

City of Houston, Texas, Ordinance No. 2014-_____

AN ORDINANCE AMENDING CHAPTERS 1 AND 46 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO REGULATION OF VEHICLES FOR HIRE; CREATING A REGULATORY FRAMEWORK FOR THE OPERATION OF MOBILE DISPATCH SERVICES AND TRANSPORTATION NETWORK COMPANIES; DECLARING CERTAIN CONDUCT TO BE UNLAWFUL AND PROVIDING PENALTIES THEREFOR; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; CONTAINING A REPEALER; AND DECLARING AN EMERGENCY.

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WHEREAS, the City of Houston (“City”) is a home-rule municipality pursuant to Article XI, Section 5 of the Texas Constitution; and

WHEREAS, Section 215.073 of the Local Government Code provides that a home-rule municipality may license, fix the charges or fares made by, or otherwise regulate any person who owns, operates, or controls any type of vehicle used on the public streets or alleys of the municipality for carrying passengers or freight for compensation; and

WHEREAS, Chapter 46 of the City of Houston Code of Ordinances (“Code”) contains the City’s permit-based regulatory provisions regarding the operation of vehicles for hire within the City limits; and

WHEREAS, the Administrative and Regulatory Affairs Department (“ARA”) is responsible for the oversight and implementation of the City’s regulations concerning all vehicles for hire operating within the City; and

WHEREAS, it is the policy of the City that all persons providing vehicle for hire transportation services in the City do so in a manner consistent with making available and providing safe, clean, reliable, equivalent and consistent transportation services to the riding public; and

WHEREAS, it is also the policy of the City that no person may provide or offer to provide vehicle for hire transportation services to pick up passengers within the City or represent the person’s business to the public as offering transportation services for hire unless the person obtains the necessary permit(s) and license(s) pursuant to this chapter; and

WHEREAS, the City has an interest in maintaining the vitality of the vehicle for hire industry by promoting innovation and growth within the market; and

WHEREAS, the City is committed to collecting and analyzing data and other relevant information, including but not limited to anecdotal evidence, concerning the

provision of vehicle for hire transportation services to persons with disabilities, in an attempt to develop regulatory controls that promote and incentivize permittees and registrants to make available wheelchair accessible vehicles to passengers with disabilities in furtherance of the City's aspirational goal that within five years not less than five percent of the of the vehicles for hire operated in the City, and that an appropriate percentage within the diverse vehicle for hire categories, are wheelchair accessible vehicles; and

WHEREAS, ARA has considered industry stakeholder input, data from the 2012 Houston Taxi Study and relevant data and observations from other jurisdictions in an attempt to provide recommendations that are supported by empirical facts and sound logic; and

WHEREAS, ARA recommends that City Council adopt the proposed amendments to Chapter 1 and Chapter 46 of the Code to create a regulatory framework for the operation of mobile dispatch services and transportation network companies, as well as amend existing and add various Code provisions which, in part, serve to:

- (1) Update the general section of Chapter 46 so as to directly address a vehicle for hire permittee's duty to provide equivalent transportation services to all of the riding public, give ARA the authority to revoke, suspend or refuse renewal of a license upon a single violation of Chapter 46, and require that vehicle for hire permittees maintain certain operations and business data;
- (2) Permit the impoundment of vehicles for hire that are found to be operating in violation of the Code;
- (3) Introduce a universal vehicle for hire driver license issuance process and corresponding licensing requirements;
- (4) Restrict the use of cellular telephones and electronic communications devices by licensees during the active rendition of vehicle for hire services;
- (5) Mandate that all taxi cabs be equipped with credit card payment devices integrated with global positioning satellite systems and require taxi licensees to accept payment for vehicle for hire services by credit card;
- (6) Eliminate the minimum fleet requirements for chauffeured limousines; and
- (7) Permit the operation of taxi cabs and chauffeured limousines for an additional model year, subsequent to satisfactory completion of an

inspection of the vehicle at a location authorized and identified by the director; **NOW, THEREFORE,**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. That Chapter 46 of the Code of Ordinances, Houston, Texas, is hereby repealed and replaced in its entirety by the provisions as set forth in Exhibit A, attached hereto and incorporated herein by this reference.

