

ORDINANCE 2017-07

AN ORDINANCE TO REGULATE TRANSPORTATION NETWORK COMPANIES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, AS FOLLOWS:

TRANSPORTATION NETWORK COMPANIES (TNC)

SECTION I: DEFINITIONS

The following terms when used in this ordinance shall have the meanings respectively ascribed to them by this Section, unless the context clearly indicates otherwise:

Business license: The license required by Section XV of this Ordinance to operate a business within the City.

City: The City of Daphne, Alabama

Inspector: A mechanic or garage certified by the National Institute for Automotive Service Excellence ("ASE").

Owner (or Operator): Any person engaged in the business of operating a Transportation Network Company ("TNC") Vehicle.

Parking: The standing of any TNC Vehicle longer than may be necessary to receive or discharge passengers whom the driver of such TNC Vehicle has been engaged to transport.

Transportation Network Company ("TNC"): Any corporation, partnership, sole proprietorship, or other entity licensed pursuant to Section XV of this Ordinance that uses a digital network or software application to connect passengers to TNC Services provided by TNC Drivers. The automobiles or other vehicles used to provide TNC Services are not taxicabs or other vehicles for hire for purposes of this Chapter.

Transportation Network Company ("TNC") Driver: Any individual who operates a motor driven or propelled vehicle that is:

- a. Owned, leased or otherwise authorized for use by the individual;
- b. Not classified as a taxicab or other vehicle for hire under this Chapter;
- c. Inspected and insured as required by Section XI, XIII and XV of this Ordinance; and
- d. Capable of carrying no more than six (6) passengers at the same time.

Transportation Network Company (“TNC”) License: A license, obtained by a TNC, to operate a TNC in the City.

Transportation Network Company (“TNC”) Permit: A permit, obtained by a TNC Driver, to operate a TNC Vehicle in the City.

Transportation Network Company (“TNC”) Services: Any transportation of a passenger between points chosen by the passenger and prearranged with a TNC Driver through the use of a TNC digital network or software application. TNC Services shall begin when a TNC Driver accepts a request for transportation received through the TNC’s digital network or software application service, continue while the TNC Driver transports the passenger in the TNC Driver’s automobile or other vehicle, and end when the passenger exits the TNC Driver’s vehicle. TNC Service is not taxicab or other vehicle for hire service for purposes of this Chapter.

Transportation Network Company (“TNC”) Vehicle: Any automobile or motor vehicle that is used by a TNC driver and is owned, leased, or otherwise authorized for use by the individual, and not classified as a taxicab or other vehicle for hire under this Ordinance.

SECTION II: LICENSE AND PERMIT REQUIRED FOR OPERATION

No person shall operate or drive a TNC vehicle without first being licensed and permitted as otherwise provided in this Ordinance.

SECTION III: TNC’S LICENSE A PREREQUISITE TO DRIVER’S PERMIT

No person shall be permitted to engage in the business of operating a TNC Vehicle in the City unless the TNC with which the TNC Driver is associated has a valid unrevoked license to operate a TNC in the City as provided in this Ordinance.

SECTION IV: TNC VEHICLE INSPECTION REPORT SHALL CONSTITUTE PERMIT

A complete, valid, unexpired TNC Vehicle Inspection Report with a “PASS” rating, a template of which is incorporated herein as Appendix A, shall constitute a TNC Driver’s permit to operate in the City.

SECTION V: TERMS AND CONDITIONS OF PERMIT

A permit to operate in the City by way of a valid TNC Vehicle Inspection Report with a “PASS” rating shall expire one year from the date signed by an Inspector. No TNC shall authorize any person to provide TNC Services in the City unless such driver has a valid, unexpired TNC Vehicle Inspection Report with a “PASS” rating.

SECTION VI: DRIVERS TO USE MOST DIRECT ROUTE

It shall be the duty of every driver of a TNC Vehicle permitted under this Ordinance to carry passengers to their destinations by the most direct route available unless otherwise directed by such passengers. However, TNC Drivers may rely upon turn-by-turn navigation software provided by a TNC or third-party application to determine the most direct route available.

