

**NOTICE OF PUBLIC MEETING OF THE  
ABERDEEN CITY COUNCIL TO CONSIDER FINAL  
ADOPTION OF ORDINANCE NO. 17-12-07 AMENDING THE CITY CODE  
REGARDING TRANSPORTATION NETWORK COMPANIES AND TAXICABS**

A regular public meeting of the Aberdeen City Council will be held on the 12<sup>th</sup> day of February, 2018, beginning at 5:30 p.m. in City Council Chambers, 123 South Lincoln Street, First Floor of the Municipal Building, to consider final adoption of Ordinance No. 17-12-07, as amended at the second reading on February 5, 2018. The ordinance will amend Chapter 58 – *Vehicles for Hire*, of the City Code, regarding transportation network companies and taxicabs.

Dated this 6<sup>th</sup> day of February, 2018. ATTEST: /s/ Karl Alberts, Finance Officer.

Notice posted in compliance with SDCL 1-25-1.1 and 9-19-7.1 on February 6<sup>th</sup>, 2018.

By: Mary Campton  
Mary Campton,  
Records & Compliance Specialist

**ORDINANCE NO. 17-12-07**

**ORDINANCE TO AMEND CHAPTER 58 – VEHICLES FOR HIRE  
OF THE ABERDEEN CITY CODE REGARDING  
TRANSPORTATION NETWORK COMPANIES AND TAXICABS**

**WHEREAS**, in 2016 the South Dakota Legislature adopted HB 1091 entitled “An Act to establish certain requirements regarding insurance for vehicles used to provide rides for a transportation network company and to exempt vehicles used to provide these rides from certain commercial licensing requirements,” now codified at SDCL Ch. 32-40 (the “Act”); and

**WHEREAS**, the Act, among other things, requires a transportation network company (TNC) to conduct background checks for its drivers and establishes insurance requirements for TNC rides; and

**WHEREAS**, the final section of the Act, codified at SDCL 32-40-23, allows for additional regulation of a TNC by municipalities; and

**WHEREAS**, the City desires to amend its ordinance to address the emerging business of transportation network companies and to adopt a licensing requirement for any TNC operating within the City limits; and

**WHEREAS**, the City Council finds it to be in the best interests of the health, safety, and general welfare of its residents to amend certain provisions and adopt new provisions in Aberdeen City Code, Chapter 58 – VEHICLES FOR HIRE, to regulate taxicabs and transportation network companies within the City.

**BE IT ORDAINED BY THE CITY OF ABERDEEN THAT THE FOLLOWING  
CHANGES AND ADDITIONS SHALL BE MADE TO THE ABERDEEN CITY  
CODE:**

1. Chapter 58 – VEHICLES FOR HIRE, shall be amended as follows:

**ARTICLE I. - IN GENERAL**

**Sec. 58-1. - Definitions.**

The following definitions shall apply to this chapter unless the context requires otherwise:

*Driver* means a natural person who is physically operating a motor vehicle.

Driverless vehicle means a vehicle driving upon a public roadway without a driver.

Motorbus means a motor vehicle for carrying passengers, with a seating capacity for eight persons or more, not including the driver, not traveling any definite or prescribed route, operated by a driver, and carrying or accepting passengers for hire within the limits of the city. The term motorbus shall not include funeral cars, ambulances, wheelchair or medical transport services, public transportation services, or personal vehicles as defined in this section.

Personal vehicle means a vehicle that is used by a TNC driver to provide a prearranged ride and is owned, leased, or otherwise authorized for use by the TNC driver. A personal vehicle does not include any taxicab, motorbus, limousine, funeral car, ambulance, or wheelchair or medical transport.

Prearranged ride means the provision of transportation:

- (1) By a TNC driver to a TNC rider who arranges to enter upon or exit from the personal vehicle at a location within one mile of the corporate limits of the city; and
- (2) Beginning when a TNC driver accepts a ride requested by a TNC rider through a digital network as defined in state law that is controlled by a TNC, continuing while the TNC driver transports a requesting TNC rider, and ending when the last requesting TNC rider departs from the personal vehicle.

A prearranged ride does not include transportation provided by a taxicab, motorbus, limousine service, funeral car, ambulance, wheelchair or medical transport service, or public transportation service.

