

Ordinance No. 6210

AN ORDINANCE TO AMEND CHAPTER 5.60 OF THE RAPID CITY MUNICIPAL CODE TO ADOPT PROVISIONS GOVERNING TRANSPORTATION NETWORK COMPANIES AND TO AMEND TAXICAB ORDINANCES

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”; and

WHEREAS, HB 1091 set forth regulations requiring transportation network companies (TNC) to conduct background checks for their drivers, establishing insurance requirements for TNC rides, and adopting additional regulations for TNCs and their drivers; and

WHEREAS, the final section of HB 1091, now codified at SDCL 32-40-23, allows for some additional regulation of TNCs by municipalities; and

WHEREAS, in light of the importance of tourism and travelers to the local culture and the area’s economy, the City wishes to encourage the expansion of transportation network companies to the Rapid City area; and

WHEREAS, therefore, the City wishes to amend its ordinances to address the emerging business of transportation network companies and to adopt a licensing requirement for TNCs operating within the City limits; and

WHEREAS, the City wishes to amend its ordinances to distinguish between TNCs and more traditional taxicab companies; and

WHEREAS, the Common Council believes it to be in the best interests of the health, safety, and general welfare of its citizens to amend certain provisions and adopt new provisions in R.C.M.C. Chapter 5.60 to regulate taxicabs and transportation network companies within the City.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City that Section 5.60 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

CHAPTER 5.60: TAXICAB TRANSPORTATION SERVICES

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ARTICLE I. GENERAL PROVISIONS

5.60.010 Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- A. TAXICAB DRIVER. One who actually engages in the driving of a taxicab.
- B. TAXICAB OPERATOR. A person engaged in operating a taxicab business.
- C. PERSONAL VEHICLE. 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. The term does not include any taxicab, limousine, or wheelchair transport.
- D. PREARRANGED RIDE. The provision of transportation by a TNC driver to a TNC rider, beginning when a TNC driver accepts a ride requested by a 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.

EE. SEATING CAPACITY. The number of persons, not including the driver, who can be conveniently seated in a ~~taxicab~~vehicle without crowding.

EF. TAXICAB. A motor vehicle for carrying passengers, with a seating capacity for 7 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. The term taxicab shall not include funeral cars, ~~or ambulances, or personal vehicles as defined in this Section.~~

G. TRANSPORTATION NETWORK COMPANY. A corporation, partnership, sole proprietorship, or other 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.

H. TRANSPORTATION NETWORK COMPANY DRIVER or TNC DRIVER. A 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.

I. TRANSPORTATION NETWORK COMPANY RIDER OR TNC RIDER. A 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.

EJ. WHEELCHAIR TRANSPORT. A motor vehicle for carrying passengers using a wheelchair and their accompanying guests, with a seating capacity for 7 persons or less, not including the driver, not traveling any definite or prescribed route, operated by a driver, and carrying or accepting passengers using a wheelchair and their accompanying guests for hire, but shall not include funeral cars or ambulances. Except as otherwise provided, wheelchair transports shall be subject to the same rules and regulations as taxicabs.

5.60.020 Transporting intoxicating liquor prohibited.

All licenses issued under this ~~e~~Chapter shall be subject to revocation at any time by the ~~Finance Officer~~Common Council, if any ~~taxicab~~vehicle operated or used by the licensee shall be used for the delivery or transportation of intoxicating liquor or for any other unlawful purpose. Upon the revocation, the license fee paid shall be retained by the ~~e~~City.

5.60.030 License–Application–False statements.

Any license issued under the provisions of this ~~e~~Chapter shall be revoked by the ~~Finance Officer~~Chief of Police upon discovery of any false material statement made in the application for the license.

5.60.040 Fee.

The fee for a license under this ~~article~~Chapter shall be set by resolution of the Common Council. If any license application is withdrawn or denied, no portion of the fee may be refunded. If a background check is required for the license, an additional fee may be required pursuant to Section 2.20.030.

5.60.050 License – Suspension – Revocation.

A. Licenses Issued by Finance Officer. The Finance Officer or designee may suspend or revoke any license he or she 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. The licensee shall be informed in writing of any suspension, extension(s) of the suspension period, or revocation.

B. Licenses Issued by Chief of Police. The Chief of Police or designee may suspend or revoke any license he or she 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. The licensee shall be informed in writing of any suspension, extension(s) of the suspension period, or revocation.

