

ORDINANCE NO. 2015-10-041

**ORDINANCE REGARDING TRANSPORTATION NETWORK COMPANIES;
AMENDING CHAPTER 6.54 AND ADOPTING A NEW CHAPTER 6.55 OF THE
BELLINGHAM MUNICIPAL CODE**

WHEREAS, Chapter 6.54 of the Bellingham Municipal Code regulates taxicabs and for-hire vehicle services in the City of Bellingham; and

WHEREAS, new technology-based companies, known as transportation network companies, offer a new model of commercial transportation service using online-enabled digital platforms to connect passengers with drivers using personal vehicles; and

WHEREAS, transportation network company services are sufficiently distinct from taxicabs and for-hire vehicle services as to warrant separate regulation; and

WHEREAS, the Bellingham City Council desires to amend Chapter 6.54 of the Bellingham Municipal Code, regarding Taxicabs and For-Hire Vehicles, and adopt a new Chapter 6.55 of the Bellingham Municipal Code in order to regulate the operations of transportation network companies in the City of Bellingham for the purpose of promoting the safety and welfare of the general public.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BELLINGHAM DOES
HEREBY ORDAIN THAT:**

Section 1

Section 6.54.020 of the Bellingham Municipal Code, regarding Taxicabs and For-Hire Vehicles, is amended as follows:

6.54.020 Definitions.

For the purpose of this chapter, the following definitions shall apply:

“Compensation” means any payment received by the driver of a vehicle for transportation of passengers, including, but not limited to, fares, salary, wages, gratuities, or donations.

“Driver” means a person who drives a taxicab or for-hire vehicle being used to convey passengers for compensation.

"For-hire vehicle" means a vehicle used for the transportation of passengers for compensation, except auto stages, school buses operating exclusively under a contract to a school district, ~~and~~ ride sharing vehicles, and transportation network company vehicles.

"Owner" means the legal entity, person, firm, association or corporation owning, managing or otherwise carrying on a business of conveying passengers for hire in taxicabs or for-hire vehicles.

"Taxicab" means a for-hire vehicle operated to a destination determined by the passenger, with the fare based upon the amount recorded and indicated on a taximeter.

"Taximeter" means a permanently mounted instrument or device by which the charge for hire of a taxicab is calculated either for distance traveled by the vehicle, or for waiting, or for both, and upon which such charges shall be indicated by means of dollars and cents.

Section 2

A new Chapter 6.55 is added to the Bellingham Municipal Code as follows:

6.55 Transportation Network Company Services

6.55.010 Purpose

The purpose of this chapter is to provide for and promote the safety and welfare of the general public and not to create or designate any particular class of persons who will or should be specially protected by its terms. Nothing contained in this chapter is intended nor shall be construed to create any liability on the part of the city or its employees for any injury or damage resulting from the failure of the licensee to comply with the provisions of this chapter, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this chapter on the part of the city or its employees.

6.55.020 Definitions

For the purpose of this chapter, the following definitions apply:

"Transportation network company" or "TNC" means an entity that uses a digital network to connect passengers to TNC drivers who use personal vehicles to transport passengers for compensation between geographical points chosen by the passenger.

"TNC driver" means an individual who uses a personal vehicle to provide transportation services arranged through a TNC's digital network.

"TNC vehicle" means a personal vehicle used by a TNC driver to provide transportation services arranged through a TNC's digital network.

"Operate a TNC in the City of Bellingham" means a TNC uses its digital network to connect a TNC driver to a passenger for a trip originating or terminating in the City of Bellingham.

"Operate as a TNC driver in the City of Bellingham" means a TNC driver accepts a trip request over a TNC's digital network that originates or terminates in the City of Bellingham.

"Person" means any natural person, sole proprietorship, partnership, corporation, limited liability company, or other entity.

"Approved mechanic" means a mechanic who is not employed by or associated with the TNC and who is certified by the National Institute of Automotive Service Excellence.

"Director" means the director of the City of Bellingham's finance department.

6.55.030 Bellingham business registration required

A. It is a violation of this chapter for any TNC to operate in the City of Bellingham without a current and valid Bellingham business registration.

B. It is a violation of this chapter for any TNC driver, who is an independent contractor affiliated with a TNC, to operate in the City of Bellingham without a current and valid Bellingham business registration.

6.55.040 TNC license required

A. It is a violation of this chapter for any TNC to operate in the City of Bellingham without a current and valid City of Bellingham TNC license.

B. The director may issue a TNC license provided that the TNC applicant submits an affidavit sworn under penalty of perjury, on a form provided by the City, that to the best of the applicant's knowledge, formed after a diligent inquiry into the facts, the TNC and its affiliated TNC drivers are in full compliance with this chapter, including, but not limited to, all driver, vehicle, insurance, and operational requirements.

C. The TNC license shall be effective for one year.

D. The annual TNC license fee shall be \$1,000 and shall be paid in full at the time of submitting all initial and renewal applications.

6.55.050 TNC driver requirements

A. TNC drivers shall be at least 21 years of age and shall possess a valid driver's license, proof of motor vehicle registration, and proof of current automobile liability insurance that meets the requirements of this chapter.

B. The TNC or its agent shall maintain accurate and up-to-date records for all TNC drivers accessing its digital network to provide TNC services in the City of Bellingham. Said records

shall include the driver's name, age, address, social security number, criminal history, driver's license, motor vehicle registration, and automobile insurance.