Section 3. That the Table of Permits in Item (8) of Subsection (b) of Section 1-10 of the Code of Ordinances, Houston, Texas, is hereby amended by adding, in appropriate alphabetical order, the following two rows:

“Mobile Dispatch Service Certificate of Registration	46-452
Transportation Network Company Permit	46-503”

Section 4. That Subsection (c) of Section 1-10 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"(c) The permits, certificates of registration, and licenses enumerated in this subsection shall be denied if the applicant (i) has been convicted of any of the designated offenses within the ten-year period immediately preceding the date of the filing of the application or has spent time in jail or prison during the ten-year period immediately preceding the date of filing of the application for such a conviction, or (ii) is subject to deferred adjudication in connection with any of the above offenses. Additionally, the following permits, certificates of registration, and licenses shall be subject to denial, revocation, or refusal for renewal, as applicable, if the permittee, registrant, or licensee has been convicted of any of the designated offenses since the application was filed. Provided, however, no such permit, certificate of registration, or license shall be denied, revoked, or refused for renewal if the conviction was set aside as invalid or if it is found that the license or permit should not be

denied, revoked or refused for renewal under chapter 53 of the Texas Occupations Code:

SGT licenses issued pursuant to section 9-58 of this Code and permits, certificates of registration, and licenses issued pursuant to chapter 46 of this Code:

- a. Any offense involving fraud or theft;
- b. Any offense involving forgery;
- c. Any offense involving the unauthorized use of a motor vehicle;
- d. Any violation of state or federal laws regulating firearms;
- e. Any offense involving violence to any person except for conduct that is classified as no greater than a Class C misdemeanor under the laws of Texas;
- f. Any offense involving prostitution or the promotion of prostitution;
- g. Any offense involving rape, sexual abuse, sexual assault, rape of a child, sexual abuse of a child, indecency with a child, or resulting in designation of the individual as a "registered sex offender" by any state or by the federal government;
- h. Any offense involving the use of or sale of drugs;

In addition to the offenses listed above, the following shall apply to SGT licenses issued pursuant to section 9-58 of this Code and licenses issued pursuant to Chapter 46 of this Code:

- i. Three or more moving violations of the traffic laws of this state or any other state if such violations occurred within the two years immediately preceding the application for or renewal of a license or of the notice of a hearing for revocation of a license;
- j. Any offense involving driving a motor vehicle while intoxicated, whether under the influence of alcohol or drugs, or both.

The above listed offenses shall be grounds for denial, revocation or refusal for renewal of the above referenced permits, certificates of registration, and licenses as they allow persons to engage in businesses and occupations in which there is a high degree of personal contact with and danger to the public and a serious need to protect the members of the public utilizing public transportation services from the type of criminal conduct represented by such offenses."

Section 5. That Items (7) through (10) of Subsection (a) of Section 1-15 of the Code of Ordinances, Houston, Texas, are hereby amended to read as follows:

- "(7) Permits for vehicle immobilization services issued pursuant to Chapter 26, article X, division 2 of this Code;
- (8) SGT licenses issued pursuant to section 9-58 of this Code and permits, certificates of registration, and licenses issued pursuant to Chapter 46 of this Code;
- (9) Licenses for crafted precious metals dealers issued pursuant to article IV of Chapter 7 of this Code;
- (10) Registrations for boarding homes issued pursuant to article XIV of chapter 28 of this Code; and "

Section 6. That the provisions of this Ordinance shall become effective immediately upon the date of its passage and approval by the Mayor, with the following exceptions:

- (a) Sections 46-33 and 46-37 of the Code of Ordinances, Houston, Texas, as amended in **Section 2** of this Ordinance shall become effective at 12:01 a.m. on the 180th day next following the date of its passage and approval by the Mayor.
- (b) The provisions of Articles VIII and IX of Chapter 46 of the Code of Ordinances, Houston, Texas, as adopted in **Section 2** of this Ordinance shall become effective at 12:01 a.m. on the 90th day next following the date of its passage and approval by the Mayor.

Section 7. That City Council designated Council Member Green and Council Member Stardig to meet with and seek input and feedback from vehicle for hire industry stakeholders and representatives of the Houston disabilities community to discuss any outstanding concerns with the amendments to Chapter 1 and Chapter 46 of the Code of Ordinances, Houston, Texas, as presented to City Council on June 11, 2014; specifically, the issue of ensuring that there is sufficient accessibility to all vehicles for hire transportation services by persons with disabilities, including persons with disabilities whose transportation needs require the use of wheelchair accessible vehicles.

Section 8. That City Council, having considered the input of industry stakeholders and special interest groups, coupled with observations and trends from other jurisdictions and relevant data and anecdotal evidence provided by representatives of the Houston disabilities community, has determined that not less than two percent of all vehicles for hire operating in the City and available to the riding public must consist of wheelchair accessible vehicles or vehicles constructed and designed or redesigned, modified, or equipped to provide vehicle for hire transportation services to persons with disabilities who require the use of a wheelchair as a means of movement or ability to move from one place to another.

