-49. Miscellaneous offenses.**

- (a) It shall be unlawful for any person engaged in the taxicab business to overcrowd the taxicab.
- (b) It shall be unlawful for any officer or employee of the City to accept, or a taxicab service permittee or employee to offer, either directly or indirectly, any gifts, discounts or gratuities in association within the provision of taxicab services.
- (c) It shall be unlawful for a taxicab driver to receive or discharge passengers in the roadway of any street. It is a defense to this section that said driver drove to the right-hand sidewalk, the extreme right-hand side of the road as nearly as practical, or into a driveway or parking lot for such purposes.
- (d) It shall be unlawful for a taxicab driver employed to carry passengers to a definite point to fail to take the most direct route that will carry such passengers safely and expeditiously to their destination, except when specifically requested by the passenger.
- (e) It shall be unlawful for a taxicab driver to violate applicable laws relating to non-discrimination, accommodation of service animals, and accessibility. It shall be unlawful for a taxicab service operator or a taxicab driver to impose additional charges for providing services to persons with physical disabilities because of those disabilities.
- (f) It shall be unlawful for a taxicab driver to refuse to permit military or police canines accompanying their handlers to be transported or to impose additional charges for said canines.

**Sec. 126-50. Property left in vehicle; disposition.**

All drivers of taxicabs shall promptly deliver to the police department or to the permit holder all property left in such vehicles by passengers. If a driver delivers such articles to the permit holder, the latter shall deliver them to the police department. When the articles left in the taxicabs have been delivered to the office of the Chief of Police, he or she shall make the entry of the fact in a book provided for that purpose and shall keep all such articles until claimed by the owner, or as the City Manager may authorize in accordance with state law requirements regarding the disposition of abandoned property.

**Sec. 126-51. Penalties.**

- (a) It shall be unlawful for any person to violate any provision of this article.
- (b) A violation of this article shall be punishable, upon conviction, in accordance with section 1-14 of the City of Bryan Code of Ordinances.

**Secs. 126-52 - 126-75. Reserved.**

**Sec. 126-76. Permit Required.**

It shall be unlawful for an individual, firm, or corporation to drive or operate or cause to be driven or operated any taxicab for the transportation for hire of persons upon or over any street in the City unless there has first been obtained for such service, a permit duly issued by the City as hereinafter provided.

**Sec. 126-77. Application.**

- (a) Application for taxicab service permit within the City shall be filed with the City Secretary on a form provided by the City. The applicant shall provide the following information on such form:
  - (1) Name of the owner, or person by whom such permit is desired;
  - (2) Name of company;

- (3) Address of company;
  - (4) Telephone number of company;
  - (5) If corporation, name and address of major officers of corporation and major stockholders;
  - (6) If partnership or association, trade, partnership, or association name, name and address of partners;
  - (7) If sole proprietorship, name and address of owner;
  - (8) Description of make, color, vehicle identification or factory number, the seating capacity, vehicle owner's name and address, and license number of every vehicle to be used as a taxicab; and
  - (9) A statement that the applicant has not been convicted of an offense listed under Section 126-2(a).
- (b) The application shall include a sworn statement by the applicant that all information provided in the application is true and correct and shall further state that the applicant has conducted the annual background check and annual driving history check required by this Chapter on each Driver authorized to operate a Taxicab on their behalf.
  - (c) Each application shall be accompanied by a nonrefundable permit fee of \$50.00 per vehicle to defray the expense of carrying out the provisions of this article.

**Sec. 126-78. Insurance policy.**

- (a) Any applicant for vehicle for hire licensing under this article shall, before the permit can be issued, deliver to the City Secretary a certificate of insurance reflecting insurance coverage as herein prescribed. Said applicant shall keep in full force and effect during the term of the taxicab service permit a policy of public liability insurance, issued by an insurance company fully authorized to do business in this state and performable in this county, ensuring the public against any loss or damage that may result to any person or property from the operation of such vehicle or vehicles. Insurance shall be in the following minimum amounts:
  - (1) General liability insurance in the amount of combined single limit of \$500,000.00 per occurrence, with an aggregate amount of \$1,000,000.00, covering property damage, bodily injury and personal injury; to secure payment of all lawful and proper claims arising out of the operations of the vehicle for hire service authorized hereunder. This section applies only to vehicle for hire services that have a fixed base of operation, such as an office or terminal, that is visited by customers to secure services.
  - (2) Automobile insurance in at least the minimum amounts by state law, as well as personal injury protection coverage in the amount of \$5,000.00.
- (b) The permit holder shall continually maintain insurance coverage during the term of the permit. If the insurance lapses, is cancelled, or is non-renewed and evidence of new insurance is not provided before the cancellation date, the permit shall be automatically revoked.

