

PROPOSED

ORDINANCE NO. 2020-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO OFF-AIRPORT MOTOR VEHICLE RENTAL OPERATORS; AMENDING VARIOUS SECTIONS OF CHAPTER 2 OF THE BROWARD COUNTY CODE OF ORDINANCES (“CODE”); CLARIFYING THAT COMPANIES PROVIDING PEER-TO-PEER CAR SHARING SERVICES AT FORT LAUDERDALE-HOLLYWOOD INTERNATIONAL AIRPORT ARE OFF-AIRPORT MOTOR VEHICLE RENTAL OPERATORS AND THAT SUCH SERVICES CONSTITUTE COMMERCIAL ACTIVITY REQUIRING PRIOR WRITTEN APPROVAL BY BROWARD COUNTY; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by Vice-Mayor Steve Geller)

WHEREAS, Section 2-111 of the Broward County Code of Ordinances (“Code”) requires Off-Airport Motor Vehicle Rental Operators (“OFFRACs”) to obtain a permit from the Broward County Aviation Department (“BCAD”) prior to engaging in any motor vehicle rental business or service at Fort Lauderdale-Hollywood International Airport (“Airport”);

WHEREAS, Section 2-111 of the Code currently defines OFFRACs as “persons or entities that operate motor vehicle rental businesses or services that do not have a concession agreement with [Broward] County and desire to solicit customers for their motor vehicle rental businesses or services at the [Airport]”;

WHEREAS, based upon the observations of BCAD staff, companies without permits have been offering peer-to-peer car sharing services at the Airport;

1 WHEREAS, peer-to-peer car sharing is the renting of vehicles through an online
2 platform (“Rental Platform”), whereby individual vehicle owners make their vehicles
3 available for rent to the public utilizing the Rental Platform, the vehicle renters make
4 reservations for the vehicle rental utilizing the Rental Platform, and the person or entity
5 operating the Rental Platform (or on whose behalf it is operated) retains a portion of the
6 amount paid for the vehicle rental;

7
8 WHEREAS, although companies providing peer-to-peer car sharing services
9 already fit within the existing OFFRAC permitting requirement, the Board of County
10 Commissioners (“Board”) finds that further clarifying Code provisions addressing
11 OFFRACs to expressly reference peer-to-peer car sharing is prudent and facilitates any
12 required enforcement action; and

13
14 WHEREAS, the Board finds that peer-to-peer car sharing services constitute
15 commercial activity requiring prior written approval by BCAD,

16
17 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
18 BROWARD COUNTY, FLORIDA:

19
20 Section 1. Section 2-111 of the Broward County Code of Ordinances is hereby
21 amended to read as follows:

22 **Sec. 2-111. Off-airport motor vehicle rental operators; definitions.**

23 (a) *Off-Airport Motor Vehicle Rental Operators* (“OFFRACs”) shall mean a
24 persons or entities ~~that operate motor vehicle rental businesses or~~ provides any motor

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1 vehicle rental services, including, but not limited to, a person or entity that provides or
2 facilitates Peer-to-Peer Car Sharing, that does not have a concession agreement with the
3 ~~County, and desire to solicit customers for their motor vehicle rental businesses or~~
4 ~~services~~ for which a portion of the rental transaction occurs at the Fort Lauderdale-
5 Hollywood International Airport (“Airport”). A rental transaction is deemed to occur at the
6 Airport if the renter receives the rental vehicle at the Airport or at an off-site facility
7 accessed by a shuttle bus boarded at the Airport provided by the motor vehicle rental
8 services company for that purpose.

9 (b) ~~No OFFRAC shall engage in any motor vehicle rental business or any~~
10 ~~services pertaining to any motor vehicle rental business, on any part of the Airport without~~
11 ~~first obtaining a permit from the Department specifically authorizing such operations~~
12 ~~pursuant to the requirements set forth in this Division 5.~~

13 (c) ~~In addition to the foregoing, the County, through its Aviation Department,~~
14 ~~reserves the right to require all OFFRACs to obtain a transponder, or to utilize such other~~
15 ~~electronic access system that may be implemented by the Aviation Department, at the~~
16 ~~time such program is implemented at the Airport.~~

17 (b) Peer-to-Peer Car Sharing shall mean the rental of vehicles through an
18 online platform (“Rental Platform”), whereby individual vehicle owners make their vehicles
19 available for rent utilizing the Rental Platform, vehicle renters make reservations for the
20 vehicle rental utilizing the Rental Platform, and the person or entity operating the Rental
21 Platform (or on whose behalf it is operated) retains a portion of the amount paid for the
22 vehicle rental.

