



Staff Report

File #: 17-63

Version: 1

Date: 3/13/2017

Item #: 5. a.

TO: Mayor and City Council

THROUGH: Steve Powers, City Manager

FROM: Dan Atchison, City Attorney

SUBJECT:

Amendments to Salem Revised Code Chapter 30, modifying license requirements for Transportation Network Companies and their drivers.

Ward(s): All Wards

Councilor(s): All Councilors

Neighborhood(s): All Neighborhoods

ISSUE:

Consideration of amendments to SRC chapter 30 that would replace existing vehicle for hire and Transportation Network Company licensing regulation.

RECOMMENDATION:

For TNCs to operate in Salem, and for equality between TNCs and taxi companies, amendments to SRC Chapter 30 are recommended.

SUMMARY AND BACKGROUND:

In August 2015, City Council amended SRC Chapter 30 to allow for operation of transportation network companies, such as Uber and Lyft, within the City Limits. Around the time City Council passed the amendments, Uber ceased operation within the City and there are no transportation network companies ("TNC") currently operating within Salem.

On January 9, 2017, Council directed staff to prepare amendments to the Salem Revised Code to better allow TNCs to operate in Salem.

City staff discussed potential changes to the city's existing regulations with representatives of Uber and Lyft that would encourage their entry into the Salem market. Uber suggested that Salem consider amendments that are substantially similar to an ordinance under consideration by the cities of Bend and Redmond. The city councils of those central Oregon cities have been reviewing the proposed changes to their respective codes, and are likely to adopt nearly identical ordinances in early March.

Salem staff has taken Bend's draft ordinance, and made some changes to it to better integrate it to

the organization of the Salem Revised Code ("Draft Amendments" Attachment 1). If Council directs staff to prepare the amendments for an ordinance bill for first reading, the Draft Amendments will replace the Salem's existing regulations for vehicle for hire and transportation network companies (SRC 30.700 to 30.835).

A copy of the Draft Amendments was provided to representative of Uber, Lyft and Yellow Cab.

FACTS AND FINDINGS:

Significant provisions of the Draft Amendments are summarized below:

1. The Draft Amendments would treat Vehicle for Hire Agencies (Taxi Companies) and Transportation Network Companies (TNC) substantially the same.
2. Taxi Companies and TNC (such as Uber and Lyft) will be required to obtain a license from the City.
3. Both companies must maintain commercial general liability insurance with limits of not less than \$1 million per occurrence and \$2 million aggregate.
4. Taxi Companies must maintain commercial auto liability insurance with a combined, single limit of not less than \$1 million per occurrence.
5. TNC must maintain auto liability coverages for different periods for the driver
 - a. Period 1 - Driver is logged into the app, but has not accepted a request for a ride (\$50,000/\$100,000/\$25,000 liability coverage),
 - b. Period 2 - Driver has accepted a request but has not picked up the passenger (\$1,000,000/\$1,000,000 liability coverage),
 - c. Period 3 - A passenger is in the TNC vehicle (\$1,000,000/\$1,000,000).
6. Taxi Companies and TNC are required to provide reasonable accommodations to passengers with disabilities, and generally comply with the ADA.
7. City may revoke or suspend a company license for violations of the SRC. Appeals of denials would be to the Salem Hearings Officer.
8. Drivers (both TNC drivers and taxi drivers) would not be required to obtain a license from the City.
9. Taxi and TNC drivers will be subject to the following requirements, compliance to which will be determined by the Taxi or TNC company;
 - a. Minimum age of 21, with a valid license, vehicle registration and insurance compliant with the requirements in the code,
 - b. Pass a criminal background check conducted by the company or a third party.
 - c. Companies are required to revoke a driver's authority to drive for the company, and

inform the City, if the company becomes aware the driver has violated the requirements in the code. Company may reinstate the driver upon the company finding the driver is in compliance with the requirements.

10. The background check searches back seven years, and includes local, state and national criminal history databases and sex offender registries.
11. Individuals are prohibited from being a driver if they are a registered sex offender, or within the last seven years prior to the application;
 - a. Has a felony conviction,
 - b. Has a conviction for a crime involving driving under the influence of alcohol or controlled substance,
 - c. Has a conviction relating to a sexual offence,
 - d. Has a conviction for a crime involving physical harm or attempted physical harm to a person.
12. Taxi and TNC companies are required to maintain records for each of their drivers, which must be made available to the City upon request.

Major differences between current SRC and the Draft Amendments:

1. Drivers would not be licensed by the City under the Draft Amendments,
2. A driver's authority to drive for a TNC or Taxi Company could not be revoked by the City,
3. There is no requirement for 24 hour, seven day a week service,
4. No requirement for timely service (current standard is 45 minutes),
5. No requirement for vehicle inspections,
6. No requirement for vehicles to display rates or specialized charges,
7. No requirement to provide passengers a receipt,
8. \$1 million commercial general liability per occurrence requirement instead of the SRC requirement for \$2 million,
9. Lesser standard for insurance carrier for the vehicle and company,
10. Lesser standards for a criminal background check.

Criminal Background Checks

TNC third party background checks do not provide the same review as by the police department. The current criminal background check provided by the police department is intended to inform the police department's recommendation of approval or denial of a license. A denial is recommended if the applicant has been convicted of any crime that "presents a reasonable possibility that the applicant may endanger property or the public, health safety or welfare," or if the applicant has been

convicted of the list of crimes identified in the code.

The Draft Amendments limit the offenses that are screened in the background check to convictions, mostly felonies that occurred within the last seven years. The draft SRC requires TNCs and taxi companies to provide driver information to the City at the City's request. The City will only be provided the results of the background check, not the full report.

Company Records

Uber and Lyft recently prevailed in a legal action to prevent the City of Portland's release of company ridership data and number of TNC vehicles in Portland, arguing those records are exempt from public disclosure as trade secrets. Under the draft SRC, the City will have access to records of this type, and it is likely that TNC and Taxi Companies will seek to restrict the City's ability to disclose that information in the event of a public records request.

The City may audit Taxi Company and TNC records up to twice per calendar year to review compliance with the SRC.

Council may direct staff to convert the Draft Amendments into an ordinance for first reading for Council's consideration, refer the draft to staff for revisions, or take no action.

Attachments:

Attachment 1-Draft Amendments