**Sec. 126-79. Issuance of permit.**

The City Secretary shall issue to each applicant a taxicab service permit for each vehicle upon the filing of written proof of insurance as required herein and upon a determination that all requirements of this article have been met. The taxicab service permit shall expire at the end of the calendar year, unless it is a new permit issued after September 30, in which case it is valid through the end of the next year. The taxicab service permit shall state the period for which it is valid; that said vehicle is a taxicab; the make of the vehicle, the vehicle identification number, and the current permit number.

**Sec. 126-80. Posting of permit; lettering on vehicle; exception; nontransferability of permit; fee.**

- (a) The taxicab service permit issued by the City Secretary shall be posted by the applicant within the vehicle in a conspicuous place, and it shall be unlawful to fail to do so.
- (b) Such vehicle shall have displayed on both front doors the name under which it is operated, and its designation as a taxicab, in lettering of not less than two and one-half (2½) inches in height.

- (c) No taxicab service permit shall be used for any other vehicle unless previously approved in writing by the Chief of Police or his or her designee. The Chief of Police or his or her designee may, at the request of a permittee, transfer a permit to a different vehicle owned by the same person provided all evidence of the old permit and lettering is removed from the old vehicle and such vehicle is no longer being used as a taxicab. A new permit for the substituted vehicle may be issued by the City Secretary upon recommendation by the Chief of Police or his or her designee after all ordinance requirements have been met. The City Secretary shall make an entry of such transfer of permit in the official permit records. A nonrefundable transfer fee of \$10.00 per vehicle shall be collected by the City Secretary to defray the costs of transferring the permit.

**Sec. 126-81. Revocation or suspension of taxicab service operator's permit.**

- (a) The Chief of Police is hereby authorized and empowered to revoke or suspend any permit issued hereunder upon his or her finding that any taxicab service operator has willfully violated any of the provisions of this article. Such revocation or suspension shall take effect upon delivery of written notice thereof to the taxicab service operator, with such delivery being made in person or by certified mail through the United States Postal Service; provided, however, that the taxicab service operator shall have the right to appeal to the City Manager or his or her designee from any such action of the Chief of Police by delivering such appeal to the City Secretary, with a copy delivered to the Chief of Police, not more than five (5) business days after the action appealed from. In the event the taxicab service operator shall fail to deliver such notice to the City Secretary within the time prescribed, the action of the Chief of Police in revoking or suspending the permit shall be final. If the taxicab service operator timely delivers the notice to the City Secretary, the City Manager or his or her designee shall hear the appeal not more than twenty (20) business days after the filing of the notice of appeal with the City Secretary.
- (b) A permit shall be revoked or suspended by the City Manager or his or her designee upon the verification of any of the following:
  - (1) The taxicab service operator has been finally convicted of an offense that would bar that person from being a Driver under Section 126-2(a);
  - (2) The permit was obtained by an application in which any material fact was intentionally omitted or falsely stated;
  - (3) The taxicab service operator has persisted in the operation of motor vehicles in violation of any law;
  - (4) The taxicab service operator has violated or failed to comply with any of the provisions hereof or any policies or rules set out pursuant to this article;
  - (5) The taxicab service operator has charged, or allowed to be charged, rates in excess of the posted rate;
  - (6) The taxicab service operator has allowed its insurance to be cancelled, withdrawn, terminated, or to fall below the minimum prescribed in this article; or
  - (7) The taxicab service operator has allowed any driver to drive taxicabs in violation of Section 126-2.

**Secs. 126-82 - 126-133. Reserved.**

**Sec. 126-134. Display of Rates and Fares.**

- (a) Rates and fares charged for passengers of the taxicab shall be posted in a conspicuous place on the inside of each taxicab for passengers in the front and back seats as well as on the outside of the taxicab. All rates and fares shall be posted, including flat rates, metered rates, and additional fees.
- (b) It shall be unlawful for a taxicab driver to refuse to convey a passenger at, or to demand payment in excess of, the specified rate displayed as required by this section. Unsolicited tips from the passenger shall not be considered a violation of this section.



