JK
03/05/15
Item No. 4

AN ORDINANCE 2015-03-05-0152

AMENDING ARTICLE I. GENERAL PROVISIONS AND ARTICLE IX. TRANSPORTATION NETWORK COMPANIES TO CHAPTER 33 OF THE CITY CODE OF SAN ANTONIO TO REVISE THE PROCEDURES FOR THE OPERATION OF TRANSPORTATION NETWORK VEHICLES, RE-ADOPTING THE EXISTING PENALTIES FOR VIOLATIONS AND ADDING ONE INSPECTOR POSITION TO THE SAN ANTONIO POLICE DEPARTMENT GROUND TRANSPORTATION UNIT

* * * * *

WHEREAS, vehicle for hire services allow people to visit the City of San Antonio for business and for pleasure, and enhance the enjoyment and experiences of those who visit by allowing access to the different areas of the City; and

WHEREAS, vehicle for hire services are likewise convenient and necessary for many residents of the City of San Antonio for business and pleasure, and for essential personal and family needs including food and medical care; and

WHEREAS, after careful consideration, the City Council has determined that it is in the best interest of the citizens of the City of San Antonio to modify certain provisions that apply to Chapter 33 of the City Code of San Antonio, Texas (City Code) to provide for the operation by transportation network companies and re-adopt the existing penalties of San Antonio, Texas (City Code) for violations; and

WHEREAS, the existing personnel of the San Antonio Police Department Ground Transportation Unit will not be able to conduct inspections and audits of transportation network companies, drivers and vehicles, making it necessary to add one inspector position to this unit; and

WHEREAS, in order to accomplish such revisions, it is necessary to modify Chapter 33 of the City Code, Vehicles for Hire, in Articles I and IX; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. City Code Chapter 33, Article I, Sec. 33-003, the definitions for "drivers permit," "ground transportation service," "transportation network company," and "vehicle permit" are hereby amended; Sec. 33-015(h) is hereby added; Sec. 33-018(c) is hereby amended; and, Sec. 33-045 is hereby amended, as stated in Attachment A, and Article IX is hereby amended in its entirety, and will be replaced by Article IX as stated in Attachment B, both of which attachments are incorporated herein in their entirety.

SECTION 2. The remainder of City Code Chapter 33 shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 3. Funds generated by this ordinance from transportation network company operating permit fees will be deposited into Fund 11001000, Internal Order 217000000009 and General Ledger 4202300.

SECTION 4. The amount of $34,866.00 is appropriated for this ordinance for one inspector position in the San Antonio Police Department Ground Transportation Unit and the Fiscal Year 2015 Budget is amended to reflect this change as per the table below.

Amount	General Ledger	Cost Center	Fund
$13,671.00	5101010	1706080001	11001000
$1,046.00	5103005	1706080001	11001000
$14.00	5103010	1706080001	11001000
$1,474.00	5105010	1706080001	11001000
$7,440.00	5170040	1706080001	11001000
$1,056.00	5170100	1706080001	11001000
$125.00	5302010	1706080001	11001000
$500.00	5304005	1706080001	11001000
$3,589.00	5403543	1706080001	11001000
$1,252.00	5403510	1706080001	11001000
$700.00	5403010	1703080001	11001000
$2,499.00	5501000	1703080001	11001000
$1,500.00	5501065	1703100001	11001000
Total Amt $34,866.00			

SECTION 5. The financial allocations in this ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 6. Should any portion of this ordinance for any reason be held illegal, inoperative, invalid, unconstitutional or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted or ordained without the portion held to be illegal, inoperative, invalid, unconstitutional or ineffective.

SECTION 7. The publishers of the City Code of San Antonio, Texas are authorized to amend said Code to reflect the changes adopted herein, to correct typographical errors and to format and number paragraphs to conform to the existing Code.

SECTION 8. The City Clerk of the City of San Antonio is hereby directed to publish notice of this Ordinance as required by Section 17 of the Charter of the City of San Antonio and the laws of the State of Texas.

JK
03/05/15
Item No. 4

SECTION 9. This ordinance shall take effect April 1, 2015.

