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Title: AN ORDINANCE AMENDING TITLE 34, TRANSPORTATION, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, BY ADDING A NEW CHAPTER 4, TO ESTABLISH REGULATIONS FOR COMPANIES AND DRIVERS THAT USE DIGITAL NETWORK OR SOFTWARE APPLICATIONS (TRANSPORTATION NETWORK COMPANY) TO MATCH PASSENGERS WITH DRIVERS.

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AN ORDINANCE AMENDING TITLE 34, TRANSPORTATION, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, BY ADDING A NEW CHAPTER 4, TO ESTABLISH REGULATIONS FOR COMPANIES AND DRIVERS THAT USE DIGITAL NETWORK OR SOFTWARE APPLICATIONS (TRANSPORTATION NETWORK COMPANY) TO MATCH PASSENGERS WITH DRIVERS.

WHEREAS, Advances in Smartphone technology and the development of “Ridesharing” has led to the increased popularity, and reliance by consumers upon, digital network applications (Apps) that link consumers with non-professional drivers offering transportation in their own vehicle (referred to as Transportation Network Company); and

WHEREAS, there are now several Apps offering for-hire transportation in Essex County and the surrounding Newark area; and

WHEREAS, this growing industry is unregulated in New Jersey and there is presently no requirement that the non-professional drivers be licensed to drive a motor vehicle, have successfully completed drug testing, have passed background checks or that the vehicle being driven has been inspected, is insured and has met the State’s safety requirements; and

WHEREAS, there is significant, rising concern for the safety of the consumers who use these

Apps and participate in Ridesharing to engage the services of non-professional drivers in their personal vehicles; and

WHEREAS, N.J.S.A.40:48-1 empowers a municipality to enact Ordinances that will preserve the public peace, maintain order, protect the health, safety and welfare of the public; and

WHEREAS, the N.J.S.A. 40:52-1 empowers a municipality to license and regulate all vehicles used for the purpose of transportation of passengers, baggage, merchandise, and goods and chattels of every kind, and the owners and drivers of all such vehicles; and the places and premises in which or at which different kinds of businesses or occupations mentioned herein are carried on and conducted; and

WHEREAS, the Mayor and the Municipal Council of the City of Newark believe that in order to protect the health, safety, welfare and the best interests of the residents, businesses and visitors of the City of Newark, an Ordinance establishing regulations of Transportation Network Companies and drivers must be enacted.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

SECTION 1: Title 34, Transportation, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, be further amended by adding a new Chapter 4, Transportation Network Companies, as follows:

1. DEFINITIONS:

“Applicant” means a person who applies to a Transportation Network Company to be a transportation network driver.

"Department" means the City of Newark Department of Public Safety, Division of Police.

“Passenger” means a person who arranges transportation with a transportation network driver through a Transportation Network Company’s digital network or software application and who pays a fare based upon the transportation provided.

“Private passenger automobile” means an automobile required to be insured pursuant to the provisions of N.J.S.A. 39:6A-1 et seq. and/or insurance as may be required by State law.

“Transportation Network Company” or “Company” means an individual, corporation, partnership, sole proprietorship, or other entity that uses a digital network or software application to connect a passenger to a driver for the purpose of providing transportation to the passenger for profit

by the Transportation Network Company.

“Transportation Network Driver” or “Driver” means a person who operates a private passenger automobile to provide transportation to a passenger who requests transportation through a transportation network company’s digital network or software application which results in a fare being owed by the passenger.

“Transportation network vehicle” means a private passenger automobile used by a transportation network driver to provide transportation to a passenger and that has at least four doors, is designed to carry not more than eight passengers, including the driver.

2. TRANSPORTATION NETWORK COMPANY REGULATIONS - PERMITS AND LICENSES

The City of Newark Department of Public Safety, through the Police Division shall:

a. Issue to a Transportation Network Company a permit to allow for the lawful operation of a Transportation Network Company in the City of Newark upon receipt of the following information:

- (1) Proof of insurance as required pursuant to Sections 4 and 7 of this Ordinance;
- (2) Proof that the Transportation Network Company is licensed to conduct business in the State of New Jersey and City of Newark; and
- (3) Any other information the Department may require.

