

ORDINANCE NO. 903

AN ORDINANCE OF THE CITY OF MADRAS ESTABLISHING REGULATIONS CONCERNING VEHICLES FOR HIRE.

WHEREAS, the City of Madras ("City") has all powers that the constitutions, statutes, and common law of the United States and Oregon expressly or impliedly grant or allow City; and

WHEREAS, ORS 221.485 affirms that political subdivisions of Oregon may regulate taxicabs and other vehicles for hire; and

WHEREAS, City has authority to regulate vehicles for hire, and is committed to doing so in a way that seeks to provide for safe, fair, and efficient transportation options for City residents and visitors; and

WHEREAS, City desires to (a) accommodate all vehicle for hire businesses, including, without limitation, transportation network companies ("TNCs"), and (b) provide consistent standards for vehicle for hire operation in City, including, without limitation, public protection measures and insurance requirements; and

WHEREAS, City recognizes the importance of having consistent regional standards for vehicles for hire and therefore desires to adopt regulations that are compatible with those of neighboring jurisdictions; and

WHEREAS, the Madras City Council (the "Council") desires to reasonably regulate vehicle for hire operations in an effort to protect the public health, safety, and welfare.

NOW, THEREFORE, the City of Madras ordains as follows:

1. Findings. The above-stated findings are hereby adopted.
2. Purpose. The purpose of this Ordinance No. 903 (this "Ordinance") is to minimize any adverse public safety and public health impacts that may result from allowing vehicle for hire business, including, without limitation, taxi companies and TNCs, to operate in City's incorporated limits by (a) adopting reasonable regulations, and (b) a separate licensing process for such operations.
3. Definitions. Unless the context requires otherwise, when used in this Ordinance the following terms and phrases have the meanings assigned to them below:

"Administrator" means City's then city administrator and/or his or her designee.

"Applicant(s)" means a company applying for a license to provide vehicle for hire services within City pursuant to this Ordinance.

"City" means City of Madras, Oregon.

"Council" means the Madras City Council.

"Company(ies)" means a taxi company and/or transportation network company.

"Driver" means any individual natural person who operates a vehicle for hire within City.

"Emergency vehicle(s)" means a vehicle (a) that is equipped with lights and sirens as required under ORS 820.350 and 820.370, (b) operated by public police, fire, or airport security agencies, (c) designated as an emergency vehicle by a federal agency, and/or (d) designated as an emergency vehicle by the Oregon Director of Transportation.

"License" means the permission granted, on a non-exclusive basis, by City under this Ordinance to the licensee authorizing the licensee to engage in vehicle for hire services within City.

"Licensee" means any company that engages in the business of operating a vehicle for hire and/or providing vehicle for hire services pursuant to a license issued by City in accordance with this Ordinance.

"License fee(s)" means the license fees described under Section 4.

"Person" means any natural person, corporation, limited liability company, partnership, joint venture firm, association, trust, unincorporated organization, government or governmental agency or political subdivision, and/or any other entity.

"Street(s)" refers to (a) any City street, alley, avenue, road, highway, and/or other thoroughfare open, used, and/or intended for use of the public for vehicles and/or vehicular traffic as a matter of right, and/or (b) any Jefferson County road which City exercises jurisdiction over as the road authority. "Street(s)" includes the public right-of-way, including, without limitation, the shoulder and/or swales.

"Taxi company(ies)" means any person or entity operating one or more vehicles for hire, other than as a driver, regardless of the legal form of the entity and regardless of whether the taxis so operated are owned by the company, or leased, or owned by individual members of an entity. "Taxi companies" do not include transportation network companies.

"Transportation network company(ies)" or "TNC(s)" means a company or other entity, whether a corporation, partnership, sole proprietor, that exclusively uses an Internet-enabled platform or application to connect passengers with transportation network company drivers.

“Transportation network company driver” or “TNC driver” means a driver who connects with passengers through an Internet-enabled platform or software application (“digital network”) provided by a transportation network company.

“Transportation network company services” or “TNC services” means any vehicle for hire services provided by a transportation network company driver or transportation network company vehicle on behalf of or by an affiliated transportation network company.

“Transportation network company vehicle” or “TNC vehicle” means any vehicle driven by a transportation network company driver to offer and/or provide transportation network company services.

“Vehicle” means any devise in, upon, or by which any person or property is or may be transported or drawn upon a street and includes vehicles that are propelled or powered by any means.

