

ADDITIONAL MATERIAL

Regular Meeting

NOVEMBER 10, 2020

SUBMITTED AT THE REQUEST OF
OFFICE OF THE COUNTY ATTORNEY

MEMORANDUM

TO: Board of County Commissioners

FROM: Annika E. Ashton, Deputy County Attorney 

DATE: November 5, 2020

RE: **Item No. 85 on the November 10, 2020, County Commission Agenda; Amendments to Chapter 22½ (the Motor Carriers Ordinance)**

Attached is a revised proposed Ordinance for the Board's consideration in Agenda Item No. 85 on the Board's November 10, 2020, meeting agenda. The only change to the proposed Ordinance is an amendment to the title to include the phrase: "ADDRESSING CERTAIN OPERATIONAL RESTRICTIONS FOR WHEELCHAIR ACCESSIBLE VEHICLES." This additional language accounts for the proposed amendment submitted by Mayor Holness (Exhibit 3 of the item).

Although the title of the proposed Ordinance is being amended to account for the proposed amendment, the Board is not required to approve the proposed amendment and will have the opportunity to consider the amendment during the November 10, 2020, meeting or the December 1, 2020, public hearing.

If you have any questions, please contact me (x5728) or the County Attorney.

AEA/mdw
Attachment

c: Bertha Henry, County Administrator
Bob Melton, County Auditor
Andrew J. Meyers, County Attorney

PROPOSED

ORDINANCE NO. 2020-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO MOTOR CARRIERS; AMENDING VARIOUS SECTIONS OF CHAPTER 22½ OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE"); PROHIBITING SOLICITATION OF CERTAIN FOR-HIRE GROUND TRANSPORTATION SERVICES, INCLUDING SOLICITATION OF ON-DEMAND TRANSPORTATION SERVICES BY OPERATORS EXCLUSIVELY PERMITTED TO PROVIDE PREARRANGED TRANSPORTATION; ADDRESSING CERTAIN OPERATIONAL RESTRICTIONS FOR WHEELCHAIR ACCESSIBLE VEHICLES; PROVIDING FOR THE SUSPENSION OF CERTIFICATES, LICENSES, PERMITS, AND REGISTRATIONS OF REPEAT CODE VIOLATORS; AMENDING INSURANCE REQUIREMENTS FOR MOTOR CARRIERS; AMENDING PROCEDURES FOR TAXICAB RATE INCREASES; AMENDING SECTION 8½-16 OF THE CODE TO SET FINES FOR VIOLATIONS OF THE CODE; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by Mayor Dale V.C. Holness)

WHEREAS, the Environmental and Consumer Protection Division ("ECPD") has observed two major regulatory challenges in the vehicle-for-hire community: illegal ride solicitation and repeat violators of the motor carrier regulations outlined in the Broward County Code of Ordinances ("Code");

WHEREAS, the Board of County Commissioners of Broward County ("Board") desires to deter illegal ride solicitation and repeat violations of the Code by amending Chapter 22½ of the Code to make unlawful the solicitation of for-hire ground transportation services except as permitted under the Code and authorize the suspension of the certificate, license, permit, or registration of any person who has had three (3) or more violations of the same offense under the Code adjudicated within a twenty-four (24) month period;

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1 WHEREAS, Chapter 8½-16 of the Code sets forth a schedule of civil penalties for
2 violations of Chapter 22½ of the Code;

3 WHEREAS, under Section 162.09, Florida Statutes, the Board may, by a vote of
4 at least a majority plus one (1) of the entire Board, adopt civil penalties of \$1,000 for a
5 first violation and \$5,000 for repeat violations of the Code;

6 WHEREAS, in accordance with Section 162.09, Florida Statutes, the Board
7 desires to amend Chapter 8½-16 of the Code to impose civil penalties related to illegal
8 solicitation at \$1,000 for a first violation and \$5,000 for repeat violations;

9 WHEREAS, the Board also wishes to make several housekeeping changes to
10 Chapter 22½ of the Code including: (1) requiring that motor carriers maintain insurance
11 in compliance with state and federal insurance requirements, as applicable; (2) amending
12 the procedures for taxicab rate increases; and (3) removing the requirement that
13 taximeters be approved by the Florida Department of Agriculture, as the Department no
14 longer approves meters; and

