

CITY OF KENNEWICK
ORDINANCE NO. 5680

AN ORDINANCE RELATING TO TAXICAB AND TRANSPORTATION
NETWORK COMPANY CODE AND REPEALING AND RECODIFYING
CHAPTER 6.44 OF THE KENNEWICK MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, DO ORDAIN AS
FOLLOWS:

Section 1. Chapter 6.44 of the Kennewick Municipal Code be, and the same hereby is, repealed
and recodified as follows:

CHAPTER 6.44

TAXICAB AND TRANSPORTATION NETWORK COMPANY CODE

SECTION:

- 6.44.005: Purpose
- 6.44.010: Definitions
- 6.44.020: Taxicab Company and Transportation Network Company Special License - Fees
- 6.44.030: Class
- 6.44.040: Taxicab and TNC Driver Requirements
- 6.44.050: Vehicle Requirements
- 6.44.060: Insurance Requirements
- 6.44.070: Operational Requirements
- 6.44.080: Registered Agent Required
- 6.44.090: Audit
- 6.44.100: Revocation, Suspension, and Penalties
- 6.44.110: Enforcement

6.44.005: Purpose: The purpose of this chapter is to provide for and promote the safety and welfare of the general public by regulating transportation by for-hire vehicles within the City. This chapter does not create or designate any particular class of persons who will or should be specifically protected by its terms. Nothing contained in this chapter is intended nor shall be construed to create any liability on the part of the City or its employees for any injury or damage resulting from the failure of the licensee to comply with the provisions of this chapter, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this chapter on the part of the City or its employees. (Ord. 5680 Sec. 1 (part), 2016)

6.44.010: Definitions: As used in this Chapter:

- (1) "City" means the City of Kennewick, Benton County, Washington.

- (2) “For-hire vehicle” means any motor vehicle used for the transportation of passengers for compensation, including taxicabs and transportation network company (“TNC”) vehicles. The following motor vehicles are excluded from the definition of for-hire vehicles:
- (a) School buses operating exclusively under a contract to a school district;
 - (b) Ride-sharing vehicles under Chapter 46.74 RCW;
 - (c) Limousine carriers licensed under Chapter 46.72A RCW;
 - (d) Vehicles used by nonprofit transportation providers solely for elderly or handicapped persons and their attendants under Chapter 81.66 RCW;
 - (e) Vehicles used by auto transportation companies licensed under Chapter 81.68 RCW;
 - (f) Vehicles used to provide courtesy transportation at no charge to and from parking lots, hotels, and rental offices;
 - (g) Vehicles licensed under, and used to provide "charter party carrier" and "excursion service carrier" services as defined in, and required by, Chapter 81.70 RCW; and
 - (h) Vehicles used to provide Ambulance Service under KMC 6.36.110.
- (3) “Independent Contractor” means a person who contracts to do a piece of work according to his own methods and subject to the employer’s control only as to the end product of his or her work. An independent contractor performs work but is not considered an “employee.”
- (4) “Licensing Officer” means the Chief of the Kennewick Police Department or his designee.
- (5) “Operate”, “Operated”, or “Operating” means using a taxicab or transportation network company vehicle to at any time transport any passenger or item of property for compensation from a point within the corporate limits of the city.
- (6) “Person” and “he” and “she” means and includes any natural person, and in addition, a partnership, corporation or an unincorporated association unless a contrary intention plainly appears.
- (7) “Special License” shall mean a Special License issued by the License Officer to a taxicab company or TNC.
- (8) “Taxicab” means a motorized vehicle that is held out to the public as providing transportation to passengers or articles:
- (a) Where the route traveled, destination, or both route and destination is controlled by the customer; and
 - (b) Where the fare is based on an amount recorded and indicated on a taxi meter; and
 - (c) Where the vehicle is not operating as a TNC vehicle on a TNC’s digital network in accordance with this chapter.
- (9) “Taxicab Company” means any entity operating one or more taxicabs other than as a driver, regardless of the legal form of the entity and regardless of whether the taxicabs so operated are owned by the company, or leased, or owned by individual members of the entity.
- (10) “Taxicab Driver” means a person engaging in any combination of owning, leasing, advertising, driving, occupying or otherwise using a taxicab to at any time to transport any passenger or item of property for compensation from a point within the incorporated limits of the City.
- (11) “Transportation Network Company” which may be abbreviated herein to “TNC”, means a company that exclusively uses an Internet online-enabled platform or application to connect passengers with TNC drivers.
- (12) “Transportation Network Company Driver” or “TNC Driver” means a driver

under contract with a TNC Company who:

- (a) Receives connections to potential passengers and related service from a TNC in exchange for payment of a fee to the TNC;
- (b) Operates a motor vehicle that is owned, leased, or otherwise authorized for use by the individual and is used to provide TNC services;
- (c) Is an independent contractor of a TNC; and
- (d) Is not an employee of a TNC.