The Department may revoke the permit if the Transportation Network Company fails to comply with the provisions of this Ordinance.

b. Issue a transportation network license for Transportation Network Drivers upon receipt of proof from the Transportation Network Company that the Company has:

- (1) Verified that the transportation network driver has a valid driver’s license, vehicle registration, and automobile insurance as required pursuant to Subsection 4 and/or insurance as may be required by State law.
- (2) Conducted, through New Jersey State Police or other appropriate State agency, a driver license record check which did not reveal any disqualifying violations, as required pursuant to Subsections c. and d. of Section 3.
- (3) Conducted, through New Jersey State Police or other appropriate agency, a criminal history background check which did not reveal any disqualifying convictions, as required pursuant to Subsections e. and f. of Section 3; and
- (4) Conducted, either directly or by a third party, a safety inspection of the driver’s transportation network vehicle which met safety inspection standards, as required pursuant to

Subsections g. and h. of section 3.

c. Issue a license bearing the name, signature and photograph of the Driver. The license shall also contain the City permit number and bear the signature of the Police Chief.

3. TRANSPORTATION NETWORK COMPANY RESPONSIBILITIES, BUSINESS LICENSE, DRIVER BACKGROUND CHECK, VEHICLE AND EQUIPMENT SAFETY.

A Transportation Network Company shall not operate in the City of Newark unless the Company:

a. applies for, receives, and maintains a Business License issued by the Manager of the City of Newark's Finance Department, Division of Tax Abatement and Special Taxes;

b. (1) verifies that an applicant has a valid driver's license, vehicle registration, and private passenger automobile insurance; and

(2) annually verifies that a Transportation Network Driver has a valid driver's license, vehicle registration, and private passenger automobile insurance; and

c. (1) conducts, through New Jersey State Police or other appropriate State agency, a driver's license record check on an applicant; and

(2) once every three years, conducts, through New Jersey State Police or other appropriate State agency, a driver's license record check on a Transportation Network Driver; and

d. prohibits an applicant or driver from providing transportation to a passenger if the driver's license record check reveals any of the following violations:

(1) Reckless driving pursuant to R.S.39:4-96;

(2) Driving while intoxicated pursuant to R.S.39:4-50;

(3) Driving with a suspended or revoked license pursuant to R.S.39:5-30;

(4) A violation committed in any other state, territory, commonwealth, or other jurisdiction of the United States that is comparable to one of the violations enumerated in paragraphs (1), (2), or (3) of this Subsection; or

(5) Any other violation as determined by the Department;

e. (1) conducts, through New Jersey State Police or other appropriate State agency, a criminal history record background check on an applicant; and

(2) Once every three years, through New Jersey State Police or other appropriate State agency, a criminal history record background check on a Transportation Network Driver;

f. prohibits an applicant or driver from providing transportation to a passenger if the criminal history record background check reveals any of the following convictions:

(1) aggravated assault, arson, burglary, extortion, homicide, kidnapping, robbery, aggravated sexual assault, sexual assault or endangering the welfare of a child pursuant to N.J.S.2C:24-4, whether or not armed with or having in the applicant's or driver's possession any weapon enumerated in Subsection r. of N.J.S.2C:39-1, a crime pursuant to the provisions of N.J.S.2C:39-3, N.J.S.2C:39-4, or N.J.S.2C:39-9, or other than a disorderly persons or petty disorderly persons offense for the unlawful use, possession, or sale of a controlled dangerous substance as defined in N.J.S.2C:35-2;

(2) a conviction in a court of competent jurisdiction for a crime committed in any other State, territory, commonwealth, or other jurisdiction of the United States, which in that other jurisdiction is comparable to one of the crimes enumerated in paragraph (1) of this Subsection; or

(3) any other conviction as determined by the Department;

g. (1) conducts, either directly or by a third party, a safety inspection of a vehicle an applicant will use as a transportation network vehicle; and