1 Section 2. Section 2-112 of the Broward County Code of Ordinances is hereby
2 amended to read as follows:

3 **Sec. 2-112. Permits; Applications; permit and term of permit.**

4 (a) Any OFFRAC desiring to ~~engage in~~ provide any motor vehicle rental
5 ~~business or any services pertaining to any motor vehicle rental business on any part of~~ at
6 ~~the Airport, as described in Section 2-111(a) above,~~ shall ~~make application~~ apply in writing
7 to the Aviation Department and obtain a fully executed permit prior to conducting any
8 such ~~activities or operations~~ services at the Airport because such activities constitute
9 commercial activity requiring County authorization, as required by Section 2-40 of the
10 Code. Such application shall be on a form provided by the Aviation Department.

11 (b) Upon approval of a completed application, and upon satisfying the
12 application requirements ~~for engaging in or conducting the operations or activities~~
13 ~~authorized herein~~ established by the Aviation Department, the Aviation Director shall
14 ~~execute and~~ Department shall deliver to the applicant, for the applicant's execution, a
15 permit in the form ~~provided by the Department~~ ("permittee") approved by the Office of the
16 County Attorney. Upon full and proper execution by the applicant, the Aviation Director
17 is authorized to sign such permit on behalf of the County. An applicant holding a fully
18 executed permit shall be known as a "permittee."

19 (c) The term of each permit issued hereunder shall be ~~for a period of~~ no longer
20 than three (3) years, beginning on the date of approval and terminating three (3) years
21 ~~from the date of such approval.~~

22 (d) Any permits required by this Division 5 shall be in addition to any and all
23 federal, state, County, or local regulatory requirements.

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1 Section 3. Section 2-113 of the Broward County Code of Ordinances is hereby
2 amended to read as follows:

3 **Sec. 2-113. Fee schedule.**

4 A schedule of fees for permittees ~~to conduct operations or activities at the Airport~~
5 motor vehicle rental services pursuant to this Division 5, which addresses Off-Airport
6 Motor Vehicle Rental Operations, shall be determined and fixed by adoption of a
7 resolution by the Board.

8
9 Section 4. Sections 2-114 and 2-115 of the Broward County Code of
10 Ordinances are hereby repealed in their entirety.

11
12 Section 5. Section 2-116 of the Broward County Code of Ordinances is hereby
13 amended to read as follows:

14 **Sec. 2-116. Rules and regulations.**

15 The County Administrator or Aviation Director ~~shall~~ may establish rules and
16 regulations governing the privilege of engaging in business or conducting ~~operations~~
17 services by OFFRACs ~~at the Airport~~. Such rules and regulations may add to or
18 supplement the requirements of this Division 5 and may be amended from time to time
19 as deemed necessary by the County Administrator or Aviation Director, as applicable.

20
21 Section 6. Section 2-117 of the Broward County Code of Ordinances is hereby
22 amended to read as follows:

23 **Sec. 2-117. ~~Compliance with laws and regulations; violations, t~~Termination**
24 **or revocation.**

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1 (a) ~~Any OFFRAC engaged in any off-Airport motor vehicle rental business or~~
2 ~~operations at the Airport shall obtain all appropriate licenses and permits, shall obey all~~
3 ~~applicable federal, state, County, and local laws, codes, ordinances, rules, and~~
4 ~~regulations now in effect or which may become effective during the term of the permit~~
5 ~~issued pursuant to this Division 5. In the case of an inconsistency between the laws and~~
6 ~~the rules and regulations identified in this section and the rules and regulations~~
7 ~~promulgated pursuant to Section 2-116 herein, the rules and regulations promulgated~~
8 ~~pursuant to Section 2-116 shall govern unless superseded by the conflicting provisions.~~

9 (b) Any permit granted under this Division 5 to any OFFRAC may be terminated
10 ~~or revoked~~ by the Aviation Director for any ~~one~~ (1) of the following reasons:

11 (1) Violation of any provision or restriction of such permit; or

12 (2) Any action or series of actions by the OFFRAC, or its employees, agents,
13 or representatives, that adversely affect(s) the safety of the public; or

14 (3) Discovery of fraud or misrepresentation in the application for a permit; or

15 (4) Failure to make timely payments as required by Chapter 39 of the Broward
16 County Administrative Code, ~~and in accordance with Section 2-114 herein~~
17 or the permit; or

18 (5) The violation of any of the terms and conditions of this Division 5, or any
19 rules, ordinances, regulations, or operational guidelines promulgated by the
20 County or the Aviation Director with respect to ~~engaging in off-Airport motor~~
21 ~~vehicle rental business or operations at the Airport~~ providing motor vehicle
22 rental services at the Airport.