Seating capacity means the number of persons, not including the driver, who can be conveniently seated in a vehicle without crowding.

Taxicab means a motor vehicle for carrying passengers, with a seating capacity for seven persons or less, not including the driver, not traveling any definite or prescribed route, operated by a driver, and carrying or accepting passengers for hire within the limits of the city. The term taxicab shall not include funeral cars, ambulances, wheelchair or medical transport services, public transportation services, or personal vehicles as defined in this section.

Taxicab driver means a natural person who actually engages in the driving of a taxicab.

Taxicab operator means a person engaged in operating a taxicab business.

Transportation network company means a corporation, company, partnership, sole proprietorship, or other business or legal entity that uses a digital network as defined in state law to connect TNC riders to TNC drivers who provide prearranged rides and that does not control, direct, or manage the personal vehicles or TNC drivers that connect to its digital network, except where agreed to by written contract.

Transportation network company driver or TNC driver means a natural person who:

- (1) Receives connections to potential TNC riders and related services from a TNC in exchange for payment of a fee to the TNC; and

- (2) Uses a personal vehicle to provide a prearranged ride to TNC riders through a digital network controlled by a TNC in return for compensation or payment of a fee.

Transportation network company rider or TNC rider means a natural person who uses a TNC's digital network as defined in state law to connect with a TNC driver who provides a prearranged ride to the person in the driver's personal vehicle between points chosen by the person.

**Sec. 58-2. - Transporting alcoholic beverages.**

All licenses issued under this chapter shall be subject to revocation if any vehicle operated or used by the licensee shall be used for the delivery or transportation of unsealed alcoholic beverages in violation of section 4-51, except in conjunction with a carrier license issued pursuant to SDCL 35-4-2(9), or for any other unlawful purpose. Upon the revocation, the license fee paid shall be retained by the city.

**Sec. 58-3. - False statement in application.**

Any license issued under the provisions of this chapter shall be revoked upon discovery of any false material statement made in the application for the license.

**Sec. 58-4. - Fee.**

The fee for any license under this chapter shall be as provided in the city fee schedule on file in the finance office. If any license application is withdrawn or denied, no portion of the fee may be refunded. An additional fee is required for any background check of the applicant.

**Sec. 58-5. - License suspension or revocation.**

The city may suspend or revoke any license issued pursuant to this chapter for the violation by the licensee of any applicable provision in city, state, or federal law, rule, or regulation, or for other good cause.

~~Secs. 58-4—58-24.~~~~Secs. 58-6—58-22.~~ - Reserved.

**ARTICLE II. - TAXICABS AND MOTORBUSES**

**DIVISION I. - LICENSING**

**State Law reference—** Power of city to license taxicabs and motorbuses, SDCL 9-34-10, 9-35-11.

**Sec. 58-23. - Penalties.**

Any person violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be guilty of a misdemeanor and, in addition, the operator's or driver's license may be suspended for a period of time not exceeding 30 days, except in cases of reckless driving or drunken driving when the suspension may be for a period not exceeding one year.

(Code 1980, § 28-1; Code 2003, § 27-1)

**Sec. 58-24. - License required.**

No person shall operate a taxicab or motorbus within the city without first having obtained from the city council a license therefor and without having complied with all provisions of this chapter.

(Code 1980, § 28-24; Code 2003, § 27-51; Ord. No. 17-01-02, 02-16-2017)

**Sec. 58-25. - Application for license.**

Any person desiring a license for a taxicab or motorbus shall make a written application therefor to the city council upon blank application to be furnished by the city finance officer. Such application shall contain the full name and address of the owner, the make, model and year of manufacture of the vehicle, the state license number and the engine and factory number of the vehicle.

**Sec. 58-26. - Inspection of taxicab and motorbus.**

(a) *Generally.* No taxicab or motorbus shall be licensed or allowed to continue to operate until it has been thoroughly and carefully tested and inspected, and found to be in a thoroughly safe condition for the transportation of passengers, and in a clean and sanitary condition, fit, and in good repair at all times, of good appearance without body damage, and well-painted.