15 WHEREAS, the Board finds that the revisions to the Code as set forth herein are
16 in the best interest of Broward County,

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

20
21 Section 1. Section 22½-1 of the Broward County Code of Ordinances is hereby
22 amended to read as follows:

23 **Sec. 22½-1. Definitions.**
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1 This Chapter may be referred to and cited as the "Motor Carriers Ordinance."
2 For the purposes of this Chapter, the following definitions shall apply unless the context
3 of their usage clearly indicates another meaning:

4 . . .

5 (k) *Motor vehicle* or *vehicle* means all vehicles or machines propelled by power
6 other than muscular, used upon the public streets for public passenger transportation, by
7 motor carriers to transport passengers, including, but not limited to:

8 . . .

9 (3) *Luxury sedan* means a motor vehicle with a passenger capacity of one to
10 eight (1–8) passengers, which does not contain a partition or other device
11 used to separate the driver and passenger seating areas, provides
12 prearranged ground transportation services, and is recognized by the
13 industry as a "luxury" vehicle, such as Lincoln, Cadillac, Mercedes Benz, or
14 other similar luxury sedan.

15 (4) *Luxury limousine* means a motor vehicle with a seating capacity of six to
16 nineteen (6–19) passengers, excluding the driver, which has been altered
17 from its original manufacturer's specifications with respect to wheelbase
18 and passenger capacity, ~~and~~ contains a partition or other device used to
19 separate the driver and passenger seating areas, and provides prearranged
20 ground transportation services.

21 (5) *Transport van* ~~shall~~ means a motor vehicle not equipped with a taximeter
22 that provides prearranged ground transportation services, with a seating
23 capacity of nine to nineteen (9–19) ~~or more passengers, but not more than~~
24

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1 ~~nineteen (19)~~ passengers, exclusive of the driver, where there is no
2 separation of the driver and passenger compartments.

3 . . .

4 (v) *Prearranged ground transportation* means the transportation for
5 compensation of any passenger who coordinates such transportation services prior to
6 arrival at the predesignated pickup location.

7 . . .

8 Section 2. Section 22½-7B of the Broward County Code of Ordinances is
9 hereby created to read as follows:

10
11 **Sec. 22½-7B. Reserved. ~~Illegal Solicitation.~~**

12 (a) It shall be unlawful for any person who does not have a valid chauffeur's
13 registration and valid permit required by the provisions of this Chapter to offer or facilitate
14 the solicitation of for-hire ground transportation services to passengers in Broward
15 County.

16 (b) *Prearranged Transportation.* Any Operator utilizing a motor vehicle
17 restricted to prearranged ground transportation services under this Chapter shall provide
18 ground transportation services only to persons who have prearranged for such services.
19 All Operators and their employees, agents, individual contractors, or representatives that
20 engage in providing prearranged ground transportation services are expressly prohibited
21 from the solicitation or provision of for-hire ground transportation services to passengers
22 in Broward County in any manner other than on a prearranged basis.

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1 Section 3. Section 22½-9B of the Broward County Code of Ordinances is
2 hereby amended to read as follows:

3 **Sec. 22½-9B. Operations—Minimum vehicle standards.**

4 . . .

5 (f) In addition to the standards set forth in this section, taxicabs shall meet the
6 following minimum standards:

7 . . .

8 (3) Taximeters shall be:

9 . . .

10 b. Approved by ~~Florida Department of Agriculture, Bureau of Weights~~
11 ~~and Measures,~~ or a designated facility authorized to certify meter
12 operation or, in the case of a taximeter software program, platform, or
13 application installed on an electronic device, approved by the
14 Division; ~~{and}~~

15 . . .

