

## ORDINANCE

By Wonsley, Chavez & Osman

### **Amending Title 13, Chapter 343 of the Minneapolis Code of Ordinances relating to Licenses and Business Regulations: Transportation Network Companies.**

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Chapter 343 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 343.125 to read as follows:

**343.125. Transportation network company driver rights.** (a) *Minimum compensation.* Minimum compensation paid by a TNC to a driver shall be as provided in this subsection. A TNC driver is covered by this subsection if the TNC driver provides TNC services within the geographic boundaries of the City of Minneapolis.

(1) A TNC driver shall be paid at least one dollar forty cents (\$1.40) per mile and fifty-one cents (\$0.51) per minute for the time transporting a rider, subject to annual adjustment as provided by this section, or five dollars (\$5.00), whichever is greater. Minimum compensation is due only for the portion of the ride that occurs within the city.

(2) The per mile and per minute minimum rates established by this section shall be automatically adjusted on January 1, 2025, and each January 1 thereafter in the same manner as provided for the municipal minimum wage in section 40.390(e) of this Code.

(3) If a cancellation occurs after the driver has already departed to pick up a rider, the TNC must provide eighty percent (80%) of the cancellation fee to the driver.

(4) A TNC shall pay to its TNC drivers all tips and gratuities on or before the driver's next payment. Tips paid to a TNC driver are in addition to, and may not count towards, the TNC driver's minimum compensation as required pursuant to this section.

(5) If a rider is charged any special surcharge such as an event surcharge, the TNC must provide eighty percent (80%) of such surcharge to the driver.

(6) A TNC must pay a driver the compensation required under this section over a reasonable pay period not to exceed seven (7) calendar days.

(7) A TNC that uses its software or collection technology to collect fees or fares must pay a driver the fees and fares earned by the driver, regardless of whether the fees or fares are actually collected.

(b) *Transparency, notice, and posting.* A TNC shall provide notices and information to its drivers as provided in this subsection.

(1) At the time a driver is being offered a potential ride assignment, the TNC must provide the driver with the approximate mileage and time to the pickup location and approximate mileage and time of the requested ride.

(2) Within twenty-four (24) hours of each trip completion, the TNC must transmit a detailed electronic receipt to the driver containing the following information and any other information as required by the city operations officer or **delegee designee**:

- a. The date, location, total distance traveled, and time spent from acceptance of the assignment to its completion.
- b. The time taken and total distance traveled from pickup to drop-off of the rider.
- c. An itemization of the total fare and fees paid by the rider.
- d. The total compensation paid to the driver specifying the rate or rates of pay, the rate per minute, rate per mile, any applicable price multiplier or variable pricing policy or surcharge in effect, tip compensation, and a specifically itemized list of all costs and reimbursements to, or charged to, the driver and any other information judged necessary to implement this chapter.

(3) On at least a weekly basis a TNC must provide a driver, in a format approved by the city operations officer or **delegee designee**, a detailed and itemized accounting of all trips and compensation of the driver. The accounting must contain an explanation of how the driver's total compensation is calculated, including the percentage of the total fees and costs collected by the TNC that are allocated to the driver. A TNC must provide notice to drivers of any changes to the drivers' total compensation in writing or electronically at least forty-eight (48) hours prior to the date the changes are effective.

(4) A TNC shall provide each TNC driver with a written notice of rights established by this chapter. The city operations officer may create and distribute a model notice of rights in English and other languages. However, a TNC is responsible for providing TNC drivers with the notice of rights required by this subsection in a form and manner sufficient to inform TNC drivers of their rights under this chapter, regardless of whether the city has created and distributed a model notice of rights. The notice of rights shall provide information on:

- a. The right to the applicable minimum compensation as established by this section;
- b. The right to be protected from retaliation for exercising in good faith the rights protected by this chapter and applicable law; and
- c. The right to bring a complaint to the city or to engage with a driver's resource center or bring a civil action for violation of the requirements of this chapter, including a TNC or any person's failure to pay applicable minimum compensation, and a TNC or other person's retaliation against a TNC driver or other person for engaging in an activity protected by this chapter or applicable law.