23 (e) (b) Upon notification of the denial, or termination, ~~or revocation~~ of a permit by
24 the Aviation Department, the applicant or OFFRAC may request a hearing before a

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1 hearing officer, who shall be an attorney in good standing of The Florida Bar, by providing
2 notice of such request to the Office of the County Attorney, by certified mail, return receipt
3 requested, within fifteen (15) business days ~~of~~ after notification of such denial or
4 ~~revocation~~ termination. The Office of the County Attorney is authorized, within fifteen (15)
5 business days ~~of~~ after receipt of the request for hearing, to submit a copy of the
6 ~~application for permit denial or revocation~~ termination, and any other evidence, and a
7 statement as to the reason or reasons for such denial or ~~revocation~~ termination to a
8 hearing officer to be appointed by the Board for a determination of the validity of the denial
9 or ~~revocation~~ termination. A copy shall also be provided to the applicant or OFFRAC in
10 accordance with County policy; ~~and~~.

11 (1) The hearing shall be held within ~~ten (10)~~ fifteen (15) business days ~~from~~
12 after the receipt by the hearing officer of the material submitted by the Office
13 of the County Attorney.

14 (2) The parties to the proceeding shall be the applicant or OFFRAC and the
15 Aviation Director, or his or her designee. The Aviation Director, or his or
16 her designee, shall be represented by the Office of the County Attorney. At
17 the hearing, the applicant or OFFRAC may be represented by counsel.

18 (3) The hearing officer shall issue a notice of hearing, which shall be sent by
19 certified mail, return receipt requested, to the parties and to the Office of the
20 County Attorney, and such notice of hearing shall contain the date, time,
21 and place of the hearing.

22 (4) Testimony shall be taken upon oath or affirmation, and evidence applicable
23 to the quasi-judicial proceedings shall govern. The testimony of witnesses
24 shall be taken first in support of the denial or ~~revocation~~ termination of the

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1 permit. The parties may testify and present witnesses on their behalf. A
2 court reporter shall make a record of the proceeding. A record shall be kept
3 of all evidence received or considered in addition to the oral testimony. The
4 cost of the court reporter shall be shared equally by the County and the
5 applicant or OFFRAC. In addition to sharing the cost of the court reporter,
6 in the event the applicant or OFFRAC is the nonprevailing party, the County
7 shall be entitled to its administrative costs, which costs shall be determined
8 from evidence presented by the County.

9 (5) The hearing officer shall make findings of fact and enter an order within
10 seven (7) business days ~~of~~ after the conclusion of the hearing, which shall
11 be immediately sent to the parties by certified mail, return receipt requested,
12 or if a party is represented by an attorney, by mail to such party's attorney.

13 (6) Either party may file an appeal of the hearing officer's decision by filing a
14 petition for writ of certiorari in the court with jurisdiction to rule on such
15 matters.
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17 Section 7. Section 2-120 of the Broward County Code of Ordinances is hereby
18 amended to read as follows:

19 **Sec. 2-120. Definitions.**

20 (a) *Consolidated Rental Car Facility or Rental Car Center* shall mean the facility
21 constructed by the County, and operated and maintained by the Aviation Department for
22 those certain qualified Rental Car Companies (as hereinafter defined) ~~that have entered~~
23 ~~into, or will enter into, a concession agreement to provide services to rental car Customers~~
24 ~~(as hereinafter defined) at the Airport, and for those Rental Car Companies operating~~

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1 ~~under a permit issued pursuant to Chapter 2, Article III, Division 5, Broward County Code~~
2 ~~of Ordinances.~~

3 ...

4 (f) *Rental Car Company(ies)* shall mean all persons, firms, agencies, or
5 companies providing rental car services for Customers using the Airport, ~~whether such~~
6 ~~rental car companies~~ and which are either located on-Airport and operating under a
7 concession agreement with the County, or ~~located off-Airport and~~ operating under a
8 permit issued pursuant to Chapter 2, Article III, Division 5, Broward County Code of
9 Ordinances, and utilizing the Common Busing System referenced in Section 2-121 of the
10 Code.

11
12 Section 8. Severability.

13 If any portion of this Ordinance is determined by any court to be invalid, the invalid
14 portion will be stricken, and such striking will not affect the validity of the remainder of this
15 Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be
16 legally applied to any individual, group, entity, property, or circumstance, such
17 determination will not affect the applicability of this Ordinance to any other individual,
18 group, entity, property, or circumstance.

19
20 Section 9. Inclusion in the Broward County Code of Ordinances.

21 It is the intention of the Board of County Commissioners that the provisions of this
22 Ordinance become part of the Broward County Code of Ordinances as of the effective
23 date. The sections of this Ordinance may be renumbered or relettered and the word
24

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1 “ordinance” may be changed to “section,” “article,” or such other appropriate word or
2 phrase to the extent necessary in order to accomplish such intention.

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Section 10. Effective Date.

This Ordinance is effective as of the date provided by law.

ENACTED

FILED WITH THE DEPARTMENT OF STATE

EFFECTIVE

Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

PROPOSED

By /s/ Carlos Rodriguez-Cabarrocas 01/23/2020
Carlos Rodriguez-Cabarrocas (date)
Assistant County Attorney

By /s/ Sharon V. Thorsen 01/23/2020
Sharon V. Thorsen (date)
Senior Assistant County Attorney

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