“Vehicle for hire” means any vehicle used for the ground transportation of passengers for compensation within City, including, without limitation, taxis, transportation network company vehicles, and nonmotorized vehicles, including, without limitation, animal-drawn vehicles and pedicabs. The following vehicles are excluded from the definition of vehicle for hire and are exempt from this Ordinance: (a) school buses operated to transport students; (b) vehicles used by nonprofit transportation providers solely for elderly and/or handicapped persons; (c) vehicles used to provide courtesy transportation at no charge to and from parking lots, hotels, rental offices, retirement homes, and the like; (d) emergency vehicles; and (e) vehicles used to provide ambulance services as defined under ORS 682.025.

“Vehicle for hire services” means any private for hire transportation offered and/or provided to passengers for compensation and includes transportation network company services.

4. License; Application; and Fees.

- 4.1 Initial Application; Fee. No company may engage in the business of operating a vehicle for hire and/or providing vehicle for hire services within City without first applying for and obtaining a license and paying the prescribed fee in accordance with this Ordinance. Each company operating in City’s incorporated limits must possess a valid annual license issued under this Ordinance and must comply with the requirements of all applicable federal, state, and local laws, regulations, and ordinances, including, without limitation, this Ordinance and City’s business license registration requirements. The license term will be for a fiscal year, beginning July 1 and ending June 30 of the immediately following year. Licenses

are non-transferrable. Application forms for a vehicle for hire license will be available at Madras City Hall. Applications for initial and renewal licenses must be submitted to City and signed under penalty of perjury. At the time of submission of an initial license application, the applicant must pay a license application fee. The license application fee amount will be set from time to time by council resolution. No portion of the fee is refundable if a license is denied or operation of the business is discontinued for any reason.

- 4.2 Compliance with Laws. Subject to the requirements of Section 4, City may issue a license to a company if the company certifies on a form acceptable to City that it is in compliance with all requirements of this Ordinance, including the driver and insurance requirements, operating standards, and any other requirements of City, and satisfies all applicable standards and requirements.
- 4.3 Renewal Application; Fee. A license terminates automatically on June 30 of each year unless a license renewal application is approved. A license renewal application will be made on a form to be provided by City and must be submitted to City not less than thirty (30) days prior to expiration of the license. At the time of submission of a license renewal application, the licensee must pay a license renewal application fee. The renewal application fee amount will be set from time to time by council resolution. No portion of the fee is refundable if a license is denied or operation of the company is discontinued for any reason.

5. Driver Requirements.

- 5.1 Drivers. All drivers will be at least 21 years of age and will possess a valid driver's license, proof of motor vehicle registration, and proof of current automobile liability insurance that meets the requirements of this Ordinance and state law.
- 5.2 Records. Each licensee will maintain accurate, current records for all drivers employed by, contracting with, or affiliated with the company, including, without limitation, all drivers accessing a company's digital network to operate in City. Records will include each driver's name, date of birth, address, social security number, criminal background check results, driver's license information, motor vehicle registration, and automobile insurance.
- 5.3 Background Check. Prior to permitting a person to operate as a driver, and annually thereafter, each company will conduct, or have a qualified third party conduct, a criminal background check. The criminal background check will include a search of no less than seven years of database history, unless prohibited by law, in which case the duration of the search will be the maximum number of years permitted by law. The criminal background check will include

local, state, and federal criminal history databases and all accessible sex offender registries. Any person who is on a sex offender registry and/or has a felony conviction within the previous seven years may not act as a driver. No person may serve, act, and/or otherwise operate as a driver if within the previous seven years the person has been convicted of any of the following: (1) crimes involving driving under the influence of alcohol and/or controlled substances; (2) sexual offenses; and/or (3) crimes involving physical harm and/or attempted physical harm to a person. The company and/or its agent will maintain records of a criminal background checks for a period of at least two years. For purposes of this Section 5.3, the term "conviction" includes convictions, bail forfeitures, and other final adverse findings.

- 5.4 Revocation. Upon acquiring knowledge that a driver is not in compliance with the requirements of this Ordinance, a company will revoke the driver's authority to operate as a driver for the company. The company may reinstate a driver only after determining that the subject driver is in compliance with all provisions of this Ordinance.
- 5.5 Exception. Notwithstanding the provisions of this Section 5.5, upon application by a company, the Madras Police Department has authority to allow a person to act as a driver if the Madras Police Department Chief (or his or her designee) determines, in writing, public safety, health, and welfare will not be compromised by the person's operation as a driver.