(b) *Mechanical tests.* Mechanical tests shall be made by any testing garage or testing station approved by the chief of police and shall include the following:

- (1) Brakes;
- (2) Speedometer;
- (3) Horn;
- (4) Windshield wipers;
- (5) Rearview mirror;
- (6) Steering mechanism;
- (7) Headlights;
- (8) Taillights; and
- (9) Stoplight.

\_\_\_\_\_These tests must be done prior to the issuance of an initial license and annually prior to renewing any license.

(c) *Physical inspection.* A physical inspection shall be made by a designee of the chief of police and shall include the following:

- (1) Condition of tires, including spare tire;
- (2) Cleanliness; and
- (3) General appearance.

~~Each vehicle shall be inspected every 120 days thereafter. The chief of police and any police officer may inspect each vehicle at any time upon probable cause of a violation of this section or every 120 days without cause.~~ Such inspections shall follow a format provided by the chief of police department. A copy of such inspection shall be posted in each car so examined, showing the date of the inspection.

(d) *Submission of vehicle for inspection; use of condemned vehicle prohibited.* It shall be the duty of the owner of each taxicab or motorbus to submit to the chief of police each taxicab or motorbus for inspection prior to the issuance of the license, or at any time upon complaint, and the police department may inspect such vehicles at such other times as ~~they may deem~~ necessary. It shall be unlawful for the owner or persons in charge of any taxicab or motorbus to use or permit its use, ~~in case the vehicle~~ use of a vehicle that has been condemned by the chief of police, until such vehicle has been repaired to the satisfaction of the chief of police. Any failure to abide by the direction of the chief of police or his or her designee within 30 days shall be subject to the penalty prescribed herein.

#### **Sec. 58-27. - Insurance.**

(a) Before any taxicab or motorbus license is granted, or any preexisting license renewed, the applicant shall file with the ~~city~~ finance officer a certificate or policy of insurance issued by a responsible insurer, covering the vehicles to be operated by the applicant, providing property damage limits of not less than \$100,000.00 and public liability insurance for bodily injuries or death under a single limit of not less than \$500,000.00 ~~providing public liability insurance for injuries to one person in an amount not less than \$25,000.00 because of bodily injury to or death of one person in any one accident and subject to the limit for one person, for any one accident not less than \$50,000.00 because of bodily injury to or death of two or more persons and property damage insurance in an amount not less than \$25,000.00~~, such coverage to be continuing, notwithstanding any recovery or settlement thereunder.

- (b) The policy or certificate of insurance under this section shall specify that:
- (1) The insurer shall be responsible for all liability of the applicant arising from the use of any motor vehicle as a part of the applicant's for-hire fleet in the city even though such vehicle is not described in the policy or certificate of insurance;
  - (2) A violation of any of the provisions of the policy or certificate of insurance shall not relieve the insurer from liability thereunder to any third party claimant against the applicant, including cases where the applicant becomes bankrupt or insolvent; and
  - (3) The policy or certificate shall not be modified or cancelled without ten days' notice to the ~~city~~ finance officer.

(c) In lieu of the policy or certificate of insurance provided for in this article, the applicant may furnish a corporate surety bond, issued by a surety company authorized to do business in the state, if it meets the requirements provided in subsection (b) of this section.

(d) The policy or certificate of insurance or bond shall be approved by the ~~city council~~finance officer prior to the issuance of the license.

**Sec. 58-28. - License fees; term of license; renewal.**

The fee for the license required to be paid annually and in advance shall be one sum for the first taxicab or motorbus and an additional sum for each additional license issued to any one person for each additional taxicab or motorbus, as provided in the city fee schedule on file in the ~~finance office of the finance director~~finance office. Licenses shall extend from January 1 until the December 31 following, and the full license fee must be paid for any part of such year.

**Sec. 58-29. - Transfer.**

Any license for a taxicab may be transferred from one taxicab to another under the same ownership by the ~~city finance officer~~, with the consent of the city council, upon payment of a transfer fee as provided in the city fee schedule on file in the ~~finance office of the finance director~~finance office; provided that the second vehicle has been inspected and approved as complying with this chapter. Any license for a motorbus may be transferred from one motorbus to another under the same ownership with the written approval of the ~~chief of police~~finance officer. No public vehicle license shall be transferred from one owner to another except after a finding of convenience and necessity by the city council.