(13) “Transportation Network Company Vehicle” means a personal vehicle used by a TNC driver to provide transportation services arranged through a TNC’s digital network. (Ord. 5680 Sec. 1 (part), 2016)

6.44.020: Taxicab Company and Transportation Network Company Special License - Fees:

(1) The License Officer may issue a Special License to a taxicab company or TNC provided that:

- (e) The taxicab company or TNC provides proof of insurance coverage for the limits required in this chapter for all employed or affiliated drivers; and
- (f) The taxicab company or TNC submits an affidavit sworn under penalty of perjury that the taxicab company or TNC is in compliance with the driver requirements, vehicle requirements, insurance requirements, and operational requirements established in KMC 6.44.040 - 6.44.070. The affidavit form will be made available by the License Officer at the Kennewick Police Department and on the department’s website.

(2) The Special Licenses issued under this chapter are effective upon approval and must be renewed through the License Officer annually on or before the expiration date of the license in order to continue operating after the expiration date.

(3) The application review fee shall vary based on the number of employed or contracted drivers operating for the company applying for the license. The fee amounts shall be as follows:

- (a) \$300.00 for companies employing or contracting with ten (10) or fewer drivers;
- (b) \$700.00 for companies employing or contracting with eleven (11) to forty (40) drivers; and
- (c) \$2,000.00 for companies employing or contracting with forty-one (41) or more drivers.

(4) The application review fee prescribed by this section shall be paid to the City at the time of submitting both initial and renewal Special License applications.

(5) No taxicab company or TNC Special License shall be issued or valid until the affidavit and proof of insurance referenced in this section has been reviewed and approved and the fee prescribed in this section has been paid.

(6) Drivers who are independent contractors, affiliated with special licensed taxicab companies or TNC’s, shall obtain a business license as required in KMC Chapter 6. (Ord. 5680 Sec. 1 (part), 2016)

6.44.030: Class: Taxicab Company and TNC Special Licenses are Class III Licenses. (Ord. 5680 Sec. 1 (part), 2016)

6.44.040: Taxicab and TNC Driver Requirements:

(1) All drivers shall be at least 21 years of age and shall possess a valid driver's license, proof of motor vehicle registration, and proof of current automobile liability insurance that meets the requirements of this chapter.

(2) The TNC, its agent, or its contractor shall maintain accurate and up-to-date records for all TNC drivers accessing its digital network to operate in the City of Kennewick. Said records shall include the driver's name, age, address, social security number, criminal history, driver's license, motor vehicle registration, and automobile insurance.

(3) The taxicab company or its agent shall maintain accurate and up-to-date records for all taxicab drivers employed by the company to operate in the City of Kennewick. Said records shall include the driver's name, age, address, social security number, criminal history, driver's license, motor vehicle registration, and automobile insurance.

(4) Prior to permitting a person to operate as a taxicab driver or as a TNC driver, and biennially thereafter, the taxicab company or TNC shall conduct, or have a third party conduct, a criminal background check report for such person. The criminal background check shall include a search of no less than seven years of database history, unless prohibited by law, in which case the duration of the search shall be the maximum number of years permitted by law. The criminal background check shall include local, state, and national criminal history databases and publically accessible national sex offender registries. Any person who is on a sex offender registry or who has been convicted, within the past seven years, of crimes involving driving under the influence of alcohol or controlled substances, felony fraud, sexual offenses, acts of violence, acts of terror, or use of a motor vehicle to commit a felony, shall not be permitted to act as a taxicab or TNC driver. The taxicab company or TNC, or its agent, shall maintain records of such criminal background checks for a period of two years. For purposes of this section, the term "conviction" includes convictions, bail forfeitures, and other final adverse findings.