**Sec. 126-135. Refusal to give receipt.**

It shall be unlawful for a taxicab driver upon full payment of the fare, to refuse to give a receipt to the passenger having paid said fare.

**Sec. 126-136. Records, Audit, and Driver Information.**

- (a) **Records and Books.** Each taxicab service operator shall maintain:
  - (1) Individual trip records of Riders for at least one (1) year from the date each trip was provided; and
  - (2) Individual records of taxicab drivers at least until the one (1) year anniversary of the date on which a taxicab driver's relationship with the permit holder has ended.
- (b) **Audit.** The taxicab service operator shall permit the City to conduct an audit and examine a reasonable sample of books and records relating to its performance of its obligations under this ordinance 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 taxicab driver information from the taxicab service operator in emergency situations where a person is in danger of bodily injury, serious bodily injury or death. The taxicab service operator 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 taxicab service operator must respond either verbally or in writing within twenty-four (24) hours.

**Secs. 126-137 - 126-153. Reserved.**

4.

Chapter 126 "Vehicles for Hire"; Article V "Pedicabs" is amended as follows:

**Sec. 126-175. Definitions.**

In this Article:

*Pedicab* means a chauffeured tricycle that transports passengers for hire where passengers occupy seats attached to a trailer, sidecar, or similar device.

**Sec. 126-176. Permit required.**

It is unlawful to drive or operate a pedicab within the City unless the pedicab has a valid service permit issued under this article.

**Sec. 126-177. Pedicab designated areas.**

Pedicabs may only operate in areas as specified in their City issued permit.

**Sec. 126-178. Display of rates.**

Each pedicab operated within the City must prominently display, in a frame covered with clear plastic or Plexiglas covering, a card or sign, printed in plain, legible letters and numbers, which must state whether gratuities or donations are accepted, and contain the schedule of rates for the transportation services furnished by the driver, and the name and work address of both the owner and the driver of the pedicab. No driver of any pedicab may charge a fee that is not so posted.

**Sec. 126-179. Passenger restrictions.**

Pedicabs may not be operated transporting more than the manufacturer-recommended maximum number of passengers.

**Sec. 126-180. Service permit requirements for pedicabs.**

- (a) Permit applications must be made on the form provided by the City and accompanied with the \$50.00 per vehicle application fee. Applications must be filed on or before December 1 of each calendar year.
- (b) Before a permit is issued, the applicant must provide:
  - (1) A sworn statement by the applicant that all information provided in the application is true and correct and shall further state that the applicant has conducted the annual background check required by this Chapter on each Driver authorized to operate a pedicab on their behalf. The application shall further include a sworn statement that the applicant has not been convicted of an offense listed under Section 126-2(a).
  - (2) A certificate of insurance reflecting insurance coverage as herein prescribed. The applicant shall keep in full force and effect during the term of the permit a policy of commercial general liability insurance issued by an insurance company fully authorized to do business in this state in the amount of a combined single limit of not less than \$500,000.00 per occurrence, with an aggregate limit of not less than \$1,000,000.00, covering property damage, bodily injury, and personal injury. If the insurance coverage lapses, is cancelled, or is non-renewed and evidence of new insurance is not provided before the cancellation date, the permit shall be automatically revoked.
- (c) Each pedicab permitted by City must post the City issued permit and a schedule of rates in a conspicuous location where the passengers may see the contents.

**Sec. 126-181. Equipment requirements of pedicabs.**

- (a) Permits will not be issued or renewed for any pedicabs that are not equipped with the following:
  - (1) A headlight capable of emitting a light at a distance of 500 feet or greater, as delegated by the Texas Transportation Code Sec. 551.104;
  - (2) Two (2) properly functioning and operating taillights;
  - (3) Properly functioning and operating turn signals;
  - (4) Rear and side reflective devices;
  - (5) A properly functioning and operating braking system;
  - (6) A properly functioning and operating horn;
  - (7) A rearview mirror;
  - (8) Sufficient rubber and treading on all wheels;
  - (9) A slow moving vehicle emblem;
  - (10) Seatbelts installed by the pedicab manufacturer; and
  - (11) A sign on the body of the pedicab stating that name under which the pedicab is operated. The name must be in letters not less than two and one-half (2 ½) inches in height and five-sixteenths (5/16) of one (1) inch in width, and must be a solid color that contrasts with the background.
- (b) It is unlawful for any person to drive or operate a pedicab in the City that does not meet the requirements of this section.