PASSED and APPROVED this 5th day of March, 2015.

M A Y O R
Ivy R. Taylor

ATTEST:

Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

Martha G. Sepeda, Acting City Attorney

ATTACHMENT A

ARTICLE I. GENERAL PROVISIONS

DIVISION 1. GENERAL PROCEDURES

Sec. 33-003. Definitions.

Drivers permit shall mean a photo I.D. card issued to an individual by the director which verifies that the individual has met all city requirements and is qualified to operate a vehicle for hire in the city, except for transportation network companies this term shall mean an authorization issued pursuant to sec. 33-985. For transportation network companies, a drivers permit is a prerequisite to the issuance of a drivers identification.

Ground transportation service shall mean a service which utilizes or connects individuals with vehicles for hire in the transportation of passengers from within the city and which includes, but is not limited to, horse-drawn carriage service, limousine service, pedicab service, tour service, charter service, taxicab service and transportation network companies.

Transportation network company (TNC) shall mean a person that uses an internet enabled application or digital platform to send or transmit an electronic, radio or telephonic communication through the use of a portable or handheld device, monitor, smartphone or other electronic device to connect passengers with transportation network drivers for transportation network operations.

Vehicle permit shall mean the city decal affixed to a vehicle for hire which evidences the holder's authority to operate said vehicle pursuant to the holder's operating permit. Transportation network companies shall issue the decal following verification by the TNC that the vehicle has met all city requirements under this chapter and the rules established by the director, which allows the vehicle to be operated for hire in the city. TNCs may issue this permit in an electronic format that can be displayed by the driver, and the expiration date of the permit will be determined by the date of the yearly inspection made by the TNC.

DIVISION 2. OPERATING AUTHORITY

Sec. 33-015. Amount of bond.

Except as otherwise provided by the holder's operating permit, every license/permit bond required by this division shall be in an amount fixed by the following schedule:

(a) If the holder is authorized to operate five vehicles for hire or less, then the bond shall be in the sum of $1,500;

(b) If the holder is authorized to operate at least 6 but not more than 10 vehicles for hire, then the bond shall be in the sum of $3,000;

(c) If the holder is authorized to operate at least 11 but not more than 15 vehicles for hire, then the bond shall be in the sum of $4,500;

(d) If the holder is authorized to operate at least 16 but not more than 25 vehicles for hire, than the bond shall be in the sum of $6,000;

(e) If the holder is authorized to operate at least 26 but not more than 50 vehicles for hire, then the bond shall be in the sum of $7,500;

(f) If the holder is authorized to operate at least 51 but not more than 100 vehicles for hire, then the bond shall be in the sum of $11,200; and

(g) If the holder is authorized to operate more than one hundred 100 vehicles for hire, then the bond shall be in the sum of $15,000.

(h) If the holder is a TNC, then the bond shall be in the sum of $15,000.

Sec. 33-018. Insurance requirements generally.

(a) Prior to commencement of operations pursuant to this chapter the holder shall produce and furnish to the director, and thereafter keep in full force and effect, a policy of public liability and property damage insurance. Such policy of insurance shall be in the amount hereafter specified in this chapter and shall be subject to approval by the city risk manager. Every such policy shall insure all the vehicles used by the holder in the vehicle for hire service authorized in the operating permit. Such policy shall inure to the benefit of any person who shall be injured or who shall sustain property damage as a result of the negligence of the holder or his servants or agents. The insurer shall be obligated to pay all final judgments which may be rendered on behalf of the public for injury or damage resulting to persons or property from the negligent operation of the holder's ground transportation service.

(b) Every policy of insurance shall be issued by an insurance company with a minimum A.M. Best rating of B+ and authorized to do business in Texas.

(c) Failure to procure and keep in full force and effect an insurance policy from a company that has an A.M. Best rating of B+ or above, or an A.M. Best rating of A- or above if the holder is a TNC, and that meets the minimum amount of insurance requirements under this chapter shall result in the suspension of the holder's operating permits.

DIVISION 4. DRIVERS PERMIT

Sec. 33-045. License file to be kept

A driver's permit file shall be kept and maintained, in a location determined by the director, of all persons to whom such permit have been issued. A TNC shall maintain such file in its offices.