(5) A TNC or taxicab company shall revoke a TNC or taxicab driver's authority to operate as a driver for their company if it finds that the standards set forth in this section are no longer being met by such person. The TNC or taxicab company shall only reinstate his or her authority upon a finding by the taxicab company or TNC that all standards are again being met by such person. (Ord. 5680 Sec. 1 (part), 2016)

6.44.050: Vehicle Requirements: Each taxicab or TNC vehicle shall pass an inspection prior to commencing services in the City of Kennewick, and annually thereafter, by a mechanic certified by the National Institute for Automotive Service Excellence. Taxicab companies and TNC's shall keep records of all such inspections. Such an inspection shall, at a minimum, include inspection of the following components:

- (1) Foot brakes;
- (2) Parking brakes;
- (3) Steering mechanism;
- (4) Windshield;
- (5) Rear window and other glass;
- (6) Windshield wipers;
- (7) Headlights;
- (8) Taillights;
- (9) Turn indicator lights;
- (10) Stop lights;
- (11) Front seat adjustment mechanism;

- (12) Doors (open, close, lock);
- (13) Horn;
- (14) Speedometer;
- (15) Bumpers;
- (16) Muffler and exhaust system;
- (17) Condition of tires, including tread depth;
- (18) Interior and exterior rear view mirrors;
- (19) Safety belts for driver and passenger(s); and
- (20) Heating and air conditioning systems. (Ord. 5680 Sec. 1 (part), 2016)

6.44.060: Insurance Requirements:

(1) The owner or operator of every taxicab is to procure liability and property damage insurance covering passengers as well as other persons, from a company licensed to write bodily injury liability and property damage liability insurance in the state, on each taxicab used or to be used in transporting persons for compensation in an amount not less than \$100,000.00 for any recovery for personal injury by one person, and not less than \$300,000.00 for all persons receiving personal injury, by reason of one act of negligence, and, not less than \$50,000.00 for damage to property of any person other than the insured, and maintain such liability and property damage insurance in force on each motor-propelled vehicle while so used under such license. A \$500,000.00 combined single limit policy may be substituted.

(2) TNC's and all affiliated drivers shall comply with the automobile liability insurance requirements contained in RCW Chapter 48.177 as enacted or subsequently amended.

(3) A certificate for each policy for liability or property damage insurance required herein shall be filed with the License Officer and kept in full force and effect, and failure so to do shall be cause for the revocation of the license. (Ord. 5680 Sec. 1 (part), 2016)

6.44.070: Operational Requirements:

(1) Rates: Taxicab drivers shall prominently post rates in each vehicle and charge accordingly. Drivers who solely operate as TNC Drivers are exempt from this requirement. The TNC's software application or website shall display for the passenger the applicable rates being charged and the option to receive an estimated fare before the passenger enters the TNC vehicle.

(2) Records: TNC's and taxicab companies shall maintain the individual records of all trips made by all drivers for at least one year from the date each trip was provided.

(3) Driver Information: Taxicab drivers shall have a document containing their name, photograph, driver's license number, and company worked for clearly posted in any taxicab being operated by the driver. The TNC's software application or website shall display for the passenger the first name and photograph of the TNC driver.

(4) Marking of Vehicles: All taxicabs shall be clearly marked as such and shall include the taxicab company name, phone number, and a vehicle identification number in plain sight. The company name and vehicle identification number shall use letters and numbers a minimum of four (4) inches in height with width proportional. The taxicab company phone number shall use numerals a minimum of two and one half (2 ½) inches in height with the width proportional. Vehicles operated solely by TNC Drivers are exempt from the above marking requirements. The TNC's software application or website shall display for the passenger the make, model, and license plate number of the TNC vehicle.

(5) Method of Soliciting Rides: Only taxicab drivers are permitted to solicit or accept street hails. TNC drivers shall accept only rides arranged through a TNC's digital network and shall not solicit or accept street hails.

(6) Receipts: Whenever demanded by the passenger, the driver of a taxicab or TNC vehicle shall deliver to the person paying for the hiring of said vehicle, at the time of such payment, a receipt therefor either in hard copy or electronically in legible printing or writing. This receipt shall contain the name of the taxicab company or TNC and its contact information, the name of the driver, any and all items for which a charge is made, the total amount paid, and the date of payment.