**Sec. 126-182. Modification of permit conditions.**

The City Secretary must be informed of any modifications or changes to the pedicab, or permit holder for each pedicab or any other operational changes prior to implementation of the change, excluding any changes to fares. Failure to do so may result in the revocation of the pedicab permit.

**Sec. 126-183. Transferability of permit.**

The City Secretary, or his or her designee may, at the request of a permittee, transfer a permit to a different pedicab owned by the same person, provided all evidence of the old permit and lettering is removed from the old pedicab, making the pedicab decommissioned and no longer operable as a pedicab within the City. A new permit for the substituted pedicab may be issued by the City Secretary after all ordinance requirements have been met. The City Secretary will make an entry of the transfer of permit in the official permit records. A nonrefundable transfer fee of \$10.00 per pedicab will be collected by the City Secretary to defray the administrative costs of transferring the permit.

**Sec. 126-184. Revocation or suspension of permit.**

The Chief of Police may revoke or suspend a permit for any of the following reasons:

- (1) The permittee provided false information on the application;
- (2) The permittee failed to maintain the minimum insurance required under this article;
- (3) The permittee has been convicted of a felony or crime of moral turpitude;
- (4) The permittee has allowed the pedicab to become damaged, deteriorated or unclean to the extent it is unsatisfactory for public use; or
- (5) The permittee has violated any of the prohibitions listed in this article.

**Sec. 126-185. Appeal of suspension or revocation of permit.**

A permittee has the right to appeal a suspension or revocation to the City Manager or his or her designee by submitting a written appeal to the City Secretary, with a copy to the Chief of Police, not more than five (5) business days after the effective date of the denial or revocation. The City Manager or his or her designee will hear the appeal and issue a written finding not more than twenty (20) business days after the notice was delivered to the City Secretary.

**Sec. 126-186. Operation of pedicabs.**

- (a) When traveling on roadways with multiple lanes, a pedicab driver must travel in the right lane unless the destination requires otherwise.
- (b) Pedicabs may not operate on sidewalks or other pedestrian designated areas.
- (c) Pedicabs may not travel on roadways with a speed limit greater than thirty (30) miles per hour.
- (d) Pedicabs may not stand or park on public roadways for longer than it is necessary to load or unload passengers. All loading of passengers from a roadway must be from a curb lane.
- (e) A pedicab Drivers may not disrupt pedestrian traffic, and must obey all traffic laws enforced within the State of Texas and the City of Bryan, Texas.
- (f) A pedicab Driver must be at least sixteen (16) years of age and possess a valid motor vehicle driver's license.

**Sec. 126-187. Property left in pedicab; disposition.**

Any property left in a pedicab by a passenger will be promptly delivered to the police department. The police department will record the receipt of the items and keep all such items until claimed by the owner, or as the City Manager may authorize in accordance with State law requirements regarding the disposition of abandoned property.

**Secs. 126-188 - 126-190. Reserved.**

5.

Chapter 126 "Vehicles for Hire" is amended to add Article VI "Transportation Network Companies" which reads as follows:

**ARTICLE VI. - TRANSPORTATION NETWORK COMPANIES**

**Sec. 126-191. Definitions.**

For the purposes of this Article, the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

*Abnormal Market Disruptions* shall 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.

*Digital Network* shall mean an online-enabled application, software, website, or system offered or used by a TNC that enables a TNC Rider to request a Prearranged Ride from a TNC driver.

*Operation of a TNC Vehicle* shall mean when a TNC Driver is in the process of offering vehicle for hire services under this Article, including any time the driver is logged onto the Digital Network showing that the TNC Driver is available to pick up Riders; when the driver has accepted a request for transportation received through the Digital Network and is enroute to pick up a Rider, as well as when a driver is transporting a TNC rider.