ARTICLE IX. Transportation Network Companies

Sec. 33-982. Scope of instant article.

(a) Holders of permits to operate TNCs, transportation network vehicles and drivers of transportation network vehicles shall be governed by the provisions of Articles I and IX of this chapter, except the following sections in Article I shall not apply to transportation network companies:

(1) Sec. 33-007;

(2) Sec. 33-009;

(3) Sec. 33-018(b);

(4) Sec. 33.029(b)(2), (f)(3);

(5) Sec. 33.041(a)-(d);

(6) Sec. 33.044;

(7) Sec. 33.046;

(8) Sec. 33.048 – 33.049;

(9) Sec. 33.055 – 33.056;

(10) Sec. 33.062;

(11) Sec. 33.063(c); and,

(12) Sec. 33.067.

(b) To the extent there is a conflict between a provision in Article IX and another provision in Chapter 33, the provision in Article IX takes precedence to the extent of the conflict.

Sec. 33-983. Application for transportation network company operating permit.

To obtain an operating permit or renewal of an operating permit for a TNC, a person shall submit an application to the director in the manner prescribed by this section. The applicant must be the person who will own or operate the proposed ground transportation service or the chief officer. An applicant shall file with the director a written, sworn application containing the following:

(a) The form of business of the applicant; if the business is a corporation or association, a copy of the documents establishing the business and the name, address and citizenship of each officer with a direct interest in the business. Notice of any change in an applicant's form of business shall be provided to the director within ten business days of the change;

(b) The name, street address, phone number and verified signature of the applicant and of the applicant's proposed business; an applicant shall notify the director, in writing, of any change in the foregoing within ten business days of the change;

(c) A representation of whether the applicant is a citizen of the United States of America by birth or naturalization, or if alien, evidence of the applicant's legal residence in the United States and of the applicant's legal right to engage in employment herein;

(d) An identification and description of any revocation or suspension of an operating permit held by the applicant or the applicant's business which occurred prior to the date of filing the application;

(e) The estimated number of vehicles to be used by the drivers affiliated with the applicant in the operation of the proposed ground transportation network operation;

(f) As required by the rules and regulations established by the director, a general description of the vehicles of the drivers affiliated with the applicant proposes to use in providing ground transportation services;

(g) A description of the operations of the proposed ground transportation service and the location of any fixed facilities to be used in the operation;

(h) A management plan including:

(1) A procedure outlining the handling of complaints;

(2) A drivers training program submitted to the director for approval. The drivers training program must contain;

a. Customer service;

b. Company orientation;

c. Chapter 33;

d. Rules and regulations established by the director;

e. Local sights and location orientation;

f. Any other training outlined in the rules and regulations established by the director, which may be required of all applicants, when the director has determined that such additional training is in the best interests of the public; and

g. Airport operations, including the provisions of Article I, Division 8 of this Chapter, and Chapter 3, Article II, of this Code, and the rules and regulations established thereunder; and,

(3) Random drug testing, consistent with the provisions in sec. 33.029, which can include up to 10% of the drivers each year, as selected by the director; the director must be provided the name and drivers license number of every driver who fails a drug test, as determined by the testing laboratory.

(i) Documentation from an insurance company authorized by this chapter evidencing a willingness to provide, prior to commencement of the proposed service, the insurance required by this chapter;

(j) Documentation evidencing timely payment of all city, state, and federal taxes, fees and assessments, if any, which have been levied on the business and property to be used in connection with the proposed service;

(k) Written documentation authorizing the release to the city of any and all information which an organization or entity may have concerning the applicant and a release to said organization or entity from all liability which may result from the furnishing of such to the city; and

(l) Such additional information as the applicant desires to include to aid in the determination of whether the requested operating authority should be granted.

(m) The director will review the application and shall approve or deny the applicant. The director's consideration, and the appeal of any permit denial, shall follow the procedures and standards of secs. 33-008 and 33-010.

Sec. 33-984. Grant of operating permit; service requirements.