C. Prior to permitting a person to act as TNC driver on its digital network, and annually thereafter, the TNC shall obtain and review a criminal background check report for such person. The criminal background check shall include a search of no less than seven years of database history, unless prohibited by law, in which case the duration of the search shall be the maximum number of years permitted by law. The criminal background check shall include local, state, and national criminal history databases and national and state sex offender registries. Any person who is on a sex offender registry or who has been convicted, within the past seven years, of crimes involving driving under the influence of alcohol or controlled substances, fraud, sexual offenses, property damage or theft, acts of violence, acts of terror, or use of a motor vehicle to commit a felony, shall not be permitted to act as a TNC driver on the TNC's digital network. The TNC or its agent shall maintain records of such criminal background checks for a period of two years. For purposes of this section, the term "conviction" includes convictions, bail forfeitures, and other final adverse findings.

D. The TNC shall revoke a TNC driver's authority to act as a TNC driver on its digital network if it finds that the standards set forth in this section are no longer being met by such person and only reinstate his or her authority upon a finding by the TNC that all standards are again being met by such person.

6.55.060 Vehicle requirements

Each TNC vehicle shall pass an inspection prior to commencing services in the City of Bellingham, and annually thereafter, by an approved mechanic. Such an inspection shall, at a minimum, include inspection of the following components:

Foot brakes;
Parking brakes;
Steering mechanism;
Windshield;
Rear window and other glass;
Windshield wipers;
Headlights;
Tail lights;
Turn indicator lights;
Stop lights;
Front seat adjustment mechanism;
Doors (open, close, lock);
Horn;
Speedometer;
Bumpers;
Muffler and exhaust system;

Condition of tires, including tread depth;
Interior and exterior rear view mirrors; and
Safety belts for driver and passenger(s).

6.55.070 Insurance requirements

A. The TNC and TNC driver shall comply with the automobile liability insurance requirements contained in Washington Laws of 2015, ch. 236, sections 1 and 2 as enacted or subsequently amended.

B. The TNC driver shall maintain within his or her motor vehicle proof of insurance satisfying the requirements of this chapter. Such proof may be provided electronically.

6.55.080 Registered agent required

The TNC shall maintain a registered agent for service of process in the State of Washington. The name, telephone number, and physical address of the registered agent shall be submitted to the City of Bellingham at the time of license application. The TNC shall notify the City of Bellingham in writing of any changes to its registered agent during the term of the license.

6.55.090 Audit

A. No more than twice per license year, the City may audit the TNC's records to review compliance with the chapter. Each audit shall be limited to records relating to no more than twenty randomly selected TNC drivers operating in the City of Bellingham.

B. The audit shall occur at City Hall, 210 Lottie Street, Bellingham, Washington; provided that the City may in its discretion agree to an alternative location.

C. Notwithstanding the foregoing, the City may require the TNC to produce records at any time to investigate a specific complaint regarding compliance with this chapter.

6.55.100 Operational Requirements

A. TNC drivers shall accept only rides arranged through a TNC's digital network and shall not solicit or accept street hails.

B. The TNC's software application or website shall display for the passenger the first name and photograph of the TNC driver as well as the make, model, and license plate number of the TNC vehicle.

C. The TNC's software application or website shall display for the passenger the applicable rates being charged and the option to receive an estimated fare before the passenger enters the TNC vehicle.

D. The TNC shall implement a zero tolerance policy on the use of drugs or alcohol applicable to any TNC driver on its digital network. The TNC shall provide notice of the zero tolerance policy on its website, as well as the procedures to report a complaint about a driver with whom the passenger was matched and for whom the passenger reasonably suspects was under the influence of drugs or alcohol during the course of the ride. The TNC shall immediately suspend a driver upon receipt of a passenger complaint alleging a violation of the zero tolerance policy. The suspension shall last the duration of the investigation.

6.55.110 Revocation of TNC license

A TNC license may be revoked by the director, subject to appeal under BMC 6.55.120. A TNC license may only be revoked for good cause, including, but not limited to:

1. A materially false statement contained in the application for the license.
2. Any violation of this chapter.

6.55.120 Appeal procedure

Any person aggrieved by the denial or revocation of a TNC license may file a notice of appeal with the Bellingham hearing examiner within 14 calendar days of the date of mailing of the notice of denial or revocation. The notice of appeal must be in writing, signed by a person authorized to make it, and must explain the grounds for the appeal. The hearing examiner's decision shall be final and may be appealed to Whatcom County Superior Court within 14 calendar days of the date of the decision.

6.55.130 Enforcement

Any police officer may enforce the provisions of this chapter against any person found to be violating the same.

6.55.140 Misdemeanor – Penalty

Any person violating any of the provisions of this chapter, including, but not limited, to persons submitting a materially false affidavit under BMC 6.55.040, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$1,000 or imprisonment not to exceed 90 days, or both such fine and imprisonment. Each day upon which such violation shall occur, or upon which such violation shall continue, shall constitute a separate offense.

PASSED by the Council this 12th day of October, 2015.



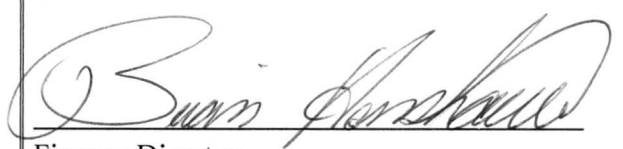
Council President

APPROVED by me this 19th day of October, 2015.




Mayor

ATTEST:



Finance Director

APPROVED AS TO FORM:



Office of the City Attorney

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