*Prearranged Ride* shall mean transportation provided by a TNC Driver to a TNC Rider, beginning when a TNC Driver accepts a ride requested by a Rider through a Digital Network controlled by the TNC and ending when the last requesting rider departs from a Driver's vehicle. The term does not include:

- (1) Vehicles being operated by or for a governmental entity;
- (2) Ambulances operated under state law;
- (3) Limousines;
- (4) Courtesy vehicles operated as an accessory to some other service (e.g. transportation to or from the airport to hotels, motels, parking lots, or car rental agencies); or
- (5) Taxicab service operators.

*Transportation Network Company or TNC* shall mean any person, partnership, corporation, or other business entity operating in this state that enables TNC Riders to request a prearranged ride, and enables TNC Drivers to accept those fares, over a Digital Network. The term does not include:

- (1) Vehicles being operated by or for a governmental entity;
- (2) Ambulances operated under state law;
- (3) Limousines;
- (4) Courtesy vehicles operated as an accessory to some other service (e.g. transportation to or from the airport to hotels, motels, parking lots, or car rental agencies); or
- (5) Taxicab service operators.

*TNC Driver* shall mean a person who is authorized by the TNC to provide vehicle for hire services, i.e. prearranged rides, via the TNC's Digital Network.

*TNC Rider or Rider* shall mean an individual who uses a TNC's Digital Network to connect with a TNC Driver who provides a Prearranged Ride between points chosen by the individual.

*TNC Service or service* shall mean transportation of a TNC Rider between points chosen by the Rider and prearranged with a TNC Driver through the use of a TNC Digital Network, beginning when the TNC Driver accepts a request for a Prearranged Ride through the Digital Network, through the transportation of the Rider, and ending when the Rider exits the TNC vehicle.

## **126-192. Transportation Network Company Permit.**

- (a) **TNC Permit Required.** It shall be unlawful for any person to operate a TNC vehicle 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. A TNC shall not be deemed to control, direct, or manage the TNC vehicles, except where agreed to by written contract.
- (b) **TNC Permit Application.**
- (1) **Application Requirements.** Application for TNC Permit within the City shall be filed with the City Secretary on a form provided by the City and must provide the following information:
- TNC name, TNC owner's name, and TNC permit applicant's name, if different.
  - TNC physical address, mailing and URL addresses, TNC applicant or owner telephone numbers and email addresses.
  - Proof of current valid insurance coverage required by Texas law.
  - A general description of the mobile or electronic means and methodology used to charge passengers for TNC services.
  - The name and address of a registered agent for service of process in the State of Texas.
- (2) **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 has conducted the annual criminal background check and driving history check required by this Chapter on all TNC Drivers before allowing them to accept trip requests through the TNC's Digital Network. The application must also include a sworn statement that the Applicant has not been convicted of an offense listed under Section 126-2(a).
- (3) **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:
- \$300.00 for ten (10) or fewer Drivers.
  - \$600.00 for eleven (11) to forty (40) Drivers.
  - \$900.00 for forty-one (41) to seventy (70) Drivers.
  - \$1,200.00 for seventy-one (71) or more Drivers.

### **126-193. TNC Driver Requirements.**

- (a) Before a TNC permits a person to operate as TNC Driver on its Digital Network, the TNC shall:
- Require the person to submit relevant information to the TNC including their address, age, driver's license, driving history, motor vehicle registration, and automobile liability insurance, and other information required by the TNC.
  - Conduct, or have a reliable third party conduct, the criminal background check and driving history check required by this Chapter.
- (b) The TNC shall not permit a person to operate as a TNC Driver on its Digital Network who:
- Does not possess a valid driver's license.
  - Does not possess proof of valid registration and inspection for the motor vehicle(s) used to provide TNC services.
  - Does not possess proof of current valid automobile liability insurance as required by Texas law for the motor vehicle(s) used to provide TNC services.
  - Is not at least nineteen (19) years of age.

- (c) **Deactivating Drivers.** A TNC shall immediately deactivate the Driver's ability to access the Digital Network if a driver is involved in violations of this ordinance, criminal conduct or otherwise becomes ineligible to operate as a TNC Driver by not meeting the above requirements.

#### **126-194. Insurance Requirements.**

All TNC Permit Holders and Drivers 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.