**Sec. 58-30. - ~~Maximum fares~~Fare rates.**

Each taxicab licensee must annually file with the finance officer prior to the operation of any taxicab a statement or schedule listing all fares, multiple loading charges, flat rate charges for certain specified routes, and any other information necessary to clarify rates to be charged a passenger. Each taxicab licensee shall conspicuously post in each of the taxicabs during all times that the taxicabs are in use a legible and concise list of the fares and rates. Each taxicab driver shall post such list of fares at all times while the taxicab is in operation. The list of fares may be subject to approval of the city council insofar as form, legibility, and place of posting are concerned.~~The maximum taxi cab fares which may be charged by licensed taxicabs within the city shall be as follows:~~

1 to 5 blocks .....	\$3.00
6 to 9 blocks .....	\$3.25
10 to 13 blocks .....	\$3.50
14 to 17 blocks .....	\$3.75
18 to 21 blocks .....	\$4.00
22 to 25 blocks .....	\$4.25
26 to 29 blocks .....	\$4.50

30 to 35 blocks .....	\$4.75
34 to 37 blocks .....	\$5.00
38 to 41 blocks .....	\$5.25
42 to 45 blocks .....	\$5.50
46 to 49 blocks .....	\$5.75
50 to 53 blocks .....	\$6.00
54 to 57 blocks .....	\$6.25
58 to 61 blocks .....	\$6.50
62 to 65 blocks .....	\$6.75
66 to 69 blocks .....	\$7.00
70 to 73 blocks .....	\$7.25
74 to 77 blocks .....	\$7.50
Over 77 blocks, per mile .....	\$2.25

~~The following additional charges shall be the maximum charges allowed:~~

<del>Each additional passenger .....</del>	<del>\$1.25</del>
<del>Additional charge for services from 9:30 p.m. to 5:30 a.m., per ride .....</del>	<del>\$1.00</del>
<del>Package delivery, minimum .....</del>	<del>\$6.00</del>
<del>Per hour rate .....</del>	<del>\$40.00</del>
<del>Airport to the City of Aberdeen, minimum .....</del>	<del>\$7.00</del>
<del>Plus, per additional passenger .....</del>	<del>\$2.00</del>
<del>Each stop for three minutes or less, minimum .....</del>	<del>\$1.00</del>
<del>Any stop required for exit and return to taxi .....</del>	<del>\$1.00</del>

**Sec. 58-31. - Taxicab stands, bus stands.**

The public works director/city engineer is hereby authorized to designate at such places as he or she deems proper taxicab or motorbus stands and shall erect in such zones or stands adequate signs indicating the extent of such zone, and it shall be unlawful for any vehicle other than a licensed taxicab or motorbus to park in any such area.



**ARTICLE III. DIVISION 2. - OPERATOR DRIVER LICENSE AND BADGE**

**Sec. 58-81. - Identification badge.**

(a) In addition to all other requirements of this chapter, each driver of a ~~vehicle~~taxicab or motorbus licensed under this chapter for the conveyance of passengers shall have an individual identification badge furnished by the city, upon deposit of an amount as provided in the city fee schedule on file in the finance office ~~of the finance director with the city finance officer~~. Badge fees are not refundable.

(b) In case of a lost badge, the driver may file a sworn statement containing the facts of such loss, and upon payment of an amount provided in the city fee schedule on file in the finance office ~~of the finance director~~ shall receive a new badge.

(c) The driver's badge must be worn by the driver, or displayed in the vehicle without any obstructions, where it is visible to all persons riding in the taxicab or motorbus while the driver is on duty.

**Sec. 58-82. - Driver's license; city taxicab or motorbus operator license required.**

(a) No person shall drive or operate a taxicab or motorbus unless they have in their possession a valid state driver's license or permit and have a valid city taxicab/motorbus operator license. No license shall be granted to any person who is addicted to the use of alcohol or drugs or is not of good moral character, or:

- (1) Who has received judgments for more than three (3) moving traffic violations in the preceding three (3) years, or at least one violation involving reckless driving or driving on a suspended or revoked license in the preceding three (3) years;
- (2) Who has been convicted in the preceding seven (7) years of a felony;
- (3) Who has been convicted in the preceding seven (7) years of a misdemeanor involving:
  - (a) Resisting a law enforcement officer;
  - (b) Dishonesty;
  - (c) Injury to a person;
  - (d) Operating a motor vehicle while intoxicated;
  - (e) Operating a motor vehicle in a manner that endangers a person;
  - (f) Operating a motor vehicle with a suspended or revoked driver license; or
  - (g) Damage to the property or another person;
- (4) Who is a match in the state or national sex offender registry; or

(5) Who is unable to provide information required under §32-40-3 (criminal background, sex offender registry, and driving records check).

~~(a) No person shall drive or operate a taxicab or motorbus unless they have in their possession a state valid driver's license or permit and have a valid city taxicab/motorbus operator license. An applicant for a taxicab or motorbus operator license shall meet the following requirements:~~

~~(1) Be at least 18 years of age;~~

~~(2) Be of good eyesight;~~

~~(3) Not be subject to any infirmity of body or mind which would affect his or her ability to properly handle a taxicab or motorbus;~~

~~(4) An applicant must be able to read and write the English language;~~

~~(5) Must show that they are familiar with the traffic ordinances of the city and the state;~~

~~(6) The applicant must be of good moral character and not addicted to the use of intoxicating liquors or drugs; and~~

~~any person who fails to meet the listed requirements in this subsection shall not be approved for a city taxicab/motorbus operator license.~~

(b) Every applicant for a license for a driver of a taxicab or motorbus shall make an application to the city finance office on ~~forms to be an~~ application supplied by the city finance office and if approved shall pay the amount as provided in the city fee schedule on file in the finance office of the finance director for the issuance of a license and each year thereafter.

(c) The requirements of this section are in addition to the requirements set forth in this division~~article~~ with regard to identification badges.

(d) Fees for city operator licenses made after July 1 of each year shall be subject to proration as provided in the city fee schedule on file in the finance office of the finance director.

(e) The finance officer shall grant a taxicab or motorbus operator license if satisfied that the applicant has complied with all of the terms and conditions of this article and if the evidence submitted in support of the application meets the conditions precedent to granting the license. If a license is denied by the finance officer, the applicant may appeal the denial to the city council.

### **Sec. 58-83. - Driverless vehicles.**

The use of a driverless vehicle as a taxicab or motorbus is prohibited in the city limits.

### **Secs. 58-84—58-99. - Reserved.**

## **ARTICLE III. TRANSPORTATION NETWORK COMPANY**

**Sec. 58-100. - License required.**

No person shall engage in the business of operating a TNC within the limits of the city without a license as provided by this article.

**Sec. 58-101. - Application.**

Every person desiring a license to operate a TNC business in the city shall make application in writing to the finance office and shall also give the following additional information:

- (1) Name and address of applicant;
- (2) Trade name, if any, under which the license is to be exercised;
- (3) If a partnership, the name and address of each partner;
- (4) If a corporation or limited liability company, the names and addresses of the officers or managing members;
- (5) Name and contact information for an agent to be maintained for service of process in the state of South Dakota;
- (5) A description of the activity to be carried out under the license;
- (6) Previous experience in the business, if the applicant has not been previously licensed with the city; and
- (7) Proof of sales tax license, if applicable.

**Sec. 58-102. – Issuance; appeal of denial.**

The finance officer or designee shall grant a TNC license if satisfied that the applicant has complied with all of the terms and provisions of this article and if the evidence submitted in support of the application meets the conditions precedent to granting the license. If a license is denied by the finance officer, the applicant may appeal the denial to the city council.

**Sec. 58-103. - One-year term.**

Any TNC license issued shall expire one year following its issuance, unless sooner revoked, canceled, or otherwise terminated.

**Sec. 58-104. - Regulations for TNCs and drivers.**

(a) *Identification of TNC vehicles and drivers; emblem displayed.* The TNC's software application or website shall display a picture of the TNC driver and the license plate number of the vehicle utilized for providing the TNC service before the TNC rider enters the TNC driver's vehicle. The TNC driver shall prominently display the TNC emblem in the lower right corner of the front windshield or on the rear of the vehicle in such color and type as to be legible to a person of normal eyesight at a minimum distance of 25 feet. The TNC emblem shall be displayed for the duration of any prearranged ride.

(b) Records. A TNC shall maintain the following records:

- (1) Individual trip records of TNC riders for at least one year from the date each trip was provided;
- (2) Individual records of TNC drivers and their trips at least until the one-year anniversary of the date on which a TNC driver's relationship with the TNC has ended; and
- (3) Drivers' license numbers and state of issuance for each active TNC driver, which list shall be submitted by the TNC to the finance officer by the 15<sup>th</sup> day of each month.

(c) Record disclosure and inspection authority; limited confidentiality.

- (1) The TNC, upon request by the city, shall disclose to the city all records necessary for the city to investigate an alleged crime or violation of this article, an accident involving a TNC driver, or for other good cause. The TNC shall cooperate with the city to facilitate the disclosure of relevant information required in any investigation. The city may also request inspection of records by providing advance written notice at least seven days prior to any request for inspection, which may be conducted at a mutually agreed upon third-party location, or pursuant to court order, grand jury, or investigative subpoena.
- (2) Except for records or information disclosed in an investigation by a law enforcement agency, a prosecution for a violation of this article, or an action against a license issued under this article, any record or information made available by the TNC to the city pursuant to this section is confidential and proprietary and shall not be made public without the TNC's express written permission. If the city is required to disclose confidential information under court order or other applicable law, the city shall promptly notify the TNC of such requirement, prior to disclosure, and shall make diligent efforts to limit disclosure pursuant to any available basis in South Dakota open records law or other applicable law.

**Sec. 58-105. - TNC to screen drivers.**

Before a TNC allows a person to act as a TNC driver on the TNC's digital network, the TNC shall require the person to submit to the TNC an application that includes the information required under state law, and the TNC shall conduct, or contract with a third party to conduct, the background check and search required under state law. It is unlawful for a TNC to fail to screen a person allowed to act as a TNC driver on the TNC's digital network as required under state law. Each day such TNC driver is logged on to the TNC's digital network and available for transportation requests shall constitute a separate offense.

**State Law reference— TNC required to take application and conduct background, SDCL 32-40-2 and 32-40-3.**

**Sec. 58-106. - TNC allowing prohibited drivers.**

It is unlawful for a TNC to knowingly allow any person to act as its TNC driver if such person is prohibited from doing so under state law. Each prearranged ride provided by a TNC driver on the TNC’s digital network in violation of this section shall constitute a separate offense.

State Law reference— TNC may not allow prohibited TNC driver, SDCL 32-40-4.

**Sec. 58-107. - TNC to annually monitor drivers.**

One year after the initial date of endorsement of an active driver by a TNC, and annually thereafter, the TNC shall verify that the driver is still eligible to be a TNC driver under state law, such verification to include a driving and criminal background check. It is unlawful for a TNC to fail to monitor annually a person allowed to act as a TNC driver on the TNC’s digital network as required under state law. Each day such TNC driver is logged on to the TNC’s digital network and available for transportation requests shall constitute a separate offense.

State Law reference— TNC may not allow prohibited TNC driver, SDCL 32-40-4.

**Sec. 58-108. – Prohibited driver.**

It is unlawful for any TNC driver prohibited under state law to provide a prearranged ride. Each prearranged ride provided by a prohibited TNC driver shall constitute a separate offense.

State Law reference— Person prohibited from acting as TNC driver, SDCL 32-40-4.

**Sec. 58-109. - Driverless vehicles.**

The use of a driverless vehicle to provide a prearranged ride as defined under this chapter is prohibited in the city limits.

**Sec. 58-110. - Penalties.**

Any TNC or TNC driver violating or failing to comply with any of the provisions of this article shall be deemed guilty of a class 2 misdemeanor punishable by up to 30 days in jail or a \$500.00 fine, or both, for each offense. In addition, the TNC’s license may be suspended or revoked.

Passed First Reading: January 2, 2018  
Passed Second Reading: February 5, 2018  
Final Adoption Date: \_\_\_\_\_  
Published: \_\_\_\_\_  
Effective Date: \_\_\_\_\_

ATTEST:

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Mike Levsen, Mayor

\_\_\_\_\_  
Karl Alberts, Finance Officer