Upon approval of an application for an operating permit by the director, and the execution of a permit agreement pursuant thereto, the director shall promptly issue the operating permit. This permit agreement shall be for a period of 24 months from the date it becomes effective. The director may allow for automatic renewal for an additional period not to exceed 24 months, as provided in the rules and regulations.

Sec. 33-985. Application for a driver's permit; qualifications; issuance and denial.

(a) A TNC may not allow a person who does not have a current and valid drivers permit to operate a vehicle for hire. If a TNC wants to hire a person without a drivers permit, or provide for the renewal of a drivers permit that is about to expire, the TNC is responsible for assisting such person in obtaining a drivers permit. The TNC shall conduct an investigation at no expense to the city concerning the character, experience and qualifications of the applicant to determine whether or not the applicant is fit, willing and able to operate a vehicle for hire in a manner consistent with the general welfare of the

public and in accordance with the requirements of this chapter, rules and regulations established by the director, and all other applicable laws, rules and regulations.

(b) The TNC shall confirm, and obtain and maintain evidence for submission to the city, upon request pursuant to sec. 33-986, that at the time the TNC submits the application to the city, the proposed driver:

(1) Is 18 years of age or older;

(2) Is a citizen of the United States of America by birth or naturalization, or if an alien, submit evidence of legal residence in the United States and legal right to engage in employment herein;

(3) Possesses a valid Texas driver's license required for the class of vehicle to be operated by the applicant as required by secs. 521.081 and 521.082 of the Transportation Code, possesses an active Department of Defense ID card and a current and valid driver's license from another state, or is a student and possesses a valid driver's license issued by any state or territory of the United States;

(4) Has executed an authorization in writing for the release by the city to the TNC of any and all information which the city may have concerning the proposed driver, including but not limited to criminal history information, and a release of the city from all liability which may result from the furnishing of such to the TNC;

(5) Has executed an authorization in writing for the release to the city by the TNC of any and all information, without limitation, which the TNC may have concerning the proposed driver, and a release of the TNC and the city from all liability which may result from the furnishing of such by the TNC;

(6) Has provided documentation that the driver has a personal automobile policy in the minimum amount required by state law; and,

(7) Has been subjected to a criminal background check by an entity that has been nationally accredited and does not have either a mandatory disqualification, or a disqualification that is discretionary by the director under secs. 33-010(c) and (d), and 33-041(e) and (f).

(c) In issuing a drivers identification, the TNC:

(1) Has confirmed that such driver meets the qualifications under this section; and,

(2) Shall provide the director with the driver's full name and date of birth within 24 hours of when the driver first accepts a ride request.

(d) An applicant shall pay for and comply with the requirements for a criminal history background check, as approved by the director.

(1) If an applicant is qualified under subsection (b) (7), the applicant is qualified for a conditional drivers permit, and may be issued a drivers identification by the TNC.

(2) Such conditional permit shall expire unless the applicant within 14 days of taking his or her first ride on the system submits his or her fingerprints as described in this subsection, during normal business hours at a location designated by the director, for a criminal history as required by this subsection. If a location designated by the director cannot process an applicant's fingerprints due to no fault of the applicant, the applicant shall submit fingerprints as soon as is reasonably possible.

a. An applicant must notify the TNC following the submission of fingerprints. The failure of an applicant to submit fingerprints and provide notice of the submission to the TNC as required by this section shall result in the immediate suspension of the applicant's driver's permit. This suspension shall remain in effect until the applicant complies with this requirement.

b. Upon receipt, the director shall review the criminal history record, following the procedures and standards of sec. 33-041(e) – (j) to approve or deny the application. If the director determines the applicant is not qualified, the director shall notify the TNC and the applicant, and the conditional drivers permit shall be revoked.

(3) If an applicant is disqualified under subsection (b) (7), an applicant may submit his/her fingerprints, and upon receipt the director shall review the criminal history record, following the procedures and standards of sec. 33-041(e) – (j).

(e) The director's consideration, and the appeal of any permit denial, shall follow the procedures and standards of this section and sec. 33-041(a), (e)–(j).

Sec. 33-986. Information and data to be kept and maintained three years; records to be made available for inspection.