Section 97. That the Mayor hereby authorizes the creation of the Houston Transportation Accessibility Task Force (“Task Force”) to: (1) study all aspects of transportation needs of persons with disabilities, including but not limited to available and emerging technologies related to adaptive devices such as wheelchairs and their use and integration in all vehicles, including vehicles constructed and designed or

redesigned, modified, or equipped for to provide transportation services to persons with disabilities; (2) assess and make recommendations to City Council concerning the number of wheelchair accessible vehicles for hire currently operating and available for use in Houston, including the analysis of available data and information reflecting the number and percentage of wheelchair accessible vehicles operated by permittees and registrants authorized to provide vehicle for hire transportation services in Houston; (3) assess vehicle for hire response times for persons requesting a wheelchair accessible vehicle and make recommendations to City Council concerning minimum training requirementsopportunities to ensure consistent and equivalent vehicle for hire transportation services to everyone, including but not limited to passengers with disabilities and passengers who request a wheelchair accessible vehicle; ~~and~~ (4) provide recommendations, supported by empirical facts and anecdotal evidence, to work with the Director of ARA ~~in crafting future recommendations~~ for City Council's consideration concerning the availability of wheelchair accessible vehicles within permittees' and registrants' respective vehicle for hire fleets and targeted recommendations aimed at ensuring that the City's requirement that a portion of the overall vehicle for hire fleet available to the riding public consist of wheelchair accessible vehicles or vehicles constructed and designed or redesigned, modified, or equipped to provide vehicle for hire transportation services to persons with disabilities who require the use of a wheelchair as a means of movement or ability to move from one place to another is an accurate reflection of the demand for wheelchair accessible vehicles for hire in the City; and (5) study and provide recommendations concerning the necessity, feasibility, and practicability of requiring permittees and registrants to

ensure a minimum percentage of their vehicle fleets consist of wheelchair accessible vehicles as a condition of receiving a permit, certificate of registration, or other authorization from the City to operate a vehicle for hire.

Section 10. That City Council directs the Director of ARA to work with the Task Force to assess the necessity, feasibility, and practicability of requiring permittees and registrants to submit annual accessibility plans as a condition of permit or certificate of registration issuance or renewal and any Task Force recommendations concerning the minimum requisites for the accessibility plans aimed at ensuring that permittees and registrants provide a means of demonstrating that the vehicles and licensees operating within their respective vehicle for hire transportation services are equipped and trained to provide consistent and equivalent transportation services to the riding public, including persons with disabilities and persons who request a wheelchair accessible vehicle.

Section 11. That City Council shall evaluate all Task Force recommendations and ~~any amendments to Chapter 46 offered by ARA, if necessary, identify the appropriate funding sources to attempt to implement Task Force recommendations adopted by City Council.~~

Section 12. That within 60 days, the administration shall appoint, subject to City Council approval, the appropriate number of individuals to serve on the Task Force sufficient to ensure that a majority of its membership are representatives from the Houston disability community. Additionally, the Task Force shall consist of not less than two representatives from each of the vehicle for hire categories currently regulated by the City pursuant to Chapter 46 of the City of Houston Code of

Ordinances. The City Attorney shall designate a representative from the Legal Department to render legal advice and attend Task Force meetings, but such person shall not be a member of the Task Force.

Section 13. That the Director of ARA shall evaluate and report the findings and recommendations of the Task Force to City Council as soon as practicable but not sooner than six months after the effective date of this Ordinance and not later than the anniversary of the effective date of this Ordinance.

Section 148. That the Director of ~~ARA~~~~the Department of Administration and Regulatory Affairs~~ shall evaluate the amendments adopted by this Ordinance and report the results of the evaluation, including recommendations for any amendments to the City Code relating to the provisions adopted herein, to ~~City Council~~~~Council Members~~ as soon as practicable after but not sooner than six months after the effective date of this Ordinance and ~~not later than the second~~~~after the first~~ anniversary of the effective date of this Ordinance.

Section 159. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 160. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect as provided in **Section 6**, above.

PASSED AND APPROVED this ____ day of _____, 2014.

Mayor of the City of Houston

Prepared by Legal Dept. _____
RVG:TNE:asw 07/18/2014 Senior Assistant City Attorney
Requested by Tina Paez, Director, Department of Administration and Regulatory Affairs
L.D. File No. 0371400091001

EXHIBIT A