A TNC shall provide the notice of rights required by this subsection in an electronic format that is readily accessible to the TNC driver. The notice of rights shall be made available to the TNC driver via smartphone application and online web portal in English and any language that the TNC knows or has reason to know is the primary language of the TNC driver. The city operations officer or **delegee designee** may issue rules governing the form and content of the notice of rights, the manner of its distribution, and required languages for its translation.

(5) A TNC may not:

- a. Unilaterally prescribe specific dates, times of day, or a minimum number of hours during which a driver must be logged into the TNC's online-enabled application or platform;
- b. Deactivate or terminate the contract of a driver for not accepting a specific transportation service request;
- c. Prohibit a driver from performing services through other TNCs except while performing services through the TNC's online-enabled application or platform during dispatch platform time and passenger platform time; or
- d. Prohibit a driver from working in any other lawful occupation or business.

(c) *Deductions from driver compensation.* Deductions from driver compensation are subject to the requirements of this subsection.

(1) A TNC may deduct any portion of a driver's compensation, without a driver's prior written authorization, only for the following reasons:

- a. If the deduction is required by state or federal law; or
- b. To satisfy a court order, judgment, wage attachment, trustee process, bankruptcy proceeding, or payroll deduction notice for child support payments.

(2) A mandatory deduction may reduce a driver's compensation below the minimum compensation requirements established by this section.

(3) Except as required by law, a TNC may only deduct compensation when the driver expressly authorizes the deduction in writing and does so in advance and for a lawful purpose. Voluntary deductions may reduce the driver's per trip earnings below the minimum compensation requirements set forth in this section. Any authorization by a driver must be voluntary and knowing. Voluntary deductions that may be authorized by a driver include, but are not limited to, voluntary deductions for a lease or rental car program. A driver's written authorization for deductions is valid if it:

- a. Is written in either English or the driver's preferred language;
- b. States that the driver authorizes a deduction from the driver's compensation;
- c. States the deduction amount(s), interval(s) of deductions, and nature of any deductions;
- d. States the effective date(s) of a deduction;
- e. States the estimated end date of a deduction, if any;
- f. Includes sufficient information to identify the driver;

- g. Is submitted in advance of the deduction; and
- h. Is submitted by the driver or the driver's authorized representative.

(4) A “voluntary and knowing” deduction means:

- a. The driver was informed via an accessible system that the deduction may reduce their compensation below the minimum compensation requirements of this section.
- b. The driver was not pressured, manipulated, or coerced into authorizing the deduction.
- c. A driver may rescind a voluntary deduction with notice, written in either English or the driver's preferred language, at least ten (10) days before a scheduled deduction.
- d. There is no financial benefit for any deduction. A TNC, or any person acting in the interest of the TNC, may not derive any financial profit or benefit from any deduction.

(5) A deduction will be considered for financial profit or benefit if it results in a financial gain. In determining whether a deduction resulted in a financial profit or benefit to the TNC, or any person acting in the interest of the TNC, the department may consider any of the following non-exhaustive factors:

- a. The cost of the goods or services incurred by the TNC, including necessary administrative costs to provide the goods or services to the TNC driver; and
- b. Whether the deduction resulted in a gain over and above expenditures.

(6) In no case may a transportation network company deduct the cost of damage to or loss of transportation network company equipment, software, intellectual property, or other tangible or intangible property from a driver's compensation.

(7) A transportation network company must not deduct from a driver's tips, unless required by law or expressly authorized under the voluntary deduction provisions of this section.

(d) *TNC to supply required supplies.* If a TNC requires drivers to maintain any specific personal protective equipment, disinfecting supplies, or similar supplies or equipment, including requirements for certain vehicle types or standards that exceed those required by section 343.80, the TNC shall be responsible for providing such equipment or supplies to its drivers without charge.