Each TNC shall maintain at the business office information and data on the TNC's ground transportation service business and operations, including the following specific requirements:

(a) Accurate records, reports, receipts, driver manifests and other operating information and data as may be required by the director shall be kept and maintained in the business office;

(b) Upon request by the director, every TNC shall submit to the director such information and data as the director determines is reasonably necessary to evaluate the TNC's compliance with the provisions of Chapter 33 or to investigate complaints related

to public safety or violations of this chapter; submission of the information and data shall be no later than the tenth business day following the request by the director;

(c) Every TNC shall submit to the director reports on all accidents and collisions arising from or in connection with the operation of transportation network vehicles using the TNC's platform; reports shall be submitted within 48 hours from the time of such occurrence on a form or report approved by the director;

(d) All records required under this chapter shall be maintained for a period of three years from the date the record was first created or the information was obtained by the TNC;

(e) Any records provided to the director by a TNC based upon a request of the director or the requirements of this article shall be considered confidential, proprietary information of the submitting TNC, and shall not be released unless required by law. A TNC shall not have a cause of action if records are released in violation of this provision. For purposes of the Texas Public Information Act, a TNC may label any such information as proprietary prior to release to the director; and,

(f) Every TNC shall maintain a registered agent in the State of Texas for receipt of notices under this chapter and service of process.

Sec. 33-987. Vehicle safety requirements and inspections.

(a) The city may by ordinance, rule or regulation, including vehicle inspection guidelines, establish safety requirements for a vehicle for hire used by a TNC.

(b) The TNC shall:

(1) require each vehicle to be used by a driver on its digital platform to be inspected prior to operation and yearly thereafter by an A.S.E. certified mechanic in accordance with established inspection guidelines and standards of the city; and,

(2) require each vehicle to have a current and valid state registration.

(c) The director may inspect a driver's identification and conduct a visual inspection of a vehicle for hire at any time which the director determines to be reasonable and necessary for enforcement of compliance with the provisions of this chapter and all other applicable rules, regulations and laws. A TNC shall request a driver to make a vehicle for hire available for inspection when ordered by the city. If a driver fails to make a vehicle for hire available for inspection when so ordered, the director shall notify the TNC and said vehicle shall be immediately suspended from service until the vehicle has successfully passed the required city inspection.

(d) If a driver makes a vehicle for hire available for inspection when so ordered, and if the director determines that said vehicle is in violation of any of the provisions of this chapter or other applicable rules, regulations and laws, then the director shall issue a

correction order or vehicle inspection report to said TNC and driver as provided by Sec. 33-070 of this chapter.

(e) If the director has cause to believe there is any safety issue with a vehicle, the director may require a driver to produce a vehicle for a comprehensive inspection.

(f) The TNC and driver shall have ten days from the date of the director's decision to immediately remove a vehicle from service or from the date of receipt of a correction order, to request a hearing before the director, in writing and addressed to the director, and to present to the director any additional information, including inspection reports from mechanics retained by the TNC or driver, which may aid the director in his determination whether to affirm or reverse the director's initial determination.

Sec. 33-988. Display of driver's identification.

A driver shall at all times keep his/her company issued drivers identification in the driver's possession and shall allow a passenger, the director, a peace officer, and any other person authorized to enforce the provisions of this chapter, to examine said permit upon request.

Sec. 33-989. Insurance.

(a) For all periods when a driver is logged into a TNC's internet enabled application or digital platform, or is otherwise engaged in transportation network operations, including but not limited to when waiting for a dispatch, enroute to pick up a passenger, and while providing transportation to a passenger, insurance shall be maintained by the TNC, the driver through a policy specifically designed to cover for a TNC or a combination of both, including the following specific requirements:

(1) General liability insurance and automobile liability insurance, insuring the general public against any loss or damage that may result to any person or property from the operation of the vehicles covered by the permit and securing payment through this policy of any final judgment or settlement of any claim against the applicant, its drivers and employees of the TNC resulting from any occurrence arising out of or caused by the operation of a transportation network vehicle.