SECTION VII: REFUSAL OF PASSENGERS

It shall be unlawful for any owner or person engaged in the operation of a TNC Vehicle as provided for by this Ordinance to refuse without sufficient cause to carry any passenger, including handicapped persons with registered service dogs, to any destination in the City as designated by the passenger, provided, however, that no person shall be required to carry any person who is intoxicated, disorderly, afflicted with a contagious disease, who refuses to request TNC Services using the TNC digital network or software application, or who for other good reason deemed adequate by a Court of competent jurisdiction shall be excluded.

SECTION VIII: MAINTAINING THE VEHICLE IN A CLEAN AND SANITARY CONDITION

It shall be the duty of every person operating a TNC Vehicle permitted under this Ordinance to keep and maintain the interior and exterior of the vehicle in a clean and sanitary condition at all times.

SECTION IX: REPORTS CONCERNING PASSENGERS

It shall be the duty of the owner, operator or dispatching office of the owner or operator of any TNC Vehicle, or any affiliated TNC Vehicle, permitted by this Ordinance, to keep a daily record of the following information:

- a. The time and place at which all passenger(s) engage the vehicle.
- b. The time and place at which such passenger(s) were delivered to their destination.
- c. The amount of the fare received.

It shall further be the duty of every owner or operator of every TNC Vehicle permitted under this Ordinance to preserve all reports required by this Section for not less than three (3) months and to exhibit the same to the City upon demand. The audit provisions of TNC in Section XV of this Ordinance shall satisfy the exhibition required of this paragraph.

SECTION X: FAILURE TO PAY

It shall be unlawful for any person to refuse to pay the driver of any TNC Vehicle, permitted under this Ordinance, the fixed rate for the services rendered. On the trial of any person for a violation of this Section, it may be shown in mitigation or justification of the offense

that the permitted vehicle did not post on the associated digital network or on-line enabled application service, if applicable, the schedule or rates to be charged as required by this Ordinance.

SECTION XI: INSPECTION OF VEHICLES

1. All TNC Vehicles operating pursuant to this Ordinance shall be inspected by a qualified Inspector using the TNC Vehicle Inspection Report incorporated herein as Appendix A and shall satisfy the requirements for inspections of TNC Vehicles as follows.
2. Each TNC Vehicle shall be in clean condition, free of foreign matter and offensive odors. There shall be no litter in the vehicle or trunk. The seats shall be kept clean and without holes or large wear spots. The vehicle shall contain a spare tire, a jack, sufficient trunk space (within reason) for a passenger's luggage, and functional means of communication for TNC Vehicles which shall serve as a means of communication between the company and the driver.
3. There shall be no tears or rust holes in the TNC Vehicle body. The paint shall not be peeling or in faded condition. No loose pieces such as fenders, bumpers, or trim shall be hanging from the vehicle body. There shall be no unrepaired body damage or any body condition which would create a safety problem or interfere with the operation of the vehicle.
4. The Daphne Police Department may conduct random safety inspections of TNC Vehicles permitted under this Ordinance at any time. A mechanic at the City Garage will complete all such mechanical inspections at the City's expense. Any law enforcement officer may perform non-mechanical inspections to ensure compliance with the requirements of this Ordinance.
5. If a vehicle fails to pass the requirements of an inspection, the Police Department shall issue the driver a correction slip, giving the driver fifteen (15) days within which to correct all listed deficiencies. If such deficiencies are not corrected and if a new TNC Vehicle Inspection Report with a "PASS" rating has not been obtained by the driver within said fifteen (15) day period, then such vehicle shall not be used to provide TNC Services thereafter until a new TNC Vehicle Inspection Report with a "PASS" rating has been obtained.