6. Insurance Requirements.

- 6.1 Insurance. Each licensee, at its cost and expense, will obtain and keep in full force and effect during the term of a license issued pursuant to this Ordinance, the following insurance coverage and their respective minimum limits: (a) workers' compensation insurance within statutory limits; and (b) commercial general liability insurance with limits of \$1,000,000 for bodily injury or death to each person and for property damage per occurrence, \$2,000,000 in the aggregate. Each liability insurance policy a company is required to obtain and maintain under Section 6 will name City and its officers, representatives, agents, and employees as additional insureds. A company will not cancel, modify, and/or reduce in amount or scope the insurance coverage required to be maintained under this Ordinance without first providing City thirty (30) days' prior written notice. All insurance a company is required to obtain and maintain under Section 6 will be issued only by insurance companies licensed in Oregon. Prior to City's issuance of a license, and at any other time thereafter within thirty (30) days after City's written request, each company will provide City with certificates of insurance evidencing company's compliance with Section 6.

- 6.2 Insurance Subject to Statutory Change. The insurance limits for companies are subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon during the term of each license, other statutory changes, and/or other changes deemed necessary by City. The adequacy of insurance coverage is subject to the review and approval of City. Each company will maintain continuous, uninterrupted coverage for the duration of the license and any operations in City.
- 6.3 Taxi Company Automobile Insurance. Each licensed taxi company operating any vehicle for hire in City will, at its sole cost and expense, obtain and maintain in full force and effect during the term of a license issued pursuant to this Ordinance, commercial automobile liability insurance for all owned, non-owned, and hired vehicles that are or may be used by licensee and its employees with a limit of \$1,000,000 per occurrence.
- 6.4 TNC Driver Automobile Insurance. Each TNC driver will obtain and maintain all personal automobile liability insurance as required by state law. Prior to City's issuance of a license, and at any other time thereafter within thirty (30) days after City's written request, each TNC will provide City with proof of current, valid insurance for City review and approval covering all affiliated TNC drivers and vehicles for hire operating for such company and satisfying the minimum automobile liability coverage requirements of Period 1, Period 2, and Period 3 (defined below). Each TNC will maintain the following automobile liability coverages:
- a. Primary insurance coverage during Period 1 with minimum liability limits of \$50,000 per person for death and injury, \$100,000 per occurrence for death and injury, and \$25,000 for property damage per occurrence, in addition to any other state compulsory coverage.
 - b. Primary insurance coverage during Period 2 and Period 3 with minimum liability limits of \$1,000,000 in combined single limit coverage for death, personal injury, and property damage per occurrence; and \$1,000,000 in combined single limit under/uninsured motorist coverage for death, personal injury, and property damage per occurrence.
 - c. The required automobile liability insurance will specifically recognize the driver's provision of TNC services and vehicle for hire services and will comply with the laws of the State of Oregon and/or other applicable governing bodies.
- 6.5 TNC Service Periods Definitions. When used in Section 6, the following terms and phrases have the meanings assigned to them below:

- a. "Period 1" means the TNC driver has logged into the software application and/or is otherwise connected to the TNC's digital network, but has not yet accepted a request for a ride from a passenger. For example, the application is open and the driver is waiting for a match.
- b. "Period 2" means a passenger match has been accepted, but the selected passenger has not yet entered the vehicle. For example, the driver is on the way to pick up a selected passenger and no other passenger is in the vehicle.
- c. "Period 3" means a passenger is in the vehicle and until the passenger exits the vehicle at the destination.

7. Operational Requirements.

- 7.1 TNC Trip Records. Each TNC will maintain a record of each trip made by a TNC driver for a period of at least one year from the date of the trip. The record will include data that may be aggregated and/or anonymized, and will include the locations by ZIP code of trip origination and destination, vehicle miles traveled, trip origination and completion times, trip duration, and passenger wait times from a driver's acceptance of a pick-up request to passenger pick-up. City may, in City's sole discretion, require a TNC enter into a data sharing agreement or similar agreement with City.
- 7.2 Vehicle Identification. Each vehicle operating for a taxi company will be clearly marked as such and will include the taxi company name, phone number, and a vehicle identification number in plain sight and in letters of not less than two and one-half inches in height and not less than one-half inch in width. Each vehicle operated for TNC services will be marked with a customary "trade dress" type of identification which may include, without limitation, a sticker, placard, and/or similar symbol. Each TNC's software application and/or website will display for each passenger and/or user of the TNC software the make, model, and license plate number of any TNC vehicle operating in City.
- 7.3 TNC Passenger Restrictions. No TNC driver will accept a street hail. A TNC driver may only accept passengers arranged through a TNC's software application and/or digital network.
- 7.4 Alcohol and Drugs. Taxi companies and TNCs will implement, maintain, and enforce at all times a zero-tolerance policy on the use of drugs and/or alcohol applicable to all drivers employed by and/or affiliated with the company while providing vehicle for hire services. Companies will provide notice of the zero-tolerance policy on their website and/or have it clearly displayed in each company vehicle for hire. The notice must include company contact information

