

ORDINANCE NO. 3379

AN ORDINANCE OF THE CITY OF LONGVIEW, WASHINGTON REPEALING LMC 5.81 AND ADOPTING A NEW CHAPTER 5.82 TAXI & TRANSPORTATION NETWORK COMPANY CODE

WHEREAS, technological changes have brought about changes in the transportation choices for persons residing in or visiting Longview; and

WHEREAS, a new technology developed by Transportation Network Companies (TNCs) uses an online-Internet application to connect individuals needing transportation with TNC Drivers; and

WHEREAS, certain major TNCs, including Uber and Lyft have indicated that they are unwilling to operate in Longview under the current provisions of the Longview Municipal Code (VMC) at Chapter 5.81 necessitating changes in the current code; and

WHEREAS, the City Council desires to facilitate the operation of TNCs in the City of Longview in order to provide this service and employment opportunity to the citizens of Longview.

NOW THEREFORE, the City Council of the City of Longview does ordain as follows:

Section 1 Repeal. That Chapter 5.81 of the Longview Municipal Code shall be, and is hereby, repealed.

Section 2 New Chapter

A new chapter 5.82 TAXI & TRANSPORTATION NETWORK COMPANY CODE is adopted to read as follows; provided, manifest and numbering errors shall be corrected prior to publication:

**Chapter 5.82
TAXI & TRANSPORTATION NETWORK COMPANY CODE**

CHAPTER 5.82
TAXICAB AND TRANSPORTATION NETWORK COMPANY LICENSES
SECTION:

5.82.005: Purpose
5.82.010: Definitions
5.82.020: Taxicab Company and Transportation Network Company Transportation License - Fees
5.82.030: Class
5.82.040: Taxicab and TNC Driver Requirements
5.82.050: Vehicle Requirements
5.82.060: Insurance Requirements
5.82.070: Operational Requirements
5.82.080: Registered Agent Required
5.82.090: Audit
5.82.100: Revocation, Suspension, and Penalties
5.82.110: Enforcement

5.82.005 Purpose. The purpose of this chapter is to provide for and promote the safety and welfare of the general public by regulating transportation by for-hire vehicles within the City. This chapter does not create or designate any particular class of persons who will or should be specifically 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.

5.82.010 Definitions. For the purposes of this Chapter, the following terms, phrases, words and their derivations shall have the meanings given in this SECTION:

- (1) "City" means the City of Longview, Cowlitz County Washington.
- (2) "For-hire vehicle" means any motor vehicle used for the transportation of passengers for compensation, including Taxicabs and Transportation Network Company ("TNC") Vehicles. The following motor vehicles are excluded from the definition of for-hire vehicles:
 - (a) School buses operating exclusively under a contract to a school district;
 - (b) Ride-sharing vehicles under Chapter 46.74 RCW;
 - (c) Limousine carriers licensed under Chapter 46.72A RCW;
 - (d) Vehicles used by nonprofit transportation providers solely for elderly or handicapped persons and their attendants under Chapter 81.66 RCW;
 - (e) Vehicles used by auto transportation companies licensed under Chapter 81.68 RCW;
 - (f) Vehicles used to provide courtesy transportation at no charge to and from parking lots, hotels, and rental offices;
 - (g) Vehicles licensed under, and used to provide "charter party carrier" and "excursion service carrier" services as defined in, and required by, C Chapter 81.70 RCW; and