SECTION XII: SUSPENSION OR REVOCATION

1. Violations of any regulations under this Ordinance may be cause for suspension of the permit to operate a TNC Vehicle permitted under this Ordinance. The Police Chief or his designee may suspend a permit for cause. If any violations of any regulations pertaining to vehicles permitted under this Ordinance are deemed to be of such an emergency nature as to endanger public safety, the Police Department shall immediately suspend the permit for committing such violation.

2. Upon receipt of notification of suspension, the permittee within fifteen (15) days may submit a written request for a hearing to be held before the Daphne Public Safety Committee. The receipt of a written request by the Daphne Police Chief or his designee for a hearing within the prescribed time period shall stay the suspension pending final disposition unless it is determined by the Police Chief that it would endanger public safety to allow the permittee to continue operating.
3. A hearing shall be held at the next regularly scheduled Daphne Public Safety Committee Meeting provided that it is at least seven (7) days following the receipt of the hearing request. At the public hearing the permittee shall be provided an opportunity to speak to the Committee. The Public Safety Committee may require the Police Chief or his designee to appear at said meeting.
4. The Public Safety committee shall render a decision within ten (10) days from the date of said hearing.
5. The Daphne Police Department shall reinstate the permit upon written application after the period of suspension has elapsed and after the Police Department has determined that such permittee is in compliance with all the regulations pertaining to drivers under this Ordinance.
6. Any permit granted under this Ordinance may be revoked by the Daphne City Council at its discretion. At any time not less than thirty (30) days after written notice is issued to the permit holder that he or she may appear before the City Council and show cause why the permit shall not be revoked. Such notice shall be signed by the Police Chief or his designee or as may otherwise be directed by the Daphne City Council and may be served upon the permittee personally or by certified mail at the agent of record for the associated TNC. Any permit shall be deemed suspended upon initiation of revocation proceedings and shall remain suspended pending Daphne City Council's action on revocation.
7. Any permit granted under this Ordinance may be revoked by the Daphne City Council at its discretion at any time if the permit holder is convicted of operating a vehicle while in an intoxicated condition, transporting alcoholic beverages, or other crimes. Further, the Judge trying the permittee's case may order that said permittee's permit be revoked. It shall be the duty of the Police Chief or his designee to revoke such permit and notify all applicable departments and the associated TNC. Thereafter, if such person continues to operate a TNC Vehicle within the City then such person shall be guilty of a misdemeanor.

**SECTION XIII: INSURANCE REQUIREMENTS PERTAINING TO
TRANSPORTATION NETWORK COMPANY VEHICLES**

Transportation Network Companies and Transportation Network Company Drivers shall at all times maintain insurance coverage as set out in 2016 Ala. Acts 409.

SECTION XIV: PERMIT TO BE IN ADDITION TO BUSINESS LICENSE

The permit provided for by this Ordinance shall be separate and distinct and in addition to the business license required by the City for the operation of TNCs in the City.

SECTION XV: TRANSPORTATION NETWORK COMPANIES

1. Purpose/Authorization.

Transportation Network Services provide an alternate form of transportation for residents and visitors to the City. The purpose of this division is to authorize use of the City's rights-of-way by TNC Drivers in a manner that is safe, convenient and serves the public welfare.

2. TNC License Required.

- a. A TNC shall not operate in the City without first having obtained a license from the City. However, a TNC operating in the City as of the effective date of this Ordinance may continue to operate for a period of thirty (30) days following the effective date of this Ordinance to allow the TNC to obtain a license from the City pursuant to this Section and to allow the TNC's Drivers to obtain a permit as provided in this Ordinance.
- b. Applicants shall comply with the requirements of this Ordinance and pay an annual fee of \$500.00 due on January 1 through January 31 of each year without penalty in order to operate a TNC within the City.
- c. A TNC license is a privilege and not a right. A TNC shall be subject to suspension or revocation of its license for failing to comply with the requirements of this Ordinance.

3. Agent.

The TNC must at all times it operates in the municipal limits of the City or its police jurisdiction provide the City with current contact information including an agent to accept service of process in the State.