5.60.060. Appeal of License Decision.

A. Appeal of License Denial. If a license application under this Chapter is denied, the applicant may request a personal appearance before the Common Council to offer evidence why the application should be reconsidered. Such request shall be in writing provided to the Finance Office within fourteen calendar days of the denial. If, upon consideration, a majority of the Council votes for authorization of the license, then the license shall be issued pursuant to the provisions of this Chapter.

B. Appeal of Suspension or Revocation. If a license issued under this Chapter is suspended or revoked pursuant to Section 5.60.050, the applicant may appeal to the Common Council. Such appeal shall be in writing provided to the Finance Office within fourteen calendar days of the suspension or revocation. If, upon consideration, a majority of the Council votes to overturn the suspension or revocation, then the license shall be issued without need for additional application or payment of fees.

ARTICLE II. TAXICAB BUSINESS LICENSE

5.60.040070 Required.

No person shall engage in the business of operating a taxicab upon the streets, without a license as provided by this ~~a~~Article.

5.60.050080 Application.

Every person desiring a license to operate a taxicab business in the eCity shall make application in writing to the Finance Office in the general form required for all applications for licenses and shall also give the following additional information:

- A. Previous experience in the business, if the applicant has not been licensed before; and
- B. Number of taxicabs to be operated.

5.60.060090 Issuance—Required findings.

The Finance Officer or his or her designee shall approve the issuance of a license applied for under this ~~article~~Chapter, if ~~he or she~~ is satisfied that the applicant has met the following requirements:

- A. That he or she is a fit person to engage in the business; and
- B. That his or her vehicles and equipment are such as are consistent with the safety of the public.

5.60.100 Term.

Any taxicab business license issued under this Chapter shall expire 24 months following its issuance, unless sooner revoked, canceled or otherwise terminated.

5.60.070 Fee.

~~In addition to the fee required by § 2.20.030, the fee for a license under this article shall be as follows:~~

- ~~A. Initial fee: \$250; and~~
- ~~B. Renewal fee: \$200.~~

5.60.080110 License number to be displayed on vehicle.

Every operator of any taxicab licensed under this ~~a~~Article shall carry on each vehicle, on the rear of same and in a conspicuous place, a license plate showing his or her license number as provided by the eCity at the time of issuing the license.

ARTICLE III. TAXICAB DRIVER'S LICENSES

5.60.090120 Required.

No person shall drive, or be engaged or employed in the business of driving, upon the public streets of the eCity, any taxicab, without first having procured a license therefor from the City Finance Office.

5.60.100130 Qualifications of applicant.

Each applicant for a taxicab driver's license must comply with the following:

- A. Be of the age of 18 years or over;
- B. Be free from any impairment that would affect applicant's ability to properly operate a taxicab;
- C. Be able to read and write the English language; and
- D. Make a sworn statement giving full name, residence, length of time applicant has resided in the eCity, previous employment history, whether applicant has ever been convicted of a felony or a misdemeanor, and whether applicant has been previously licensed as a taxicab driver, and if so, where and when, and whether applicant's taxicab license has ever been revoked, and for what cause.

5.60.110140 Applicant to be fingerprinted.

Each applicant for a license under this ~~a~~Article shall be fingerprinted by the Police Department.

5.60.120150 Application–Investigation–Issuance.

The application for a taxicab driver's license shall be investigated by the Chief of Police who shall approve or deny the application based on the results of the investigation and applicant's submitted information. ~~Any denial is subject to appeal to the Common Council as set forth in § 5.60.130.~~

~~5.60.130 Application Denial Appeals.~~

~~—If the application is rejected, the applicant may request a personal appearance before the Common Council to offer evidence why the application should be reconsidered. If, upon consideration, a majority of the Council votes for authorization of the license, the city's Finance Office shall issue a license pursuant to the provisions of this chapter.~~

~~5.60.140 Fee.~~

~~—A. In addition to the fee required by § 2.20.030, the fee for a license under this article shall be as follows:~~

- ~~—1. Initial fee: \$75;~~

~~— 2. Renewal fee: \$50; and~~

~~— 3. Holder of an individual merchant security/private security license for the same period: \$20.~~

~~— B. If any taxicab driver license application is withdrawn or denied, no portion of the fee shall be refunded.~~

5.60.150160 Term.

Any taxicab driver license issued under this chapter shall expire 24 months following its issuance, unless sooner revoked, canceled or otherwise terminated.