to report a complaint about a driver for possible violation of policy. A company will immediately suspend a driver upon receipt of a passenger complaint alleging a violation of the zero-tolerance policy for at least the duration of an investigation of the complaint.

- 7.5 Reasonable Accommodations. Each company must provide reasonable accommodations to passengers with disabilities, including a passenger accompanied by a service animal, passengers with hearing and visual impairments, and passengers with mobility devices.
- 7.6 Compliance with Laws. Each company must comply with all applicable federal, state, and local laws, rules, regulations, and/or ordinances, including, without limitation, this Ordinance and all applicable requirements of the Americans with Disabilities Act.
8. Audit. For the sole purpose of reviewing compliance with this Ordinance, City may audit the records of a company no more than three times per calendar year. City will have the right to audit a sample of records for up to twenty (20) drivers chosen at random from an anonymized list of the drivers affiliated with the TNC that have operated in City in the thirty (30) days preceding the audit. The audit will occur at a location designated by City. Notwithstanding the foregoing, City may require a company to produce records related to an investigation of a specific allegation of a violation of this Ordinance or other applicable law. Production of records for an investigation does not count toward the auditing limit. Any records inspected or required under this Ordinance are designated confidential, are not subject to disclosure to a third party by City, or any other party authorized to view such records under this Ordinance, without prior written consent of the company, and are exempt from disclosure under ORS chapter 192.
9. License Denial, Revocation, Suspension and Penalties.
- 9.1 Grounds for Denial, Suspension, Revocation. The administrator may deny, suspend, and/or revoke a license for failure to comply with this Ordinance, for submitting falsified information to City, and/or for violations of federal, state, and/or local laws, regulations, and/or ordinances.
- 9.2 Notice of Revocation or Suspension. The administrator must provide to the licensee written notice of any license suspension, denial, or revocation and reasons therefor by first-class US mail at least ten (10) calendar days prior to the effective date of the suspension, denial, or revocation.
- 9.3 Appeal. A decision to deny, suspend, or revoke a license may be appealed by a written notice of appeal to the administrator, delivered in person, by mail, or electronically, on or before the effective date of the denial, suspension, or revocation. Unless the administrator has declared that imminent danger to the public will exist, the administrator's decision to revoke or suspend is stayed

pending appeal. The administrator will transmit the notice of appeal together with the file of the appealed matter to the council after which transmission the council will fix a time and place for hearing the appeal. The council will give the appellant not less than ten (10) days' prior written notice of the time and place of hearing of the appealed matter.

- 9.4 Violations. Any violation of this Ordinance is punishable by a fine not to exceed \$500.00 per violation.
10. Enforcement. City has the administrative authority to implement and enforce the provisions of this Ordinance, including, without limitation, adoption of rules, regulations, and/or policies in furtherance thereof. This provision will not be construed to abrogate or limit the jurisdiction or authority of the Madras Police Department or any law enforcement agency.
11. No Mandatory Duty of City. Nothing contained in this Ordinance is intended to create a mandatory duty on the part of City and/or the administrator to protect persons or property from a violation of the provisions of this Ordinance.
12. Standing or Parking of Vehicles for Hire. Except as expressly provided otherwise in Ordinance No. 834, the operator of a vehicle for hire will not stop, stand, or park the vehicle for hire on a street in a business district, except that this provision will not prevent the operator of a vehicle for hire from temporarily stopping the vehicle outside a traffic lane while loading or unloading passengers.
13. Interpretation; Severability; Errors. All pronouns contained in this Ordinance and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. The provisions of this Ordinance are hereby declared severable. If any section, subsection, sentence, clause, and/or portion of this Ordinance is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Ordinance. This Ordinance may be corrected by order of the Council to cure editorial and/or clerical errors.

PASSED by the City Council and signed by the Mayor on June 13, 2017.