16
17 Section 4. Section 22½-9C of the Broward County Code of Ordinances is
18 hereby amended to read as follows:

19 **Sec. 22½-9C. Operations—Insurance.**

20 (a) Every certificate, permit, or license holder operating motor vehicles with a
21 seating capacity of less than nine (9) passengers shall file evidence of insurance with the
22 Division, providing for public liability and property damage coverage on each motor
23 vehicle to be operated under the certificate in an amount not less than ~~Fifty Thousand~~
24 ~~Dollars (\$50,000.00) per person and One Hundred Thousand Dollars (\$100,000.00) per~~

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1 incident as to ~~public liability and property damage coverage in an amount not less than~~
2 ~~Twenty Thousand Dollars (\$20,000.00)~~ that prescribed by state or federal law, as
3 applicable. ~~If additional or higher insurance coverage is required by state or federal law,~~
4 ~~each such certificate, permit, or license holder shall comply with the requirements of such~~
5 ~~law in addition to the requirements of this subsection, and shall file evidence of all required~~
6 ~~insurance coverage with the Division.~~ Proof of all required insurance coverage shall be
7 filed with the Division.

8 . . .

9

10 Section 5. Section 22½-11 of the Broward County Code of Ordinances is
11 hereby amended to read as follows:

12 **Sec. 22½-11. Taxicab rate regulations.**

13 . . .

14 (c) Taxicab rates shall be established and revised in accordance with the
15 following procedure:

16 (1) ~~At two (2) year intervals from the date of the last public hearing establishing~~
17 ~~rates, the Division shall submit a written recommendation to the Broward~~
18 ~~County Administrator recommending~~ evaluate taxicab rates based on the
19 consumer price index and additional information, as deemed appropriate by
20 the Division, and make a determination whether to increase taxicab rates.
21 If the Division determines that an increase in taxicab rates is necessary, the
22 Division shall submit a written recommendation to the Broward County
23 Administrator recommending an increase.

24 . . .

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1 Section 6. Section 22½-13 of the Broward County Code of Ordinances is
2 hereby amended to read as follows:

3 **Sec. 22½-13. Suspension; revocation; forfeiture; penalties.**

4 . . .

5 (b) Certificates, permits, registrations, or jitney licenses may be suspended,
6 revoked, or forfeited prior to a hearing ~~when it appears~~ based on a determination of the
7 Director that one or more of the conditions provided in this Section (b) exist(s). The
8 hearing procedures set forth in this Chapter must be complied with promptly after such
9 suspension, revocation, or declared forfeiture. No reinstatement fee shall apply if the
10 suspension, revocation, or forfeiture is reversed or overruled by the hearing panel or a
11 hearing officer, as applicable. Certificates, permits, registrations, or jitney licenses may
12 be suspended, revoked, or forfeited prior to a hearing for the following reasons:

- 13 (1) A public safety or public emergency appears to justify such action prior to
14 the time a hearing may reasonably be set and a decision made based on
15 such hearing; or
- 16 (2) Nonpayment of fees required by this Chapter prior to initial operation of a
17 motor vehicle; or
- 18 (3) A permitted vehicle is not presented or has not passed its required periodic
19 inspection by the deadline pursuant to this Chapter ~~or Subsection 37.5(g)~~
20 ~~of the Broward County Administrative Code~~; or
- 21 (4) ~~The hearing procedures set forth in this Chapter are complied with promptly~~
22 ~~after action, such suspension, revocation, or declared forfeiture; or~~
23 A certificate, permit, registration, or jitney license holder has received three
24 (3) or more citations adjudicated to be in violation of the same offense under

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1 the Broward County Code of Ordinances within the preceding twenty-four
2 (24) month period.

3 ~~(5) No reinstatement fee shall apply if the suspension, revocation, or forfeiture~~
4 ~~is reversed or overruled by the hearing panel or a hearing officer.~~

5 . . .

6
7 Section 7. Section 8½-16(t) of the Broward County Code of Ordinances is
8 hereby amended to read as follows:

9 **Sec. 8½-16. Schedule of civil penalties.**

10 . . .