(e) *Retaliation prohibited; encouragement of more generous policies.* No TNC or any other person shall interfere with, restrain, deny, or attempt to deny the exercise of any right protected under this chapter or applicable law, nor retaliate against any person for attempting to exercise any such right. Nothing in this chapter shall be construed to discourage or prohibit a TNC from the adoption or retention of protections more generous than those required by this chapter.

(f) *Collective bargaining agreements; employment status.* Notwithstanding any law to the contrary, nothing in this chapter prohibits collective bargaining or shall be used as a basis to conclude whether a driver is an employee or independent contractor.

(g) *Deactivation* means the suspension or termination of a driver's ability to receive connections to potential riders from a TNC.

(1) *Deactivation Rules.* A TNC must have clear written rules stating the circumstances under which a driver may be deactivated or sanctioned, either permanently or temporarily, and stating fair, objective, and reasonable procedures for a driver to request a reconsideration of a deactivation. These rules, and any updates, must:

a. Be available both online and in written form to the drivers at least thirty (30) days before they are enforceable.

b. Clearly list the circumstances that constitute minor infractions and major infractions and indicate those infractions that subject a driver to deactivation or other sanction and the corresponding number of days or range of days of deactivation.

c. Provide that a driver must be subject to permanent deactivation if the driver is convicted of or receives a stay of adjudication for any of the following:

1. Felony-level harassment or stalking under Minnesota Statutes Section 609.749, Subdivisions 3, 4, or 5.
2. Murder under Minnesota Statutes Sections 609.185, 609.19, or 609.195.
3. Predatory offender registration requirements under Minnesota Statutes Section 243.166, Subdivision 5.
4. Violating a harassment restraining order under Minnesota Statutes Section 609.748.
5. Possession of pornographic work involving minors under Minnesota Statutes Section 617.247.
6. Criminal sexual conduct under Minnesota Statutes Sections 609.342, 609.343, 609.344, 609.345, or 609.3451.
7. Criminal sexual predatory conduct under Minnesota Statutes Section 609.3453.
8. Carjacking under Minnesota Statutes Section 609.247.
9. Driving while impaired under Minnesota Statutes Section 169A.20.
10. Kidnapping under Minnesota Statutes Section 609.25.
11. Any crime against a rider.

(2) *Deactivation notice and procedures.*

a. A TNC must provide to the driver a notice of proposed deactivation which includes:

1. The written basis for any proposed deactivation or other sanction at least five (5) days before the deactivation occurs.

2. The alleged infraction and the rule or rules the TNC alleges have been violated.

3. The right for a driver to request a meeting with the TNC, and to have a representative present to advocate for the driver, in order to reconsider the deactivation.

4. The opportunity for the driver and any representative of the driver to present their position and any other relevant information or witnesses regarding the alleged rule violation.

b. The TNC must consider any information presented by the driver. For a deactivation to be upheld, there must be evidence under the totality of the circumstances to find that it is more likely than not that a rule

violation subjecting the driver to deactivation has occurred. A traffic ticket or other traffic or criminal charge alone is not conclusive of a rule violation unless there has been a conviction.

*(3) Deactivation reconsideration meeting.*

a. Except as provided below regarding drivers previously deactivated, a driver must request a deactivation reconsideration meeting within fifteen (15) calendar days of receiving notice of a proposed deactivation.

b. A deactivation reconsideration meeting must occur within seven (7) calendar days of receipt of a driver's request for a deactivation reconsideration meeting.

c. If a deactivation reconsideration meeting does not occur within the required time period, and no continuance is agreed to, the alleged violation must be dismissed and cannot form the basis of any further deactivation or other sanction, unless the driver is later found guilty of a crime that endangers public safety or of a violation that constitutes a major infraction.

d. If a rule violation is not substantiated at the deactivation reconsideration meeting, the TNC must immediately rescind the proposed deactivation, or if deactivation has already occurred, must reinstate the driver's account.

(4) This subsection does not affect deactivations for economic reasons that are not targeted at a particular driver or drivers.