4. Fare Charged for Services.

On behalf of a TNC Driver, a TNC may charge a fare for the services provided to riders; provided that, if a fare is charged the TNC shall disclose to riders the fare or fare calculation method on its web-site or within the online-enabled application service. The TNC shall provide riders with the applicable rates being charged and provide riders the option to receive an estimated fare before riders decide to accept the services offered.

5. Identification of TNC Vehicles and Drivers.

The TNC's online-enabled application or website shall provide:

- a. the potential rider a photograph of the TNC Driver;
- b. the license plate number of the motor vehicle utilized for providing the TNC Service before the rider enters the TNC Driver's vehicle;
- c. All vehicles operating through a TNC shall have a sign not less than two (2) inches in height and of corresponding width on at least one door or window identifying the transportation network company or the associated digital platform, and color contrasted so as to be visible from a distance of at least twenty (20) feet. A magnet or other temporary sign shall satisfy this section if the height and width requirements are met.

6. Receipts.

Within a reasonable period of time following the completion of a trip, a TNC shall transmit a receipt to the passenger that lists:

- a. The origin and destination of the trip;
- b. The total time and distance of the trip; and
- c. An itemization of the total fare paid, if any.

7. Vehicle Inspection.

Within thirty (30) days after a TNC Driver first uses a vehicle to provide TNC Services, the vehicle used by a TNC Driver shall be inspected by a qualified Inspector licensed to do business and shall satisfy the requirements for inspections of TNC Vehicles set out in Section XI of this Ordinance, and said Inspector shall complete the TNC Vehicle Inspection Report incorporated herein as Appendix A.

8. TNC Driver Requirements.

Prior to permitting an individual to act as a TNC Driver on its digital platform, the TNC shall:

- a. Require the individual to submit an application to the TNC, which includes information regarding his or her address, age, driver's license, motor vehicle

registration, automobile liability insurance, and other information required by the TNC;

- b. Conduct, or have a third party conduct a local and national criminal background check for each applicant that shall include:
 1. Multi-state/multi-jurisdiction criminal records locator or other similar commercial nationwide database with validation (primary source search); and
 2. U. S. Department of Justice National Sex Offender Public Website.

The TNC shall not permit an individual to act as a TNC Driver on its digital platform who:

- a. Has had more than three (3) moving violations in the prior three (3) year period, or one (1) major violation in the prior three (3) year period (including, but not limited to, attempting to evade the police, reckless driving, or driving on a suspended or revoked license);
 - b. Has been convicted, within the past seven (7) years, of driving under the influence of drugs or alcohol, fraud, sexual offenses, use of a motor vehicle to commit a felony, a crime involving property damage, and/or theft, acts of violence, or a violation that constitutes a felony under the Anti-Terrorism Act of 2002, Ala. Code § 13A-10-150 et al.; or a similar felony under the laws of another jurisdiction;
 - c. Is a match in the U. S. Department of Justice National Sex Offender Public Website;
 - d. Does not possess a valid driver's license;
 - e. Does not possess proof of registration for the motor vehicle(s) used to provide TNC services;
 - f. Does not possess proof of automobile liability insurance for the motor vehicle(s) used to provide TNC Services; or
 - g. Is not at least nineteen (19) years of age.
9. No Street Hails.

A TNC Driver shall exclusively accept rides booked through a TNC's digital network or online-enabled application service and shall not solicit or accept street hails.

10. No Discrimination; Accessibility

- a. The TNC shall adopt a policy of non-discrimination on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, or sexual orientation with respect to passengers and potential passengers and notify TNC Drivers of such policy.
- b. TNC Drivers shall comply with all applicable laws regarding non-discrimination against passengers or potential passengers on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, or sexual orientation.
- c. TNC Drivers shall comply with all applicable laws relating to accommodation of service animals.
- d. A TNC shall not impose additional charges for providing services to persons with physical disabilities because of those disabilities.
- e. A TNC shall provide passengers an opportunity to indicate whether they require a wheelchair-accessible vehicle. If a TNC cannot arrange wheelchair accessible TNC Service in any instance, it shall direct the passenger to an alternate provider of wheelchair-accessible service, if available.