(2) The insurance policy requested in this section shall be available to cover claims as specified in this section regardless of whether a driver maintains insurance adequate to cover any portion of the claim and shall be maintained and available for viewing on the TNC's internet enabled application and website.

(3) The insurance shall provide at least the following minimum coverage:

a. During the period that a driver is logged into the TNC's internet-enabled application or digital platform as a driver, or is otherwise engaged in transportation network operations, but has not accepted a ride and is not providing transportation to a passenger, primary coverage in the

amounts of not less than: death and bodily injury coverage of $50,000 per person; death and bodily injury coverage of $100,000 per accident; and property damage coverage of $25,000 per accident.

b. During the period from the time a driver accepts a trip request through completion of the trip, primary insurance in an amount of not less than $1,000,000 per occurrence for bodily injury, personal injury and property damage. In addition, the policy must provide not less than $1,000,000 in uninsured/underinsured motorist coverage, and comprehensive and collision protection up to the actual value of the transportation network vehicle, up to an amount of $50,000.

(4) This requirement may be satisfied by a surplus lines insurance policy that is issued by a company licensed in the United Sates and registered with the Texas Department of Insurance, which has a minimum A.M. Best rating of A-.

(b) Drivers shall have and maintain in force and effect a personal automobile insurance policy in an amount of not less than the minimum required by state law.

(c) Coverage under the insurance required by subsection (a) shall not be dependent on a personal automobile policy first denying a claim, nor shall a personal automobile insurance policy be required to first deny a claim.

(d) If the insurance maintained by a driver as required under subsection (a) has lapsed or ceased to exist, the TNC shall provide the coverage required by subsection (a) beginning with the first dollar of a claim.

(e) In the event of a collision involving a transportation network vehicle, the driver shall provide to any authorized law enforcement officer and any driver or person involved in the collision, proof of the insurance policies required under this article.

(f) In a claims coverage investigation, TNCs and drivers shall cooperate with a claimant, a claimant's insurance company and legal representative, and a liability insurer that also insures the transportation network vehicle, including providing the relevant dates and times during which an incident occurred that involved the driver, and the relevant dates and times while the driver was logged into a TNC's digital network.

Sec. 33-990. Additional operating requirements.

(a) It shall be the duty of each driver to pull his transportation network vehicle to the curb when loading or unloading passengers, however, drivers may not use stands or loading zones to pick up or discharge any passenger.

(b) The TNC's internet enabled application or digital platform accessed by potential passengers shall display for the potential passenger: a picture of the driver and a picture and/or description of the transportation network vehicle the driver is approved to use, including the license plate number of the transportation network vehicle.

(c) Upon request a driver shall display to the director, or other person authorized to enforce this chapter, a physical or electronic record of a ride in progress sufficient to establish that it was a prearranged transportation service. To the extent that trip records are contained on an electronic device, a driver is not required to relinquish custody of the device in order to make the required display but must demonstrate to the director or other person authorized to enforce this chapter that the driver has in his possession proof of that the ride in progress is the result of a prearranged transportation service.

(d) Any terms or conditions in the agreement between the TNC and driver, or between the driver and any passenger, that would act as a waiver of the TNC's liability to the passenger or to the public, are declared to be contrary to public policy, null, void and unenforceable.

(e) It shall be unlawful for any TNC permitted, licensed, or authorized by another jurisdiction to initiate transportation network service within the corporate boundaries of the city without a permit issued pursuant to this article; provided however, a transportation network vehicle operated by a driver affiliated with a TNC permitted, licensed, or authorized by or in another jurisdiction may come into the city to discharge a passenger whose trip originated outside of the city.

(f) No TNC shall own, lease or provide financing for the ownership or leasing of any transportation network vehicle.

(g) No transportation network driver shall pick up or discharge a passenger on any portion of San Antonio International Airport (SAT) or Stinson Airfield (SSF) without proper authorization pursuant to Chapter 3, Article II of this Code, including payment of any fees.

(h) A TNC may allow a driver to be logged into the TNC's internet-enabled application or digital platform as a driver, or to otherwise engage in transportation network operations for a period not to exceed 14 hours, and to transport passengers for a period not to exceed 12 hours, following eight consecutive hours off duty.

