

PROPOSED

RESOLUTION NO. 2020-

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO RATES, FEES, AND CHARGES AT FORT LAUDERDALE-HOLLYWOOD INTERNATIONAL AIRPORT; AMENDING SECTION 39.2(j) OF THE BROWARD COUNTY ADMINISTRATIVE CODE (“ADMINISTRATIVE CODE”); UPDATING THE FEES FOR OFF-AIRPORT MOTOR VEHICLE RENTAL OPERATORS THAT PROVIDE ANY MOTOR VEHICLE RENTAL SERVICES, INCLUDING, BUT NOT LIMITED TO, PEER-TO-PEER CAR SHARING SERVICES; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE ADMINISTRATIVE CODE, AND AN EFFECTIVE DATE.

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 providing any motor vehicle rental services at Fort Lauderdale-Hollywood International Airport (“Airport”);

WHEREAS, the Board of County Commissioners (“Board”) recently enacted an Ordinance clarifying that companies providing peer-to-peer car sharing services at the Airport are OFFRACs and that such services constitute commercial activity requiring prior written approval by Broward County;

WHEREAS, Section 2-113 of the Code states that OFFRAC fees shall be determined and fixed by adoption of a resolution by the Board; and

WHEREAS, the Board desires to amend Section 39.2(j) of the Broward County Administrative Code to update the OFFRAC fees, NOW, THEREFORE,

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA:

1 Section 1. Section 39.2(j) of the Broward County Administrative Code is hereby
2 repealed in its entirety, and a new Section 39.2(j) is hereby created to read as follows:

3 [Underlining omitted]

- 4 j. Off-Airport Motor Vehicle Rental Operators.
- 5 1. OFFRACs, as defined in Section 2-111 of the Broward County Code of
6 Ordinances, shall pay to the Aviation Department a privilege fee for the
7 privilege of providing motor vehicle rental services at the Airport (“OFFRAC
8 Services”). The privilege fee shall be in the amount of ten percent (10%) of
9 the OFFRAC’s Gross Revenues, as such term is defined below (“OFFRAC
10 Privilege Fee”).
- 11 2. The definitions in Section 2-111 of the Broward County Code of Ordinances
12 shall apply for purposes of this Section 39.2(j). In addition, the term “Gross
13 Revenues” shall mean the total amount actually charged by the OFFRAC
14 for OFFRAC Services, as further defined below:
- 15 (i) The term Gross Revenues includes the following amounts:
- 16 a. Amounts charged for any services or accessories contracted,
17 delivered, or rented, regardless of where, how (cash, credit,
18 or barter), if, or by whom, the payment is made, or where the
19 rental vehicle is returned.
- 20 b. Revenues derived from sources similar, but not identical, to
21 those described herein, unless expressly excluded below.
- 22 c. Amounts charged by the Rental Platform, on behalf of itself or
23 the individual car owner(s), for purposes of Peer-to-Peer Car
24 Sharing.

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

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d. Amounts charged for insurance (protection), mileage overage, additional bookings (hours or days), late return, cancellation, cleaning, fuel (including electric vehicle fees and prepaid fueling), delivery, underage driver, extra driver, upgrade of vehicle, administrative, commercial hosting, any additional items or services (examples: camping tent, child car safety seat, global positioning system navigation devices, guaranteed reservations, toll transponder fees, any amounts billed and paid for fueling and refueling services), and all other transactions and charges of any nature, including fees, surcharges, and all other charges arising from OFFRAC Services unless expressly excluded below.

- (ii) The term Gross Revenues excludes the following amounts:
 - a. The amount of any federal, state, or municipal sales taxes separately stated in the reservation, collected from the customer, and payable directly to the taxing authority by the OFFRAC, except that this exclusion does not apply to: taxes levied on the OFFRAC's activities, facilities, equipment, or real or personal property; payroll taxes; income taxes; taxes on frequent flyer miles paid directly to an airline; license or tag fees; or other charges that recoup operating costs.
 - b. Any sums received by the OFFRAC from customers or insurance carriers for damage to vehicles or to OFFRAC

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1 property, or for loss, conversion, or abandonment of such
2 vehicles.

3 c. Any sums received by reason of the OFFRAC's disposal of
4 capital assets or trade fixtures.

5 d. Any discounts separately stated in the reservation that are
6 granted at the time the reservation is made. No exclusion will
7 be allowed for any amount retained by a third party as a
8 financing discount that may apply by reason of the OFFRAC's
9 acceptance of credit cards or other credit arrangements. No
10 exclusion will be allowed for the portion of retroactive rebates,
11 dividends, or refunds to any customer upon attainment of a
12 specified volume of rentals attributable to revenue or as part
13 of any other marketing plan that does not list the discount in
14 the reservation at the commencement of the transaction with
15 the customer.

16 e. The OFFRAC Privilege Fee amount. Each OFFRAC may
17 separately state the OFFRAC Privilege Fee amount on its
18 reservations, provided that such stated amount does not
19 exceed the OFFRAC Privilege Fee amount attributable to that
20 reservation.

21 3. A security deposit established in accordance with Section 39.4(e) of the
22 Broward County Administrative Code, but not less than One Thousand
23 Dollars (\$1,000), shall be collected by the Aviation Department from each
24 OFFRAC. The security deposit shall be either in the form of cash, an

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1 irrevocable letter of credit, in a form and substance satisfactory to Broward
2 County, or a payment and performance bond, in a form and substance
3 satisfactory to Broward County.

- 4 4. Unless otherwise agreed in advance in writing by the Aviation Department
5 and the OFFRAC, the OFFRAC shall furnish to the Aviation Department, by
6 the fifteenth (15th) day of each month, a statement certified by one of its
7 officers, in a form and detail satisfactory to the Aviation Department, setting
8 forth the number of motor vehicle services rental contracts such OFFRAC
9 secured during the prior month and the amount of the Gross Revenues (as
10 defined above) for the prior month. With each monthly statement, the
11 OFFRAC shall remit to the Aviation Department the amount of the OFFRAC
12 Privilege Fee, which fees and charges shall be payable to the Aviation
13 Department for the prior calendar month.

14 Section 2. Severability.

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

22 Section 3. Inclusion in the Broward County Administrative Code.

23 It is the intention of the Board of County Commissioners that the provisions of this
24 Administrative Code Resolution become part of the Broward County Administrative Code

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