(7) Zero Tolerance: TNC's and taxicab companies shall implement a zero tolerance policy on the use of drugs or alcohol applicable to any taxicab drivers employed or affiliated with the company and any TNC drivers on a TNC's digital network. Taxicab companies and TNC's shall provide notice of the zero tolerance policy on their website, if they have one, as well as the procedures to report a complaint about a driver with whom the passenger was matched and for whom the passenger reasonably suspects was under the influence of drugs or alcohol during the course of the ride. If a taxicab company or TNC does not have a website, they must clearly post the zero tolerance policy and procedures to report a complaint in all taxicabs or TNC vehicles owned or operated by the company and its drivers. Taxicab companies and TNC's shall immediately suspend a driver upon receipt of a passenger complaint alleging a violation of the zero tolerance policy. The suspension shall last the duration of the investigation.

(8) Nothing in this Chapter shall prohibit a taxicab company from using an internet online-enabled platform or application to connect passengers with drivers as long as all other requirements for taxicab companies, vehicles, and drivers are being met. (Ord. 5680 Sec. 1 (part), 2016)

6.44.080: Registered Agent Required: Taxicab companies and TNC's shall maintain a registered agent for service of process in the State of Washington. The name, telephone number, and physical address of the registered agent shall be submitted to the City of Kennewick at the time of license application. The taxicab company or TNC shall notify the City of Kennewick in writing of any changes to its registered agent during the term of the license. (Ord. 5680 Sec. 1 (part), 2016)

6.44.090: Audit: No more than twice per license year, the City may audit the taxicab company or TNC's records to review compliance with this chapter. Each audit shall be limited to records relating to twenty (20) percent of randomly selected taxicab or TNC drivers, up to a maximum of twenty (20) drivers, that have operated within the last thirty (30) days in the City of Kennewick. In the event the audit reveals discrepancies in the records reviewed, the City reserves the right to audit all of the taxicab company or TNC's records related to taxicab or TNC drivers operating in the City of Kennewick. The audit shall occur at the Kennewick Police Department, 211 West Sixth Avenue, Kennewick, Washington; provided that the City may in its discretion agree to an alternative location. Notwithstanding the foregoing, the City may require the taxicab company or TNC to produce records directly related to an active investigation of a specific allegation of a violation of this chapter. (Ord. 5680 Sec. 1 (part), 2016)

6.44.100: Revocation, Suspension and Penalties:

(1) The License Officer, or on review the Hearing Examiner, may suspend, revoke or refuse to issue a Special License if the licensee or applicant has violated any of the provisions of

this Title. A violation includes any and all failures to meet or maintain any of the requirements or qualifications set forth in this chapter for obtaining a Special License and the making of a materially false statement in the affidavit required under KMC 6.44.010. The decision to suspend, revoke or refuse to issue a Special License may be appealed to the Hearing Examiner pursuant to KMC 6.01.120(6) and KMC Chapter 4.04.

(2) Upon a violation of this chapter, the License Officer may assess a penalty of \$250.00 per violation, up to a maximum of \$10,000.00. The failure of the licensee to pay a penalty assessment automatically suspends the license until such time as it is paid. The License Officer, City Treasurer or their designee are hereby authorized to use any lawful means to collect penalties assessed under this chapter, including the use of a collection agency. Suspensions, revocations and penalties are suspended during the course of hearing, appeal and review unless the License Officer or Hearing Examiner finds that the licensee or applicant's claim is meritless. (Ord. 5680 Sec. 1 (part), 2016)

6.44.110: Enforcement: The License Officer shall have the administrative authority to implement and enforce this chapter, and may adopt rules and regulations for its administration, not inconsistent with this chapter. This provision shall not be construed to abrogate or limit the jurisdiction of the Kennewick Police Department to enforce any provisions of this chapter or of any other city ordinance relating to motor vehicles or the operation of taxicabs or TNC vehicles. (Ord. 5680 Sec. 1 (part), 2016)

Section 2. This ordinance shall be in full force and effect five days from and after its passage, approval and publication as required by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, this ____ day of _____, 2016, and signed in authentication of its passage this ____ day of _____, 2016.

Attest:

STEVE C. YOUNG, Mayor

TERRI L. WRIGHT, City Clerk

ORDINANCE NO. 5680 filed and recorded in the office of the City Clerk of the City of Kennewick, Washington this ____ day of _____, 2016.

Approved as to Form:

LISA BEATON, City Attorney

TERRI L. WRIGHT, City Clerk

DATE OF PUBLICATION _____