5.60.160170 To be carried on person and exhibited upon request.

Each person licensed under this ~~a~~Article shall have such license in his or her possession whenever he or she is engaged in driving a taxicab, and shall exhibit the same for inspection whenever he or she is requested to do so by a police officer.

~~5.60.170 Suspension–Revocation.~~

~~— Any license issued under this chapter may be revoked, for cause, by the Council, after notice to the holder of the license and an opportunity for hearing before the Council. The Chief of Police shall have the authority to suspend any license issued under this chapter for good cause pending a hearing before the Council. The power to suspend the license shall be exercised only if it shall appear to the Chief of Police that there is probable cause to believe that the holder of the license has committed a crime involving moral turpitude. The holder of any license suspended by the Chief of Police shall have a right to a hearing before the Chief of Police within 48 hours of a written request therefor. As used herein the term Chief of Police shall include the Chief of Police and any subordinate officer temporarily acting as the officer in charge of the Police Department.~~

ARTICLE IV. TRANSPORTATION NETWORK COMPANY BUSINESS LICENSE

5.60.180 Required.

No person shall engage in the business of operating a TNC upon City streets without a license as provided by this Chapter.

5.60.190 Application.

Every person desiring a license to operate a TNC business in the City shall make application in writing to the Finance Office in the general form required for all applications for licenses and shall also give the following additional information:

A. Name and address of applicant;

- B. Trade name, if any, under which the license is to be exercised;
- C. If a partnership, the name and address of each partner;
- D. If a corporation, the names and address of the officers;
- E. Name and contact information for an agent to be maintained for service of process in the State of South Dakota;
- F. A description of the activity to be carried out under the license;
- G. Previous experience in the business, if the applicant has not been previously licensed with the City;
- H. Proof of sales tax license, if applicable.

5.60.200 Issuance.

The Finance Officer or his or her designee shall grant a TNC license if satisfied that the applicant has complied with all of the terms and provisions of this Chapter and if the evidence submitted in support of the application meets the conditions precedent to granting the license.

5.60.210 Term.

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

5.60.220 Regulations for TNC Licensees.

A. *No cash trips.* The TNC shall adopt a policy prohibiting solicitation or acceptance of cash payments or other compensation directly from TNC riders and shall notify TNC drivers of such policy. TNC drivers shall not solicit or accept cash payments or other compensation directly from TNC riders. Any payment for TNC services shall be made only electronically using the TNC's digital network.

B. *No street hails.* A TNC driver shall not solicit or accept street hails. TNC vehicles may only be used to provide prearranged transportation service. A TNC driver shall not accept or respond to requests for service via a street hail, including hand gestures and verbal statements. A TNC driver shall not solicit potential TNC riders or use words or gestures for immediate patronage of a TNC vehicle upon the public way attempting to direct people to a vehicle that is parked, stopped, standing or moving upon the right of way.

C. *Fare collected for services.* On behalf of a TNC driver, a TNC may charge a fare for the services provided to TNC riders; provided that, if a fare is collected from a TNC rider, the TNC shall disclose to TNC riders the fare calculation method on its website or within the software

application service. The TNC shall also provide TNC riders with the applicable rates being charged and the option to receive an estimated fare before the TNC rider enters the TNC driver's vehicle.

D. Identification of TNC vehicles and drivers. 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.

E. Electronic receipt. Within a reasonable period of time following the completion of a trip, a TNC shall transmit an electronic receipt to the TNC rider on behalf of the TNC driver that lists the following:

1. The origin and destination of the trip;
2. The total time and distance of the trip;
3. The total fare paid, including the base fare and any additional charges; and
4. The TNC driver's first name.

F. Records. A TNC shall maintain the following records:

1. Individual trip records of TNC riders for at least 1 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 operating within the City, which list shall be submitted to the City Finance Officer on a monthly basis.

G. Record inspection authority.

1. The City has the authority to inspect the records of the TNC as necessary to investigate: an alleged crime or violation of this Chapter; any accident involving a TNC driver; or for other good cause. The TNC shall cooperate with the City to facilitate the exchange of relevant information required in any investigation. The City shall provide advance written notice at least 7 days prior to any inspection, which may be conducted at a mutually agreed upon third-party location, or pursuant to court order, grand jury, or investigative subpoena.
2. Any record or information made available by the TNC to the City pursuant to this Chapter is confidential and proprietary and shall not be made public without TNC's express written permission, except that 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.

CITY OF RAPID CITY

Mayor

ATTEST

Finance Officer

(seal)

First Reading:
Second Reading:
Published:
Effective: