

ORDINANCE NO. 2015-08

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, AMENDING THE BROWARD COUNTY CODE OF ORDINANCES ("CODE") TO MODIFY FEES FOR OFF-AIRPORT MOTOR VEHICLE RENTAL OPERATIONS; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by the Board of County Commissioners)

WHEREAS, the Board of County Commissioners of Broward County, Florida, desires to amend sections of the Broward County Code of Ordinances, to change nomenclature inconsistencies and the fee structure for off-airport motor vehicle rental operations from the number of contracts secured to a percentage of gross revenues,

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

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

Sec. 2-111. Off-airport motor vehicle operations operators.

(a) *Off-Airport Motor Vehicle Rental Operations* ~~(Off-Rac)~~ Operators ("OFFRACs") shall mean a persons or entities that operate motor vehicle rental businesses or services that does not have a concession agreement with the County and desires to solicit customers for ~~its~~ their motor vehicle rental businesses or services at the Fort Lauderdale-Hollywood International Airport ("Airport").

(b) No ~~person~~ OFFRAC shall engage in ~~Off-RAC operations~~ or any motor vehicle rental business or any services pertaining to ~~such~~ any motor vehicle rental

1 business, ~~or service~~, on any part of the Airport without first obtaining a permit from the
2 Department specifically authorizing such operations pursuant to the requirements set
3 forth in this Division 5.

4 (c) In addition to the foregoing, the County, through its Aviation Department,
5 reserves the right to require all ~~operators of off-airport motor vehicle rental operations~~
6 OFFRACs to obtain a transponder, or to utilize such other electronic access system that
7 may be implemented by the Aviation Department, at the time such program is
8 implemented at the Airport.

9
10 Section 2. Section 2-112 of the Broward County Code of Ordinances is hereby
11 amended to read as follows:

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

13 (a) Any ~~person~~ OFFRAC desiring to engage in ~~Off-Rac operations at any~~
14 motor vehicle rental business or any service pertaining to any motor vehicle rental
15 business on any part of the Airport shall make application in writing to the Department
16 prior to conducting any such activities or operations at the Airport. Such application
17 shall be on a form provided by the Department.

18 ...
19

20 Section 3. Section 2-114 of the Broward County Code of Ordinances is hereby
21 amended to read as follows:

22 **Sec. 2-114. Payment of fees and accounting.**

23 (a) Each ~~permittee~~ OFFRAC authorized to operate or conduct activities as set
24 forth herein shall furnish to the Department, by the fifteenth (15th) calendar day of each

1 month for the preceding month's operations and activities, a statement certified by one
2 of its officers stating the Gross Revenues, as defined in Section 39.2.k.2. of the Broward
3 County Administrative Code, and the number of motor vehicle rental contracts secured
4 through ~~permittee's~~ the OFFRAC's operation at the Airport during the prior month.
5 Payment for the preceding month in the amount required by Section 2-113 shall be
6 remitted to the Department with each monthly statement.

7 (b) Each ~~permittee~~ OFFRAC shall make ~~his or her~~ its books and financial
8 records available for audit by the County upon reasonable notice and at reasonable
9 times. If such books and financial records are kept at a location or locations other than
10 Broward County, Florida, they shall be brought to a location convenient to the auditors
11 for the County in order for the County to conduct an audit. To facilitate such audit, each
12 ~~permittee~~ OFFRAC shall keep accurate records of its operations at the Airport and shall
13 retain receipts from all business conducted at the Airport. Each ~~permittee~~ OFFRAC
14 shall issue an invoice or receipt, serially numbered, with each transaction at the Airport.
15 All books and records customarily used in this type of operation, and as may from time
16 to time be required by the County, shall also be kept and maintained in accordance with
17 generally accepted accounting principles. The books and records referred to above
18 shall be retained for at least three (3) years following the end of ~~permittee's~~ the
19 OFFRAC's fiscal year and shall be subject to audit.

20 (c) Each ~~permittee~~ OFFRAC shall provide a special annual report to the
21 Department setting forth all revenues derived from ~~permittee's~~ the OFFRAC's
22 operations at the Airport. Such annual report shall be prepared by the chief financial
23 officer when payments made by the ~~permittee~~ OFFRAC are less than twenty-five
24 thousand dollars (\$25,000.00) during the term of the permit, or a special report shall be

1 prepared by a certified public accountant in accordance with the provisions of the
2 Codification of Statements on Auditing Standards when the payments are twenty-five
3 thousand dollars (\$25,000.00) or more during the term of the permit. The special report
4 shall be filed with the Department within ninety (90) days following each annual period
5 of the permit, and within ninety (90) days after the permit expires or is terminated and
6 shall include the following:

7 . . .

8
9 Section 4. Section 2-115 of the Broward County Code of Ordinances is hereby
10 amended to read as follows:

11 **Sec. 2-115. Insurance requirements.**

12 (a) Each ~~permittee~~ OFFRAC shall, at a minimum, provide, pay for, and
13 maintain in force at all times during the term of the permit authorized herein, the
14 insurance coverages as required by the Broward County Risk Management Division
15 ("Risk Management"). Such required insurance coverages may be modified from time
16 to time by Risk Management.

17 (b) Each ~~permittee~~ OFFRAC shall furnish to the Department Certificates of
18 Insurance or endorsements evidencing the insurance coverages required by Risk
19 Management. The required Certificate of Insurance shall name the types, terms, and
20 limits of liability provided.

21 (c) Coverage is not to cease and is to remain in force (subject to cancellation
22 notice) during the term of any permit issued hereunder. All policies must be endorsed
23 to provide County with at least thirty (30) calendar days' notice of cancellation and/or
24 restriction. If any of the insurance coverages will expire prior to the termination of

1 ~~permittee's~~ the OFFRAC's permit, copies of renewal policies shall be furnished at least
2 thirty (30) calendar days prior to the date of their expiration.

3
4 Section 5. Section 2-116 of the Broward County Code of Ordinances is hereby
5 amended to read as follows:

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

7 The County Administrator shall establish rules and regulations governing the
8 privilege of engaging in business or conducting ~~Off-Rac~~ operations by OFFRACs at the
9 Airport. Such rules and regulations may add to or supplement the requirements of this
10 Division 5 and may be amended from time to time as deemed necessary by the County
11 Administrator.

12
13 Section 6. Section 2-117 of the Broward County Code of Ordinances is hereby
14 amended to read as follows:

15 **Sec. 2-117. Compliance with laws and regulations; violations, termination**
16 **or revocation.**

17 (a) Any ~~person~~ OFFRAC engaged in ~~Off-Rac~~ any off-Airport motor vehicle
18 rental business or operations at the Airport shall obtain all appropriate licenses and
19 permits, shall obey all applicable federal, state, County, and local laws, codes,
20 ordinances, rules, and regulations now in effect or which may become effective during
21 the term of ~~such~~ the permit issued pursuant to this Division 5. In the case of an
22 inconsistency between the laws and the rules and regulations identified in this section
23 and the rules and regulations promulgated pursuant to Section 2-116 herein, the rules
24

1 and regulations promulgated pursuant to Section 2-116 shall govern unless superseded
2 by the conflicting provisions.

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

6 (1) Violation of any provision or restriction of the such permit ~~authorizing~~
7 ~~engaging in the motor vehicle rental business or service at the Airport~~; or

8 (2) Any action or series of actions by the ~~permittee~~ OFFRAC, or its
9 employees, agents, or representatives that adversely affects the safety of
10 the public; or

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

12 (4) Failure to make timely payments as required by Chapter 39 of the
13 Broward County Administrative Code, and in accordance with Section 2-
14 114 herein; or

15 (5) The violation of any of the terms and conditions of this Division 5, or any
16 rules, ordinances, regulations, or operational guidelines promulgated by
17 the County or the Aviation Director with respect to engaging in ~~Off-Rac~~
18 off-Airport motor vehicle rental business or operations at the Airport.

19 (c) Upon notification of the denial, termination, or revocation of a permit by
20 the Department, the applicant or ~~permit holder~~ OFFRAC may request a hearing before a
21 hearing officer, who shall be an attorney in good standing of ~~t~~The Florida Bar, by
22 providing notice of such request to the Office of the County Attorney, by certified mail,
23 return receipt requested, within fifteen (15) business days of notification of such denial
24 or revocation. The Office of the County Attorney is authorized, within fifteen (15)

1 business days of receipt of the request for hearing, to submit a copy of the application
2 for permit or revocation and a statement as to the reason or reasons for such denial or
3 revocation to a hearing officer to be appointed by the Board for a determination of the
4 validity of the denial or revocation. A copy shall also be provided to the applicant or
5 ~~permit holder~~ OFFRAC in accordance with County policy; and

6 (1) The hearing shall be held within ten (10) business days from the receipt by
7 the hearing officer of the material submitted by the Office of the County
8 Attorney.

9 (2) The parties to the proceeding shall be the applicant or ~~permit holder~~
10 OFFRAC and the Aviation Director, or his or her designee. The Aviation
11 Director, or his or her designee, shall be represented by the Office of the
12 County Attorney. At the hearing, the applicant or ~~permit holder~~ OFFRAC
13 may be represented by counsel.

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

18 (4) Testimony shall be taken upon oath or affirmation, and evidence
19 applicable to the quasi-judicial proceedings shall govern. The testimony of
20 witnesses shall be taken first in support of the denial or revocation of the
21 permit. The parties may testify and present witnesses on their behalf. A
22 court reporter shall make a record of the proceeding. A record shall be
23 kept of all evidence received or considered in addition to the oral
24 testimony. The cost of the court reporter shall be shared equally by the

1 County and the applicant or ~~permit holder~~ OFFRAC. In addition to sharing
2 the cost of the court reporter, in the event the applicant or ~~permit holder~~
3 OFFRAC is the ~~non-prevailing~~ nonprevailing party, the County shall be
4 entitled to its administrative costs, which costs shall be determined from
5 evidence presented by the County.

6 ...

7
8 Section 7. SEVERABILITY.

9 If any portion of this Ordinance is determined by any Court to be invalid, the
10 invalid portion shall be stricken, and such striking shall not affect the validity of the
11 remainder of this Ordinance. If any Court determines that this Ordinance, or any portion
12 hereof, cannot be legally applied to any individual(s), group(s), entity(ies), property(ies),
13 or circumstance(s), such determination shall not affect the applicability hereof to any
14 other individual, group, entity, property, or circumstance.

15
16 Section 8. INCLUSION IN CODE.

17 It is the intention of the Board of County Commissioners that the provisions of
18 this Ordinance shall become and be made a part of the Broward County Code; and that
19 the sections of this Ordinance may be renumbered or relettered and the word
20 "ordinance" may be changed to "section," "article," or such other appropriate word or
21 phrase in order to accomplish such intentions.

Section 9. EFFECTIVE DATE.

This Ordinance shall become effective as provided by law.

ENACTED January 13, 2015

FILED WITH THE DEPARTMENT OF STATE January 14, 2015

EFFECTIVE January 14, 2015

Approved as to form and legal sufficiency:
Joni Armstrong Coffey, County Attorney

By /s/ Christine C. Lee 12/03/14
(Date)
Senior Assistant County Attorney

CCL/cph
Off-Rac Fees Ord 2-114.doc
#14-426.00
12/03/14

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