(5) Any driver who has been deactivated by a TNC from January 1, 2021, until December 31, 2023, has the right to reapply for driver status and request a deactivation reconsideration meeting, consistent with the procedures provided in this section, to determine if there is a valid basis to uphold the deactivation, and whether the driver should be reinstated. Any previous deactivation shall not be considered as a basis for a denial of reactivation, although any facts discovered regarding the basis for a previous deactivation may be. If a TNC denies the application to reactivate a driver, it must upon request provide the basis for doing so to the applicant in writing.

(6) By March 1, 2024, a TNC must provide notice of a right to a deactivation reconsideration meeting to all drivers deactivated since January 1, 2021, by contacting the drivers through the following means, in no particular order, until actual contact is made:

a. Emailing notice to the last known email address;

b. Texting notice to the last known cell phone number;

c. Mailing written notice to the last known home address; and

d. Calling the last known phone number of the deactivated driver.

A deactivated driver notified under this subdivision has ninety (90) days to request a deactivation reconsideration meeting. If a driver requests a deactivation reconsideration meeting, the procedures provided in this section apply.

(h) *Driver resource center.* The City may contract with and/or fund a driver resource center, or an organization providing the services of a driver resource center as described in this chapter, to provide driver resources and resolution services.

(1) Services provided by a driver resource center may include, but are not limited to:

- a. Consultation and/or direct representation for TNC drivers facing deactivation;
- b. Other support for TNC drivers to ensure compliance with applicable labor standards and/or to support their ability to perform TNC services; and
- c. Outreach and education to TNC drivers regarding their rights under this chapter and other applicable federal, state, and local laws and regulations.

(2) A driver resource center shall be a nonprofit organization registered with the Minnesota secretary of state and shall have:

- a. Organizational bylaws giving drivers right to membership in the organization;
- b. Demonstrated experience or capability to provide services to TNC drivers providing rides originating in the City of Minneapolis, including the ability to meaningfully represent drivers in deactivation appeals proceedings; and
- c. Culturally competent driver representation services, outreach, and education.

The administration and formation of the driver resource center may not be funded, influenced, or controlled by a TNC.

(i) *Civil action authorized.* To the fullest extent permitted by law, a driver or a driver's beneficiaries may bring a civil action for damages or other applicable relief for noncompliance with or violation of this chapter against a TNC in district court.

(j) *Severability.* The provisions of this chapter are declared to be separate and severable. If any clause, sentence, paragraph, subdivision, section, subsection, or portion of this chapter, or the application thereof to any TNC, TNC driver, or circumstance, is held to be invalid, it shall not affect the validity of the remainder of this chapter, or the validity of its application to other persons or circumstances.

Section 2. That Section 343.170 of the above-entitled ordinance be amended to read as follows:

**343.170. Records and reports.** (a) Every licensee shall keep accurate books and records of account of the licensee's operations at the licensee's place of business in the city for a minimum of three (3) years. Such records shall be submitted for inspection upon the request of the ~~licensing official~~ city operations officer.

(b) Each licensee shall provide the following data to ~~licensing official~~ the city operations officer or delegee designee, at such times and in a format and manner prescribed by the ~~licensing official~~ city operations officer or delegee designee. Data provided pursuant to this subsection shall be deemed to be not public data to the extent permissible under the Minnesota Government Data Practices Act or other applicable law.

(1) The number and percentage of the licensee's customers within the city who requested wheelchair accessible vehicles, and how often the licensee referred such customers to another service provider;

(2) The number of rides requested and accepted by the licensee's drivers within each ~~zip code~~ census tract within the city; and the number of rides that were requested but not accepted by the licensee within each ~~zip code~~ such tract; Data provided pursuant to this subsection shall be deemed to be not public data to the extent permissible under the Minnesota Government Data Practices Act or other applicable law;

(3) Information on any of the licensee's drivers who were alleged to have committed a violation of this chapter or their terms of service or who have been suspended or banned from driving for the licensee, including any zero-tolerance complaints and the outcome of the investigation into those complaints;