- (h) Vehicles used to provide Ambulance Service under Chapter 5.08 Longview Municipal Code.
- (3) "Independent Contractor" means a person who contracts to do a piece of work according to his own methods and subject to the employer's control only as to the end product of his or her work. An independent contractor performs work but is not considered an "employee."
- (4) "Licensing Officer" means the City Manager or his designee.
- (5) "Operate," "Operated," or "Operating" means using a Taxicab or TNC Vehicle to at any time to transport any passenger or item of property for compensation and originating from a point within the corporate limits of the City.
- (6) "Person" and "he" and "she" means and includes any natural person, and in addition, a partnership, corporation or an unincorporated association unless a contrary intention plainly appears.
- (7) "Transportation License" shall mean a license issued by the License Officer to a Taxicab Company or TNC pursuant to this Chapter.
- (8) "Taxicab" means a motorized vehicle that is held out to the public as providing transportation to passengers or articles:
- (a) Where the route traveled, destination, or both route and destination is controlled by the customer; and
 - (b) Where the fare is based on an amount recorded and indicated on a taxi meter; and
 - (c) Where the vehicle is not operating as a TNC vehicle on a TNC's digital network in accordance with this chapter.
- (9) "Taxicab Company" means any entity operating one or more Taxicabs other than as a Taxicab Driver, regardless of the legal form of the entity and regardless of whether the Taxicabs so operated are owned by the company, or leased, or owned by individual members of the entity.
- (10) "Taxicab Driver" means a person engaging in any combination of owning, leasing, advertising, driving, occupying or otherwise using a Taxicab to at any time to transport any passenger or item of property for compensation from a point within the incorporated limits of the City.
- (11) "Transportation Network Company" which may be abbreviated herein to "TNC," means a company that uses an Internet online-enabled platform or application to connect passengers with TNC Drivers.
- (12) (a) "Transportation Network Company Driver" or "TNC Driver" means a driver under contract with a TNC Company who:
- (i) Receives connections to potential passengers and related service from a TNC in exchange for payment of a fee to the TNC;
 - (ii) Operates a motor vehicle that is owned, leased, or otherwise authorized for use by the individual and is used to provide TNC services;
 - (iii) Is an independent contractor of a TNC; and (iv) Is not an employee of a TNC.
- (b) A TNC Driver shall be considered an independent contractor, and not an employee of a TNC, if all of the following conditions are met:
- (i) The TNC does not prescribe the specific hours during which the TNC Driver is required to be logged in to the TNC's digital network.
 - (ii) The TNC does not impose any restrictions on the TNC Driver's ability to use other TNC's digital networks.

- (iii) The TNC does not restrict a TNC Driver from engaging in any other occupation or business.
 - (iv) The TNC and the TNC Driver agree in writing that the TNC Driver is an independent contractor.
- (13) "Transportation Network Company Vehicle" or "TNC Vehicle" means a vehicle that is owned, leased, or otherwise authorized for use by a TNC Driver and is used to provide transportation services arranged through a TNC's digital network.

5.82.020 Taxicab Company and Transportation Network Company Transportation License – Fees.

- (1) The License Officer shall issue a Transportation License to a Taxicab Company or TNC provided that:
 - (a) The Taxicab Company or TNC provides proof of insurance coverage for the limits required in this chapter for all employed or affiliated drivers; and (b) The Taxicab Company or TNC submits an affidavit sworn under penalty of perjury that the Taxicab Company or TNC is in compliance with the requirements established in this chapter. The affidavit form will be made available by the License Officer at the Longview Police Department and on the department's website.
- (2) The Transportation Licenses issued under this chapter are effective for one year upon approval and must be renewed through the License Officer annually on or before the expiration date of the license in order to continue operating after the expiration date.
- (3) The application review fee shall vary based on the number of employed, associated or contracted drivers operating for the company applying for the license. The fee amounts shall be as follows:
 - (a) \$300.00 for companies employing, associating or contracting with ten (10) or fewer drivers;
 - (b) \$700.00 for companies employing, associating or contracting with eleven (11) to forty (40) drivers; and
 - (c) \$2,000.00 for companies employing, associating or contracting with forty-one (41) or more drivers.
- (4) The application review fee prescribed by this section shall be paid to the City at the time of submitting both initial and renewal Transportation License applications.
- (5) No Taxicab Company or TNC Transportation License shall be issued or valid until the proof of insurance referenced in this section has been reviewed and approved and the fee prescribed in this section has been paid.
- (6) No Taxicab Company License shall be issued or valid until proof of compliance with Chapter 5.04 of the Longview Municipal Code is presented.

5.82.030 Class.

Taxicab Company and TNC Transportation Licenses are Class III Licenses.