(2) Once every other year, conducts either directly or by a third party, a safety inspection of a vehicle used by a Transportation Network Driver;

h. prohibits an applicant or driver from providing transportation to a passenger until an applicant's vehicle or a driver's transportation network vehicle passes a safety inspection, required pursuant to subsection g. of this Section, by meeting inspection standards established by the New Jersey Motor Vehicle Commission of the State of New Jersey, which inspection shall include, but need not be limited to, the following equipment:

- (1) foot brakes;
- (2) emergency brakes;
- (3) steering mechanism;
- (4) windshield;
- (5) rear window and other glass;
- (6) windshield wipers;
- (7) headlights;
- (8) tail lights;
- (9) turn indicator lights;
- (10) stop lights;
- (11) front seat adjustment mechanism;
- (12) doors;

- (13) horn;
- (14) speedometer;
- (15) bumpers;
- (16) muffler and exhaust system;
- (17) condition of the tires, including tread depth;
- (18) interior and exterior rear view mirrors; and
- (19) safety belts and air bags for driver and passengers;

i. (1) implements a drug and alcohol policy that prohibits being under the influence and the consumption of illegal drugs or alcohol by a transportation network driver while logged into the digital network or software application or while providing transportation to a passenger; and

(2) requires an applicant to be tested, at the applicant's expense, for a dangerous controlled substance as defined in N.J.S.2C:35-2.;

j. maintains a record demonstrating that the Transportation Network Company has met the requirements of this section and makes the record available to the Department upon request;

k. cooperates with, and facilitates the exchange of information between, the insurance company providing the Transportation Network Company the insurance required pursuant to this Ordinance and all other insurers involved in a claims coverage investigation of an occurrence while a transportation network driver is providing transportation to a passenger;

l. retains records, for at least one year, of each transportation network driver's use of a transportation network vehicle which records shall include:

(1) the date, time, and duration of time during which the transportation network driver logged on to the transportation network company's digital network or software application to indicate the transportation network driver's availability;

(2) the locations and mileage data associated with the transportation provided to each passenger, if available; and

(3) any claims for injury or property damage arising in connection with transportation provided to a passenger, including claims payments made, if applicable;

m. provides, upon request, the records retained pursuant to Subsection l. of this Section to the transportation network driver's private passenger automobile insurance for purposes of a claim investigation; and

n. provides the Department with any other information the Department may require pursuant to rule or regulation.

4. TRANSPORTATION NETWORK DRIVER RESTRICTIONS

A Transportation Network Driver shall not provide transportation to a passenger in the City of Newark unless:

- a. that person has been issued transportation network license to operate a transportation network vehicle as provided pursuant to Subsection b. of Section 2;
- b. that person maintains in the transportation network vehicle proof of the person's private passenger automobile insurance issued pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.) and/or insurance as may be required by State law and proof of the Transportation Network Company's insurance policy required pursuant to subsection c. of section 7.

5. TRANSPORTATION NETWORK DRIVER - LIBERTY LICENSE

A Transportation Network Driver shall:

- a. Pay a fee of \$1,000.00 per year to be issued a Liberty License to operate in the City of Newark and be entitled to arrange for the transportation of passengers from Newark Liberty International Airport and/or Newark Penn Station. The Liberty License shall be valid for one year from date of issuance.
- b. While a transportation network driver is operating a transportation network vehicle, his/her Liberty License shall be displayed in an open and obvious place in the vehicle, may be worn by the Driver, and must be immediately available for review upon request by a passenger or law enforcement official
- c. Not arrange for the transportation of passengers from Newark Liberty International Airport or Newark Penn Station without first receiving a Liberty License from the Department.

6. TRANSPORTATION NETWORK COMPANY - RESTRICTIONS OF SERVICES AT NEWARK LIBERTY INTERNATIONAL AIRPORT AND/OR NEWARK PENN STATION

A Transportation Network Company shall only arrange for transportation from Newark Liberty International Airport and/or Newark Penn Station by Transportation Network Drivers who have a valid Liberty License issued by the City of Newark.