11. Records.

A TNC shall maintain:

- a. Individual trip records for at least two (2) years from the date each trip was provided;
- b. TNC driver records at least until the two (2) year anniversary of the date on which a TNC Driver's activation on the TNC digital network has ended; and
- c. When requested, and no more frequently than on a bi-annual basis, the TNC shall allow the City to visually inspect or audit the records of the TNC for purposes of verifying that the TNC is in compliance with the requirements of this ordinance including, but not limited to, vehicle inspections, proper completion of criminal background checks, and proper insurance. The audit shall take place at a mutually agreed locale in the City. The City does not assume any responsibility for the operations of the TNC, its drivers or any actions or omissions arising in connection with its activities, which, at all times, shall remain the responsibility of the TNC.

SECTION XVI: PARKING

No TNC Vehicles shall be permitted to park or stand on any street, alley or public place in the City at any hour of the day or night for a longer period of time than is actually necessary to receive or discharge passengers; provided, however, the City Council may designate stands for TNC Vehicles at such places as it may see fit.

SECTION XVII: PENALTIES

Any person who shall violate any of the provisions of this Ordinance, or who shall neglect to comply with any of the provisions of this Ordinance, shall for each offense, upon conviction, be punished by a fine of not less than fifty (\$50.00) nor more than Five Hundred Dollars (\$500.00), and may also be imprisoned in the City or County Jail for a period of no more than six (6) months, either or both.

SECTION XVIII: SEVERABILITY

The sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by a court of competent jurisdiction, then such ruling shall not affect any other paragraphs and sections, since the same would have been enacted by the City Council without the incorporation of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION XIX: EFFECTIVE DATE

This Ordinance shall take effect immediately upon its due adoption and publication as required by law.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA THIS THE 6TH DAY OF FEBRUARY, 2017.



DANE HAYGOOD, MAYOR

ATTEST:



REBECCA A. HAYES, CLERK

CITY OF DAPHNE, ALABAMA

ORDINANCE 2017-07

APPENDIX "A"

TNC VEHICLE INSPECTION REPORT

TNC Vehicle Inspection Report

TO BE COMPLETED BY TNC VEHICLE OPERATOR

FULL NAME

EMAIL ADDRESS

SIGNATURE

PHONE NUMBER

DATE

INSPECTION POINT	PASS	FAIL
1. STEERING		
a. Steering Arm	<input type="checkbox"/>	<input type="checkbox"/>
b. Tie rod-ends and draglink	<input type="checkbox"/>	<input type="checkbox"/>
c. Front springs, shackles and clamps	<input type="checkbox"/>	<input type="checkbox"/>
d. Sector to frame mounting	<input type="checkbox"/>	<input type="checkbox"/>
e. Steering free play	<input type="checkbox"/>	<input type="checkbox"/>
2. WHEELS		
a. Bearings	<input type="checkbox"/>	<input type="checkbox"/>
b. Lugs	<input type="checkbox"/>	<input type="checkbox"/>
3. TIRES		
a. Front Left (min depth 2/32)	<input type="checkbox"/>	<input type="checkbox"/>
b. Front Right (min depth 2/32)	<input type="checkbox"/>	<input type="checkbox"/>
c. Rear Left (min depth 2/32)	<input type="checkbox"/>	<input type="checkbox"/>
d. Rear Right (min depth 2/32)	<input type="checkbox"/>	<input type="checkbox"/>
4. BRAKES		
a. Master cylinder fluid level and leaks	<input type="checkbox"/>	<input type="checkbox"/>
b. Wheel cylinder	<input type="checkbox"/>	<input type="checkbox"/>
c. Brake hose and lines	<input type="checkbox"/>	<input type="checkbox"/>
d. Hydrovac and lines	<input type="checkbox"/>	<input type="checkbox"/>
e. Vacuum or air tanks	<input type="checkbox"/>	<input type="checkbox"/>
f. Parking brake	<input type="checkbox"/>	<input type="checkbox"/>
g. Vacuum or air gauge and buzzer or light	<input type="checkbox"/>	<input type="checkbox"/>
h. Brake pedal fade	<input type="checkbox"/>	<input type="checkbox"/>
i. Pedal pads	<input type="checkbox"/>	<input type="checkbox"/>
j. Adjustment	<input type="checkbox"/>	<input type="checkbox"/>
k. Brakes	<input type="checkbox"/>	<input type="checkbox"/>
5. LIGHTS		
a. Head	<input type="checkbox"/>	<input type="checkbox"/>
b. Clearance	<input type="checkbox"/>	<input type="checkbox"/>
c. Directional	<input type="checkbox"/>	<input type="checkbox"/>
d. Flashers	<input type="checkbox"/>	<input type="checkbox"/>
e. Brake stop and tail	<input type="checkbox"/>	<input type="checkbox"/>
f. Reflectors	<input type="checkbox"/>	<input type="checkbox"/>