11 (t) *Violations of Motor Carriers Law and Regulations:*

		<i>Fine</i>				
	<i>Violation</i>	<i>*First Violation</i>	<i>*Second Violation</i>	<i>*Third Violation</i>	<i>*Four or More Violations</i>	
16	(1) Operating without a certificate (sec. 22½-2)†	\$1,000.00	\$5,000.00	\$5,000.00	\$5,000.00	
18	(2) Advertising without a certificate (sec. 22½-2)	250.00	500.00	750.00	1,000.00	
20	(3) Operation of a vehicle by a driver not registered pursuant to sec. 22½-8 (sec. 22½-8)†	30 days or fewer#	250.00	500.00	750.00	1,000.00
23		All other violations	1,000.00	5,000.00	5,000.00	5,000.00

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1	(4)	Operating without displaying a current valid permit (sec. 22½-6A(k))	250.00	500.00	750.00	1,000.00
2	(5)	Operating without a current valid permit (sec. 22½-6A)†	250.00	500.00	750.00	1,000.00
3		30 days or fewer#	1,000.00	5,000.00	5,000.00	5,000.00
4	(6)	Operating without a current valid chauffeur's registration in his or her possession (sec. 22½-9A(g))	250.00	500.00	750.00	1,000.00
5		All other violations	250.00	500.00	750.00	1,000.00
6	(7)	Failure to comply with the minimum standards of conduct (sec. 22½-9A)	250.00	500.00	500.00	500.00
7	(8)	Failure to comply with the minimum vehicle standards (sec. 22½-9B)	250.00	500.00	500.00	500.00
8	(9)	Failure to keep insurance in full force and effect (sec. 22½-9C)	250.00	500.00	750.00	1,000.00
9	(10)	Operating with a defective or inaccurate taximeter or failure to collect a fee consistent with the operating taximeter (sec. 22½-10)	250.00	500.00	750.00	1,000.00
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1	(11)	Operating without a current valid Port Everglades Business Permit (sec. 22½-6D(a))†		1,000.00	5,000.00	5,000.00	5,000.00
2							
3							
4	(12)	Operating without a current valid Port Everglades decal (sec. 22½-6D(j))		250.00	500.00	750.00	1,000.00
5							
6							
7	(13)	Operating without the proper amount of insurance required to operate in Port Everglades (sec. 22½-6D(k))		250.00	500.00	750.00	1,000.00
8							
9							
10	(14)	Submitting a false vehicle inspection form (sec. 22½-9B(n))		250.00	500.00	750.00	1,000.00
11							
12							
13	(15)	Failure to use a Division-approved certified technician to inspect vehicle for hire (sec. 22½-9B(j))		250.00	500.00	750.00	1,000.00
14							
15							
16							
17	(16)	Operating at the Airport without a current valid contract, license, lease, permit, or decal (sec. 22½-6B(a))†	30 days or fewer#	250.00	500.00	750.00	1,000.00
18							
19			All other violations	1,000.00	5,000.00	5,000.00	5,000.00
20							
21							
22	(17)	<u>Offering or facilitating the solicitation of for-hire ground transportation services without a valid chauffeur's</u>		<u>1,000.00</u>	<u>5,000.00</u>	<u>5,000.00</u>	<u>5,000.00</u>
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1	<u>registration or permit</u>				
2	<u>(sec. 22½-7B(a))†</u>				
3	<u>(18) Soliciting for-hire ground</u>				
4	<u>transportation services in any</u>				
5	<u>manner other than on a</u>	<u>1,000.00</u>	<u>5,000.00</u>	<u>5,000.00</u>	<u>5,000.00</u>
6	<u>prearranged basis</u>				
7	<u>(sec. 22½-7B(b))†</u>				

†In determining the amount of the fine, the hearing officer shall consider the following factors: (1) the gravity of the violation; (2) any actions taken by the violator to correct the violation; and (3) any previous violations committed by the violator.

...

Section 8. Severability.

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

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

It is the intention of the Board of County Commissioners that the provisions of this Ordinance become part of the Broward County Code of Ordinances as of the effective date. The sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or 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

By /s/ Claudia Capdesuner 11/05/2020
Claudia Capdesuner (date)
Assistant County Attorney

PROPOSED

By /s/ Annika E. Ashton 11/05/2020
Annika E. Ashton (date)
Deputy County Attorney

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Chapter Housekeeping and Illegal Solicitation Ordinance.doc
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