

ORDINANCE NO. 1945

AN ORDINANCE TO AMEND ARTICLE VII OF CHAPTER 26 OF THE CITY CODE OF THE CITY OF MOUNTAIN BROOK, ALABAMA

BE IT ORDAINED by the City Council of the City of Mountain Brook, Alabama, as follows:

1. **Amendatory Provision.** Chapter 26, Article VII, Section 26-227 (y) "*Schedule Y - Motor vehicle carriers and express companies*" of the City Code shall be amended by repealing subsection (y) in its entirety and replacing it with the following:

"(y) *Schedule Y - Transit and passenger transportation.*

- (1) Each person, firm, corporation, company, association, partnership, agency or business engaged in the business of transit or passenger transportation in the City, either directly or indirectly through agents, employees, independent contractors or other representatives ("Licensee") shall pay a license tax, and each Transportation Network Company ("TNC") that operates in the City shall pay a fee as follows:
 - a. Motor carriers, as defined in the Code of Alabama, shall pay a license tax as provided in Ala. Code §37-3-33 (1975).
 - b. Express companies as, defined in the Code of Alabama, shall pay a license tax as provided for in Ala. Code §11-51-126 (1975).
 - c. A TNC shall pay a flat fee of \$500.00 per year.
 - (i) TNC means a corporation, partnership, sole proprietorship, or other entity that uses a digital network to connect TNC riders to TNC drivers who provide TNC Services. A TNC shall not be deemed to control, direct or manage the personal vehicles or TNC drivers that connect to its digital network, except where agreed to by written contract.
 - (ii) TNC Services means the provision of transportation by a driver to a rider, beginning when a driver accepts a ride requested by a rider through a digital network controlled by a TNC, continuing while the driver transports a requesting rider, and ending when the last requesting rider departs from the TNC vehicle.

1945

- (iii) TNC vehicle means a vehicle that is used by a TNC driver and is: (a) owned, leased or otherwise authorized for use by the TNC driver; and (b) not a utility, common carrier, for-hire vehicle, motor vehicle carrier, contract carrier, transportation company, express company, taxicab, or limousine.
 - (iv) The City shall permit each TNC applicant that meets the requirements for a TNC set forth in this Section and pays the annual fee to operate in the City.
 - (v) TNCs are not motor carriers, express companies, utilities, common carriers, for-hire vehicles, contract carriers, transportation companies, or taxicab or limousine services pursuant to Chapter 37 of the Alabama Code, nor are TNCs Licensees.
 - (vi) TNC drivers shall not be required to pay such fee, license tax, or license fee, nor shall they be required to obtain a commercial permit or license from the City.
- d. All other persons or entities engaged in transit or the transportation of passengers shall pay a flat license fee of \$500.00 per year.
- (2) *Background Checks.* Each Licensee or TNC shall conduct, or have a third party conduct, background checks on any and all for-hire vehicle drivers or TNC drivers. The background check, shall at a minimum, include (a) Multi-State/Multi-Jurisdiction Criminal Records Locator or similar commercial nationwide database search with validation (primary source search); (b) National Sex Offender Public Website search; and (c) a driving history search.

Background checks shall be conducted prior to the driver's provision of transportation service or TNC Service in the City and annually thereafter.

- (3) *Driver Qualifications.* No Licensee shall permit any person employed or otherwise engaged by Licensee to provide transportation services, and no TNC shall allow an individual to act as a TNC driver on its digital platform, who:
- a. Has been convicted, within the past seven 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 violation that constitutes a felony under the Anti-Terrorism Act of 2002, Ala. Code §§ 13A-10-150 et al. or a similar felony offense under the laws of another jurisdiction.

- b. Is a match in the National Sex Offender Public Website.
- c. Has accumulated more than three (3) moving violations or a major driving violation, including but not limited to attempting to evade the police, reckless driving, or driving on a suspended or revoked license, during the three year period prior to the driving history check.
- d. Who does not possess a valid driver's license, proof of vehicle registration and automobile liability insurance or who is under nineteen (19) years of age.

Records shall be kept by the Licensee or TNC showing that the above qualifications have been met for each person performing transportation or TNC services.

- (4) (a) *Insurance for TNC vehicles.* All TNC vehicles shall be covered by insurance which meets the following criteria, at a minimum:
 - i. Automobile liability insurance of at least one million (\$1,000,000) dollars per incident involving a TNC driver for death, personal injury and property damage while providing TNC Services in the City.
 - ii. Such insurance may be maintained by the TNC Driver, the TNC, or any combination thereof.
 - iii. Certificates of insurance shall be kept by the TNC showing that the above insurance requirements have been met for each person performing TNC Services.
- (b) *Insurance for non-TNC for-hire vehicles.* All non-TNC for-hire vehicles shall be covered by insurance which meets the following criteria, at a minimum:
 - i. Automobile liability insurance of at least one million (\$1,000,000) dollars per incident involving a for-hire vehicle

driver for death, personal injury and property damage while providing passenger transportation services in the City.

- ii. Such insurance may be maintained by the for-hire vehicle driver, the Licensee, or any combination thereof.
- iii. Certificates of insurance shall be kept by the Licensee showing that the above insurance requirements have been met for each person performing transportation services pursuant to the license.

(5) *Rate Disclosure.* Each Licensee and TNC shall adopt procedures, practices or policies requiring the disclosure of passenger rates, estimated fares, suggested fares or the means of computing the fares to passengers prior to each passenger trip. Such disclosure may be by electronic or other means.

(6) *Motor Carriers.* Motor carriers, express companies or other transportation companies operating under the jurisdiction of the Alabama Public Service Commission or other State regulatory body shall be permitted to obtain a City license upon submission of a copy of the motor carrier certificate issued by the public service commission and, in such case, shall not be required to demonstrate compliance with the above subsections (2) through (5) as a condition of the license.

(7) *Government Owned Transportation Companies.* Transportation companies owned or operated by a municipality, a county government, the state of Alabama or the federal government shall be exempt from the provisions of this section.

(8) *Other Exemptions.* Persons engaged by a passenger to provide transportation in a vehicle owned by the passenger and persons who transport passengers on a not-for-profit basis shall be exempt from the provisions of this section.

2. **Repealer.** All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Mountain Brook, Alabama that are inconsistent with the provisions of this ordinance are hereby expressly repealed.

3. **Severability.** If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be

construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

4. **Effective Date.** This ordinance shall become effective immediately upon adoption and publication as provided by law.

ADOPTED: The 23rd day of November, 2015.



Virginia C. Smith
Council President

ADOPTED: The 23rd day of November, 2015.



Lawrence T. Oden
Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of an ordinance adopted by the City Council of the City of Mountain Brook at its regular meeting held on November 23, 2015, as same appears in the minutes of record of said meeting



Steven Boone, City Clerk

Posted at the following locations on November 24, 2015:

- City Hall, 56 Church Street
- Gilchrist Pharmacy, 2850 Cahaba Road
- Overton Park, 3020 Overton Road
- Invitation Place, 3150 Overton Road