INSPECTION POINT	PASS	FAIL
6. EXHAUST SYSTEM		
a. Exhaust manifold	<input type="checkbox"/>	<input type="checkbox"/>
b. Exhaust pipe	<input type="checkbox"/>	<input type="checkbox"/>
c. Muffler	<input type="checkbox"/>	<input type="checkbox"/>
d. Tail pipe	<input type="checkbox"/>	<input type="checkbox"/>
7. REAR END		
a. Springs, shackles and clamps	<input type="checkbox"/>	<input type="checkbox"/>
b. Leaks	<input type="checkbox"/>	<input type="checkbox"/>
c. Drive shaft guards	<input type="checkbox"/>	<input type="checkbox"/>
8. CLUTCH AND TRANSMISSION		
a. Adjustment	<input type="checkbox"/>	<input type="checkbox"/>
b. Release	<input type="checkbox"/>	<input type="checkbox"/>
9. BODY		
a. Seats securely fastened and in good condition	<input type="checkbox"/>	<input type="checkbox"/>
b. Broken glass in any window, and broken or cracked glass in any windshield which obstructs the driver's vision	<input type="checkbox"/>	<input type="checkbox"/>
c. Mirrors - left, right, and inside	<input type="checkbox"/>	<input type="checkbox"/>
d. Wipers	<input type="checkbox"/>	<input type="checkbox"/>
e. Windshield washer	<input type="checkbox"/>	<input type="checkbox"/>
f. Seals on pedal at cowl	<input type="checkbox"/>	<input type="checkbox"/>
g. Horn	<input type="checkbox"/>	<input type="checkbox"/>
h. Floor, sides and roof in good condition	<input type="checkbox"/>	<input type="checkbox"/>
i. Markings	<input type="checkbox"/>	<input type="checkbox"/>
j. Seatbelts (all factory installed)	<input type="checkbox"/>	<input type="checkbox"/>
k. Sun visor for driver	<input type="checkbox"/>	<input type="checkbox"/>
10. OTHER		
a. Any other condition which may prevent safe operation of this vehicle?	<input type="checkbox"/>	<input type="checkbox"/>

VEHICLE INSPECTION
(Please Circle)

PASS FAIL

(Must pass all inspection points to pass vehicle inspection)

TO BE COMPLETED BY INSPECTOR

COMPANY _____ VEHICLE MILEAGE _____

LICENSE PLATE STATE AND # _____ VIN# _____

VEHICLE MAKE _____ VEHICLE MODEL _____ MODEL YEAR _____ # OF DOORS _____

INSPECTOR NAME _____ INSPECTION ADDRESS _____

INSPECTOR SIGNATURE _____ DATE _____