5.82.040 Taxicab and TNC Driver Requirements.

- (1) All drivers shall be at least twenty-one (21) years of age and shall possess a valid driver's license; shall have been continuously licensed as a driver by the State of Washington and/or another State for at least one (1) year prior to operating as a TNC Driver or Taxicab Driver in the City; shall possess proof of motor vehicle registration and current automobile liability insurance that meets the requirements of this chapter.
- (2) The TNC, its agent, or its contractor shall maintain accurate and up-to-date records for all TNC Drivers accessing its digital network to operate in the City. Said records shall include the driver's name, age, address, social security number, criminal history, driver's license, motor vehicle registration, and automobile insurance.
- (3) The Taxicab Company or its agent shall maintain accurate and up-to-date records for all Taxicab Drivers employed by the company to operate in the City. Said records shall include the driver's name, age, address, social security number, criminal history, driver's license, motor vehicle registration, and automobile insurance.
- (4) Prior to permitting a person to operate as a Taxicab Driver or as a TNC Driver, and biennially thereafter, the Taxicab Company or TNC shall conduct, or have a third party conduct, a criminal background check report for such person. Any third party conducting a criminal background check on behalf of a Taxicab Company or TNC shall hold a current certification issued by the National Association of Professional Background Screeners (NAPBS). 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 publicly accessible national sex offender registries including, but not limited to the sex offender public website maintained by the U.S. Department of Justice. Any person who is listed on a national sex offender registry or who has been convicted, within the past seven (7) years, of crimes involving driving under the influence of alcohol or controlled substances, felony fraud, sexual offenses, acts of violence, acts of terror, or use of a motor vehicle to commit a felony, shall not be permitted to act as a Taxicab or TNC Driver. The Taxicab Company or TNC its agent or contractor shall maintain records of such criminal background checks and applicable third party NAPBS certification for a period of two (2) years. For purposes of this section, the term "conviction" includes convictions, bail forfeitures, and other final adverse findings.

(5) Prior to permitting a person to operate as a Taxicab Driver or as a TNC Driver, and biennially thereafter, the Taxicab Company or TNC shall conduct, or have a third party conduct, a driver's license history check report for such person in each State from which a driver's license is or has been issued; provided, after the initial driver license history check for a Taxicab Driver or TNC Driver operating in the City has been performed, subsequent driver's license history checks need only be performed in the State from which the driver's current license is issued. Any person who has been convicted or found to have committed more than three (3) moving violations during any twelve (12) month period during the three (3) years prior to the date of the driver license history check shall not be permitted to act as a Taxicab Driver or TNC Driver in the City.

- 6 A TNC or Taxicab Company shall revoke a TNC or taxicab Driver's authority to operate as a driver for their company if it finds that the standards set forth in this section are no longer being met by such person. The TNC or Taxicab Company shall only reinstate his or her authority upon a finding by the Taxicab Company or TNC that all standards are again being met by such person.

(7) A TNC driver who operates as an independent contractor shall comply with the requirements of LMC 5.04

5.82.050 Vehicle Requirements.

(1) Except as provided in paragraph (2), each Taxicab or TNC Vehicle shall pass an inspection prior to commencing services in the City, and annually thereafter, by a professional mechanic. Taxicab Companies and TNCs shall keep records of all such inspections. Such an inspection shall, at a minimum, include inspection of the following components:

- (A) Foot brakes;
- (B) Parking brakes;
- (C) Steering mechanism;
- (D) Windshield;
- (E) Rear window and other glass;
- (F) Windshield wipers;
- (G) Headlights;
- (H) Taillights;
- (I) Turn indicator lights;
- (J) Stop lights;
- (K) Front seat adjustment mechanism;
- (L) Doors (open, close, lock);
- (M) Horn;
- (N) Speedometer;
- (O) Bumpers;
- (P) Muffler and exhaust system;

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

(2) A TNC vehicle that has passed an inspection in a municipality in the state of Washington or in the state of Oregon that satisfies the inspection requirements for a TNC vehicle in such municipality shall be deemed to have met the inspection requirement in paragraph (1).

5.82.060 Insurance Requirements.

(1) The owner or operator of every Taxicab is to procure liability and property damage insurance covering passengers as well as other persons, from a company licensed to write bodily injury liability and property damage liability insurance in the state, on each Taxicab used or to be used in transporting persons for compensation in an amount not less than \$100,000.00 for any recovery for personal injury by one person, and not less than \$300,000.00 for all persons receiving personal injury, by reason of one act of negligence, and, not less than \$25,000.00 for damage to property of any person other than the insured, and maintain such liability and property damage insurance in force on each motor-propelled vehicle while so used under such license. A \$325,000.00 combined single limit policy may be substituted.

(2) TNCs and all affiliated TNC Drivers shall comply with the automobile liability insurance requirements contained in RCW Chapter 48.177 as enacted or subsequently amended.

(3) A certificate for each insurance policy required herein shall be filed with the License Officer and kept in full force and effect, and failure so to do shall be cause for the revocation of the license.

5.82.070 Operational Requirements.

(1) Rates. Taxicab Drivers shall prominently post rates in each vehicle and charge accordingly. Drivers who solely operate as TNC Drivers are exempt from this requirement. 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.

(2) Records. TNCs and Taxicab Companies shall maintain the individual records of all trips made by all drivers for at least one year from the date each trip was provided.

(3) Driver Information. Taxicab Drivers shall have a document containing their name, photograph, driver's license number, and company worked for clearly posted in any Taxicab being operated by the driver. The TNC's software application or website shall display for the passenger the first name and photograph of the TNC Driver.

(4) Marking of Vehicles. All Taxicabs shall be clearly marked as such and shall include the Taxicab Company name, phone number, and a vehicle identification number in plain sight. The company name and vehicle identification number shall use letters and numbers a minimum of four (4) inches in height with width proportional. The Taxicab

Company phone number shall use numerals a minimum of two and one half (2.5) inches in height with the width proportional. While in service in the City, each TNC Vehicle shall display trade dress or marks visible from a distance of at least fifty (50) feet and which clearly associate the vehicle with the TNC. The TNC's software application or website shall display for the passenger the make, model, and license plate number of the TNC Vehicle.

(5) Method of Soliciting Rides. Only Taxicab Drivers are permitted to solicit or accept street hails. TNC Drivers shall accept only rides arranged through a TNC's digital network and shall not solicit or accept street hails.

(6) Receipts. Whenever demanded by the passenger, the driver of a Taxicab or TNC Vehicle shall deliver to the person paying for the hiring of said vehicle, at the time of such payment, a receipt therefor either in hard copy or electronically in legible printing or writing. This receipt shall contain the name of the Taxicab Company or TNC and its address, the name of the driver, itemization of the charges made, the total amount paid, and the date of payment.

(7) Zero Tolerance. TNCs and taxicab companies shall implement a zero tolerance policy on the use of drugs or alcohol applicable to all Taxicab Drivers and any TNC Drivers on a TNC's digital network. Taxicab companies and TNCs shall provide notice of the zero tolerance policy on their website, if they have one, as well as the procedures to report a complaint about a driver with whom the passenger was matched and whom the passenger reasonably suspects was under the influence of drugs or alcohol during the course of the ride. If a Taxicab Company or TNC does not have a website, they must clearly post the zero tolerance policy and procedures to report a complaint in all Taxicabs or TNC Vehicles owned or operated by the company and its drivers. Taxicab companies and TNCs 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.

5.82.080 Registered Agent Required. Taxicab companies and TNCs 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 at the time of license application. The Taxicab Company or TNC shall notify the City in writing of any changes to its registered agent during the term of the license.

5.82.090 Audit. No more than twice per license year, the City may audit the Taxicab Company or TNC's records to review compliance with this chapter. Each audit shall be limited to records relating to twenty percent (20%) of randomly selected Taxicab or TNC Drivers, up to a maximum of twenty (20) drivers that have operated within the last one hundred eighty (180) days in the City. In the event the audit reveals discrepancies in the records reviewed, the City reserves the right to audit all of the Taxicab Company or TNC's records related to Taxicab or TNC Drivers operating in the City. The audit shall occur at the Longview Finance Department, 1525 Broadway, Longview Washington;

provided that the City may in its discretion agree to an alternative location. Notwithstanding the foregoing, the City may require the Taxicab Company or TNC to produce records directly related to an active investigation of a specific allegation of a violation of this chapter.

5.82.100 Revocation, Suspension and Penalties.

(1) The License Officer, or on review the Hearing Examiner, may revoke or refuse to issue a Transportation License if the licensee or applicant has violated any of the provisions of this chapter. A violation includes any and all failures to meet or maintain any of the requirements or qualifications set forth in this chapter for obtaining a Transportation License and the making of a materially false statement in the affidavit required under Longview Municipal Code 5.82.020. The decision to revoke or refuse to issue a Transportation License may be appealed pursuant to 5.82.100(3) - of the Longview Municipal Code.

(2) Upon a violation of this chapter, the City Manager or designee may assess an administrative penalty of \$250.00 per violation, up to a maximum of \$10,000.00. The failure of the licensee to pay a penalty assessment automatically suspends the license until such time as it is paid. The City Manager, City Finance Director or their designee are hereby authorized to use any lawful means to collect penalties assessed under this chapter, including the use of a collection agency. Suspensions, revocations and penalties are suspended during the course of hearing, appeal and review unless the appeals officer finds that the licensee or applicant's claim is meritless.

(3) (a) Upon the filing of charges as aforesaid the City Manager or designee shall fix a time and place for the hearing of said charges, and a copy of the charges as filed, together with the notice of time and place of hearing, shall be served upon the licensee or vehicle owner at least five business days prior to the date fixed by the city manager or designee for the hearing.

(b) The hearing shall be before the hearing examiner of the city. The hearing examiner shall determine if the license should be revoked or suspended. All rules of procedures for the hearing shall be in compliance with Chapter [1.32](#) LMC.

(c) Any notice of violation provided for in this chapter shall be served either:

- (i) By delivery of a copy personally to the licensee or vehicle owner affected; or
- (ii) By leaving a copy with some person of suitable age and discretion at the place of business, or, if no such person is found at such place of business, then by leaving such notice in a conspicuous place on the premises, and mailing a copy of the notice to the licensee or vehicle owner as set forth in his application, or renewal thereof, for license.

(d) If the violation is classified as an infraction and the violation is contested, the person named in the violation notice may request the city manager or designee set a hearing for the contested violation before the hearing examiner. The hearing must be set at least five business days after the request for the hearing. The hearing examiner will determine if the violation has been committed and if the penalty is

appropriate. All rules of procedures for the hearing shall be in compliance with Chapter [1.32](#) LMC.

(e) At the hearing on said charges, the licensee or vehicle owner shall have the right to appear and defend the charges and, if he so desires, to be represented by counsel.

5.82.110 Enforcement. The City Manager or designee shall have the administrative authority to implement and enforce this chapter, and may adopt rules and regulations for its administration, not inconsistent with this chapter. This provision shall not be construed to abrogate or limit the jurisdiction of the City of Longview to enforce any provisions of this chapter or of any other city ordinance relating to motor vehicles or the operation of Taxicabs or TNC Vehicles.

Section 3. LMC 5.80, which is repealed by this ordinance, shall remain in force and effect until the effective date of this ordinance.

Section 4. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance and the same shall remain in full force and effect. The City of Longview hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That the City of Longview City Clerk is hereby ordered and directed to cause this Ordinance to be published.

Section 6. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 7. This Ordinance shall be in full force and effect from and after thirty (30) days from the date of its passage and publication as provided by law.

Passed by the City Council this ____ day of _____, 2018.

Approved by the Mayor this ____ day of _____, 2018.

MAYOR

ATTEST:

City Clerk

APPROVED AS TO FORM:

James McNamara
City Attorney

Published: _____