#### **126-195. Issuance of TNC Permit, Term, and Renewal.**

- (a) **Issuing Permit.** The Applicant must submit the Permit Fee and application to the City Secretary. The City Secretary shall issue a TNC Permit stating the TNC's name, address, term and permit number if the City Secretary finds the permit application requirements are reasonably satisfied. If the City Secretary determines any of the application requirements are not met then the application must be denied. The TNC Applicant may reapply to the City Secretary and submit an additional fee with new information for consideration.
- (b) **Term.** The Permit will be issued for the period beginning the date of the issuance and will expire at the end of the calendar year it is issued, unless the permit is obtained after September 30<sup>th</sup>, in which case it is valid through the end of the following calendar year. The Permit shall identify the expiration date.

#### **126-196. Display of Rates and Fares.**

- (a) **Disclosed Amounts On Digital Network.** The TNC must disclose rates and other charges or fees on its internet enabled application or Digital Network in a manner readily accessible to Riders before the service is provided. The TNC may not allow TNC Drivers to charge or collect a rate higher than the one specified on the internet enabled application or Digital Network. It is a violation of this ordinance for a TNC driver to utilize the Rider's mobile device to accept a ride on a Rider's behalf.
- (b) **Dynamic Pricing.** Dynamic pricing is defined as a surge in cost that is in response to sharp increase in demand for TNC services. If a TNC uses dynamic pricing to maximize the supply of available TNC drivers on the network to match the demand for Prearranged Rides and increase reliability, the software application must:
  - (1) Provide clear and visible indication that dynamic pricing is in effect before a Prearranged Ride is requested.
  - (2) Include a feature requiring Riders to confirm understanding that dynamic pricing will be applied for their Prearranged Ride.
  - (3) Provide a fare estimator enabling the Rider to estimate dynamic pricing cost before requesting the Prearranged Ride.
  - (4) Dynamic pricing is prohibited during Abnormal Market Disruptions.

#### **126-197. TNC Operating Requirements.**

- (a) **Identifying Information.** The TNC Digital Network shall display to a Rider after a Prearranged Ride is accepted by a Driver the following information:
  - (1) An accurate picture of the TNC Driver including readable text stating the Driver's first name.
  - (2) A picture or description of the vehicle including the color, make, and model of the vehicle, and the vehicle license plate number.

- (b) **Receipt and Contact Information.** Riders must be able to request receipts via email or other electronic format providing:
  - (1) The origin and destination of the trip.
  - (2) The total time and distance of the trip.
  - (3) An itemization of the total fare paid.
  - (4) Access to contact information for the TNC's customer service team or liaison.
- (c) **Request for Service.** All requests for service must be placed and accepted only through the internet-enabled application or Digital Network or website.
- (d) **Route.** Drivers must take the most direct, expeditious and safe route, unless specifically requested by the Rider.
- (e) **Loading or Unloading.** It shall be the duty of each Driver to pull the TNC Vehicle lawfully to the curb when loading or unloading Riders.
- (f) **No Cash Payments.** Any payment for TNC services must be made using the TNC's Digital Network. No cash may be exchanged for TNC services. The TNC shall adopt a policy prohibiting solicitation or acceptance of cash payments from Riders and notify TNC Drivers of such policy. TNC Drivers will not solicit or accept cash payments from Riders as payment for TNC services.
- (g) **Overcrowding.** A TNC Driver shall not allow Overcrowding of the TNC vehicle.
- (h) **Non-discrimination and Accessibility.**
  - (1) A TNC and TNC Drivers shall comply with all applicable laws concerning non-discrimination and accessibility.
  - (2) TNC Drivers shall comply with all applicable laws relating to accommodation of service animals.
  - (3) A TNC shall not impose additional charges for providing services to persons with physical disabilities because of those disabilities.
  - (4) A TNC shall provide transportation to military or police canines accompanying their handlers. The TNC shall not impose additional charges for providing transportation for said canines.
- (i) **Records, Audit, and Driver Information.**
  - (1) **Records and Books.** Each TNC shall maintain:
    - a. Individual trip records of Riders for at least one (1) year from the date each trip was provided; and
    - b. Individual records of TNC Drivers at least until the one (1) year anniversary of the date on which a TNC Driver's access with the TNC has been deactivated.
  - (2) **Audit.** The TNC shall permit the City to conduct an audit and examine a reasonable sample of books and records relating to the TNC's performance of its obligations under this ordinance 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.
  - (3) **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.