(i) Every TNC, prior to beginning transportation network operation, shall provide the director with the ability to access the TNC's publicly available rider software application for the purpose of requesting service from TNC vehicles in order to conduct vehicle inspections and audits. Upon request of the director or his designee, a TNC shall dispatch a driver for inspection and audit. This access shall be on a device approved by the director or on a device provided by the TNC Company that meets the requirements of the director. Any access or equipment needed to meet the above requirements shall be at no cost to the City. TNC drivers that deny a request for inspection or audit from the director shall be removed from service until the TNC vehicle inspection and audit has been conducted.

(j) Transportation network vehicles shall be removed from service when the vehicle is over eight years of age, calculated from January 1st of the vehicle's model year.

(k) Transportation network vehicles shall be registered in the State of Texas unless the driver is in active duty for the United States armed forces, is a dependent of a person who is in active duty for the United States armed forces or is a full-time student in the State of Texas, in which case the vehicle may be registered in the state or territory of the person who is in active duty for the United States armed forces or the state or territory of the student's permanent residence.

(l) The requirement for post accident testing under Sec. 33-029(f)(1) only applies to a TNC driver who at the time of the accident was logged into a TNC's internet-enabled application or digital platform as a driver, or was otherwise engaging in transportation network operations.

Sec. 33-991. Number of vehicles for hire authorized.

There is no limit to the number of transportation network vehicles authorized under this chapter.

Sec. 33-992. Driver as an independent contractor.

(a) A TNC may contract with a driver on an independent contractor basis if and only if:

(1) The contract provides that the TNC must notify the driver that under Texas law the city has no liability to the driver, the TNC or others for all claims and/or causes of action, of every kind and character, against the city arising from the acts or inactions of the driver;

(2) The contract provides that the driver being contracted with is insured under the insurance policy as required by this chapter;

(3) The contract imposes a condition that the driver must comply with the requirements of this chapter, rules and regulations established by the director, rules and regulations established by the city's director of aviation and all other applicable rules, regulations and laws, and that failure to comply may be considered by the TNC as a material breach of the contract; and

(b) A TNC that continues to contract with a driver who repeatedly violates Chapter 33 may face revocation or suspension of the TNC's permit under Article I, Division 3, revocation /suspension of permits.

Sec. 33-993. Rate of fares.

(a) The amount of a TNC's fares is not regulated under this chapter, and may vary as determined by the TNC.

(b) TNC fares must be calculated based on both time and distance; the use of a flat rate or hourly rate is prohibited.

(c) The TNC shall disclose to passengers the fare calculation method on its website or within the software application service.

(d) 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 driver's vehicle.

Sec. 33-994. Acceptance of Passengers.

(a) TNCs and drivers may only provide vehicle for hire services through the TNC's internet enabled application or digital platform. Drivers may not pick up passengers by any other method, including street hails.

(b) TNCs and drivers must operate on an "on demand" basis and are prohibited from operating on a pre-arranged or pre-sold basis.

Sec. 33-995. Receipt.

(a) Upon completion of a ride, a TNC shall transmit to the passenger who arranged for the transportation an electronic receipt, either by email or text message, documenting: the point of origin and destination of the ride; the total duration and distance of the ride; the total fare paid including the base fare and any additional charges incurred for distance traveled or duration of the ride; and, the driver's first name.

(b) The TNC shall make available on either the mobile application or the receipt provided to the passenger the contact information for the TNC's customer service provider, including a phone number or e-mail address.

Sec. 33-996. Notice to prospective drivers.

(a) A TNC shall make the following disclosure to a prospective driver in the driver's terms of service:

(1) "While operating on the transportation network company's digital network, your personal automobile insurance policy might not afford any coverage, depending on the policy's terms"; and

(2) "If the vehicle that you plan to use to provide transportation network company services for our transportation network company has a lien against it, you must notify the lienholder that you will be using the vehicle for transportation services that may violate the terms of your contract with the lienholder."

(b) The disclosure under subsection (a) must be placed prominently in the prospective driver's written terms of service, and the prospective driver must acknowledge the terms of service electronically or by signature.