(4) The average and mean number of hours and miles each of the TNC endorsed drivers spent driving for the licensee, to be further broken down to include the percentage of drivers who drove within any timeframes as set by and requested by the city, such as less than ten (10) hours per week, more than forty (40) hours per week, or any other requested timeframe;

(5) ~~The licensee must provide upon the request of the licensing official, police chief, or their designees~~ city operations officer or their delegee designee, factual information regarding the licensee's drivers and vehicles so as to determine whether or not a particular TNC driver was active on the TNC dispatch system application, in route to a passenger location, or engaged with a passenger at a specific time and date. Such information shall be provided within eight (8) hours of the request unless otherwise required ~~by the licensing official~~; and

(6) Evidence that the TNC has complied with the background check requirements for all endorsed TNC drivers.

(7) The licensed TNC shall maintain the ability to provide, upon a lawful request of a law enforcement agency or court of law pertaining to an active criminal investigation, factual information and data regarding the identity, home address, telephone number and credit or debit card information of a rider. Data limited solely to the use of a gift card shall not be deemed to satisfy this requirement.

(8) The city operations officer or delegee designee shall have the authority to request and review records from each licensee and may issue rules governing the submission format, security and privacy protocols relating to the submission of such records in accordance with, and to the fullest extent permitted by applicable law. A licensee shall affirmatively transmit any such records as lawfully required by the rules issued by the city operations officer or delegee designee on at least a quarterly basis. Such records may include, but are not limited to:

a. The distance and duration of each trip;

b. The amount of time spent and miles travelled in available platform time, dispatch platform time, and passenger platform time;

c. Per-trip TNC driver compensation;

d. For each trip the date, time, and location of dispatch, passenger pickup, and passenger drop-off;

e. Unique vehicle and driver identifier;

f. Passenger fares for each trip; and

g. Any other records that the city operations officer or delegee designee determines are necessary to effectuate the purposes of this chapter.



Section 3. That Section 343.190 of the above-entitled ordinance be amended to read as follows:

**343.190. Violations and penalties.** (a) Any licensee who violates this chapter or any rule or regulation promulgated hereunder shall be subject to an administrative penalty as listed in the administrative fine schedule. Each day that any violation shall continue shall be deemed a separate and distinct offense.

(b) Any person other than a licensee who violates this chapter or any rule or regulation promulgated hereunder shall be subject to an administrative penalty as listed in the administrative fine schedule. Each day that any violation shall continue shall be deemed a separate and distinct offense.

(c) Any licensee or person who violates this chapter or any rule or regulation promulgated hereunder, in addition to the penalties provided in subsections (a) and (b), may be subject to any other penalty or adverse license action as authorized or as provided for by this Code.

Section 4. That Section 343.200 of the above-entitled ordinance be amended to read as follows:

**343.200. Enforcement, rules and regulations.** (a) Upon request, a driver shall display to law enforcement personnel or the licensing official, or other person authorized to enforce this chapter, a physical or electronic record of a ride in progress sufficient to establish that it was a prearranged transportation service. To the extent that trip records are contained on electronic devices, drivers are not required to relinquish custody of the devices in order to make the required display.

(b) If a passenger files a complaint against a licensee or driver with the city, in addition to all other powers and remedies provided under this Code, the licensing official or authorized staff shall have the right to inspect the licensee's records as necessary to investigate and resolve the complaint to the same extent the licensing official and law enforcement personnel are permitted to inspect all other public passenger vehicles.

(c) ~~The licensing official~~ city operations officer or **delegee designee** is authorized to enforce this chapter, and to adopt rules and regulations for the proper administration and enforcement of this chapter. The city operations officer or **delegee designee** may use any rulemaking authority granted under this chapter, including any authority otherwise granted to the licensing official, in consultation with appropriate city departments including, but not limited to, the departments of community planning and economic development, civil rights, and public works.

(d) Any fees imposed pursuant to rules authorized by this chapter shall be reasonably related to the city's cost of administration and enforcement, and shall be effective upon approval of the license fee schedule.

Section 5. The effective date of the ordinance amendments herein described shall be January 1, 2024.