- (4) **Other Criminal Cases.** In other criminal cases not involving emergency situations law enforcement will provide a warrant or subpoena for the information and the TNC must respond either verbally or in writing within twenty four (24) hours.
- (j) **Conduct of Drivers.** At all times TNC Drivers must act in a reasonable, prudent, and courteous manner. Drivers may not inhale, inject, or consume any alcoholic beverage, drug, or other substance adversely affecting his or her ability to operate a motor vehicle.
- (k) **Property left in Vehicle.** Any property left in a TNC Vehicle by a Rider will be promptly delivered to the police department. The police department will record the receipt of the items and keep all such items until claimed by the owner, or as the City Manager may authorize in accordance with State law requirements regarding the disposition of abandoned property. This section does not apply if the TNC employs an alternative method of returning the property to the Rider.

#### **126-198. Revocation or Suspension of Permit.**

- (a) The Chief of Police may revoke or suspend a TNC Permit if he or she finds that:
  - (1) There is a pattern or practice of TNC vehicles being operated in violation of the requirements of this Chapter.
  - (2) The TNC has failed to obtain or maintain the insurance required by State law.
  - (3) The permit was procured by fraudulent conduct, a false statement of a material fact, or a failure to disclose a material fact.
  - (4) If the TNC fails to deactivate a TNC Driver's access to the Digital Network as required by this Article.
- (b) A suspension or revocation is effective upon delivery of written notice thereof to the TNC via certified mail, return receipt requested, or personal delivery.
- (c) The TNC may appeal the decision of the Chief of Police by filing with the City Secretary, copying the Chief of Police, within five (5) business days of receipt of the written notice, a request for an appeal to the City Manager. Any action not timely appealed in this manner becomes final. If an appeal is timely filed, the City Manager, or his or her designee, shall hear an appeal not more than twenty (20) business days after the notice of appeal was filed.

#### **126-199. Offenses.**

- (a) It shall be unlawful for any TNC Driver to provide contact information to Riders, or potential Riders, in order to bypass the Digital Network, unless the Driver is operating a taxicab pursuant to a valid permit issued by the City.
- (b) It shall be unlawful for any person, Driver or operator or Permit Holder to violate any part of this ordinance.
- (c) It shall be unlawful for a person to be a TNC Driver within the City if the TNC does not have a permit, except that it shall be permissible for a TNC Driver permitted in another city to drop off a Rider within the City, if the Prearranged Ride originated outside the City.
- (d) A violation of this Article shall be punishable in accordance with Section 1-14 of the City of Bryan Code of Ordinances.

#### **6.**

All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.



7.

The Code of the City of Bryan, Texas, as amended, shall remain in full force and effect, save and except as amended by this Ordinance.

8.

Should any section, paragraph, sentence, clause, phrase or word of this ordinance be declared unconstitutional or invalid for any purpose by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby and to this end the provisions of this Ordinance are declared to be severable.

9.

It is the intention of the City Council that this Ordinance shall become a part of the Code of the City of Bryan, Texas, and it may be renumbered and codified therein accordingly.

10.

That the City Secretary is directed to publish this ordinance in a newspaper of general circulation in the City of Bryan in compliance with the provisions of the City Charter, which publication shall be sufficient if it contains the title of this ordinance, the penalty provided therein for violation thereof, and the effective date of the ordinance.

11.

A person who violates any section of this Ordinance is guilty of a misdemeanor and upon conviction is punishable in accordance with Section 1-14 of the City of Bryan Code.

12.

It is hereby found and determined that the meetings at which this ordinance was passed were open to the public, as required by Section 551.001 et seq., Texas Government Code, and that advance public notice of time, place and purpose of said meetings was given.

13.

This Ordinance will be effective from and after its final passage and publication as required by law. The effective date of this Ordinance will be the 15th day of April, 2016.

**PRESENTED AND GIVEN** first reading the 22nd day of March, 2016, at a regular meeting of the City Council of the City of Bryan, Texas; and given a second reading, passed and approved on the 12th day of April, 2016, by a vote of \_\_\_\_\_ yeses and \_\_\_\_\_ noes at a regular meeting of the City Council of the City of Bryan, Texas.

**CITY OF BRYAN**

**ATTEST:**

\_\_\_\_\_  
Jason P. Bienski, Mayor

\_\_\_\_\_  
Mary Lynne Stratta, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Janis K. Hampton, City Attorney