Sec. 33-997. Fees.

(a) The following annual TNC operating permit fees are hereby established for TNCs, based upon the number of permitted drivers:

(1) 1-10 drivers . . . $625

(2) 11-50 drivers . . . $3,125

(3) 51-100 drivers . . . $6,250

(4) 101-300 drivers . . . $18,750

(5) over 300 . . . $25,000

(b) All fees are due upon request of service and are non-refundable.

(c) Permits are not transferrable.

(d) TNC city-wide operating permit fees shall be paid to the city quarterly, starting on January 1st and ending on December 31st of each year.

(e) Fees shall be paid in full prior to commencement of transportation network operation.

(f) Re-inspection fees and Inspection re-scheduling fees shall be paid prior to the conduction of inspections or re-inspections.

Sec. 33-998. Violations, penalties and impoundment.

(a) A person shall not knowingly operate, allow to be operated, or cause to be operated a TNC or transportation network operation as defined in Sec. 33-003 of this chapter, without a current and valid operating permit issued under this chapter.

(b) A person shall not operate, allow to be operated, or cause to be operated, a transportation network vehicle or engage in transportation network operations as defined in Sec. 33-003 of this chapter, without a current and valid permit.

(c) A person shall not operate, allow to be operated, or cause to be operated, a transportation network vehicle or engage in transportation network operations as defined in Sec. 33-003 of this chapter, without a current and valid drivers permit or drivers identification.

(d) It shall be a violation for a person to forge, alter, deface or counterfeit a vehicle permit, or to have in his possession any vehicle permit which has been forged, altered, defaced or counterfeited.

(e) A person shall only accept payment utilizing a TNCs platform. At no time shall a person accept cash, check or other forms of payment.

(f) A person shall only accept customers from a TNC's platform and shall not accept, offer to transport, or solicit a customer.

(g) A TNC shall not operate a ground transportation service other than for the type of service for which an operating permit has been granted.

(h) A person who violates a provision of this article or who fails to perform an act required of the person by this article commits a Class C Misdemeanor offense.

(i) A person commits a separate offense for each and every violation, and for each day during which a violation is committed, permitted, or continued.

(j) An offense committed under this chapter is punishable by a fine of not more than $500.

(k) A culpable mental state is not required for the commission of an offense under this chapter and need not be proved.

(l) The penalties provided for in this chapter are in addition to any other remedies that the city may have under city ordinances and state law.

(m) The police department shall seize and impound any vehicle when probable cause exists to believe that such vehicle is engaging in transportation network operations without the required operating or vehicle permit, or without the required drivers permit, in violation of this chapter. Vehicles seized in accordance with this subsection shall be removed to a designated secured facility. Probable cause shall mean the existence of a reasonable ground to believe that facts exist to justify the impoundment of the vehicle.

(n) The police department shall seize and impound any electronic radio or data communication device possessed or used by a driver, when probable cause exists to believe that such communication device is being used in transportation network operations without the required operating or vehicle permit, or without the required drivers permit, in violation of this chapter. An electronic, radio or data communication device seized in accordance with this subsection shall be removed to a designated secured facility. Probable cause shall mean the existence of a reasonable ground to believe that facts exist to justify the impoundment of the communication device.

(o) Upon impoundment, the procedures stated in Sec. 33-074 shall be followed.

Sec. 33-999. Revocation and suspension of operating permits for driver and vehicle violations.

(a) An operating permit may be suspended by the director for violations of Chapter 33 found by the director during any type of audit of records maintained by and vehicles operated by a TNC.

(b) For the purposes of this section, the violations must occur within a one year period, and each vehicle and driver record shall constitute a separate violation, whether the violation was found on the same or different days.

(c) The period of the suspension **shall** be as follows:

(1) for the third violation, up to a 30 day suspension;

(2) for the fourth violation, up to a 90 day suspension; and

(3) for the fifth and subsequent violations, up to a one year suspension.

(d) An operating permit shall be suspended by the director if the TNC has been issued a criminal citation for a violation of Chapter 33, has received notice of the court appearance date through service upon a corporate representative, and fails to appear within ten days of the designated appearance date.