7. INSURANCE REQUIREMENTS

- a. A Transportation Network Company shall be required to obtain an insurance policy from an

insurance company duly licensed to transact business under the insurance laws of the State of New Jersey which:

- (1) from the moment a transportation network driver logs on to the transportation network company's digital network or software application until the moment the transportation network driver accepts a request to transport a passenger, and from the moment all passengers have exited the transportation network vehicle until the transportation network driver either accepts another request to transport another passenger on the digital network or software application or logs off the digital network or software application, whichever is later: provides coverage in an amount of not less than \$250,000.00 per incident involving a transportation network vehicle for liability, property damage, and uninsured and underinsured motorist coverage, and medical payments coverage in an amount not less than \$10,000.00 per person per incident involving a transportation network vehicle; and
- (2) from the moment a transportation network driver accepts a request to transport a passenger on the transportation network company's digital network or software application until the moment all passengers have exited the transportation network vehicle: provides coverage in an amount of not less than \$1,500,000.00 per incident involving a transportation network vehicle for liability, property damage, and uninsured and underinsured motorist coverage; and medical payments coverage in an amount not less than \$10,000.00 per person per incident involving a transportation network vehicle.

b. The coverage required pursuant to Subsection a. of this Section shall:

- (1) cover the transportation network vehicle, passengers, where applicable.

c. The transportation network company insurance policy maintained by a transportation network company as required by this Section, shall be in force and effect any time a transportation network driver is logged in to the transportation network company's digital network or software application and when a passenger is in a transportation network vehicle. A policy of private passenger automobile insurance shall not be deemed to be in force at any time a transportation network driver is logged in to the transportation network company's digital network or software application or when a passenger is in a transportation network vehicle.

8. EXPIRATION DATE OF TRANSPORTATION NETWORK LICENSE; FEE; DISPLAY OF LICENSE:

- a. A transportation network license shall be valid for one year from the date of issuance.
- b. The fee for a transportation network license shall be \$500.00 dollars per year. This license allows the driver to pick-up passengers within the City of Newark, but excludes pick-up of passengers

at Newark Liberty International Airport and Newark Penn Station.

c. While a transportation network driver is operating a transportation network vehicle, his/her Transportation Network License shall be displayed in an open and obvious place in the vehicle, may be worn by the Driver and must be immediately available for review upon request by a passenger or law enforcement official.

9. TRANSPORTATION NETWORK COMPANY PERMIT FEES; EXPIRATION OF PERMIT DATE.

a. Each Transportation Network Company Permit shall be valid for one year from the date of issuance.

b. No permit shall be issued or renewed unless the applicant therefor has paid an annual permit fee of \$3,000.00 for the privilege to engage in the Transportation Network Company business.

c. The permit fee shall be payable upon the presentation of the application and shall be returned less the sum of \$300.00 in the event such permit is not granted.

10. CONFLICTS OF LAW

Notwithstanding any law, rule, or regulation to the contrary:

a. A Transportation Network Company shall not be considered a taxicab association, taxicab, autocab or a for-hire vehicle owner.

11. PENALTIES

A Transportation Network Company which violates the provisions of this Ordinance or any rule or regulation adopted pursuant thereto, shall be subject to a civil penalty of \$1,000.00 for the first offense, per driver, and up to \$5,000.00 for each subsequent offense, per driver, to be collected in a civil action by a summary proceeding under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate, and distinct offense. The Superior Court and the Municipal Court shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.) pursuant to this Section.

SECTION 2: Any prior ordinances or parts thereof inconsistent herewith shall be amended and supplemented to conform to the provisions contained herein.

SECTION 3: If any part of this ordinance is declared unconstitutional or illegal, the remaining provisions shall continue in full force and effect.

SECTION 4: This Ordinance shall take effect upon the final passage and publication in accordance with the laws of the State of New Jersey.

STATEMENT

This ordinance amends and supplements Title 34, Transportation of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, by adding a new chapter, Chapter 4, Transportation Network Companies, to establish regulations for companies and drivers that use digital networks or software applications (Transportation Network Company) to match passengers with drivers.