

1 To conform to the County Executive's 2017 recommended budget, an amendment to
2 the Finance and Audit Committee for Org. Unit 5040-Airport, GMIA, Timmerman:

3
4 File No.
5 (Journal,)
6

7 **AN ORDINANCE**

8
9 To amend Section 4.33(3) of the General Ordinances of Milwaukee County
10 relating to off-airport fees and charges,

11
12 The County Board of Supervisors of the County of Milwaukee does ordain as
13 follows:

14
15 **SECTION 1.** Sections 4.33(3) of the General Ordinances of Milwaukee County,
16 is hereby amended as follows:

17
18 4.33. - Off-airport fees and charges.

19 (3) Off-airport parking operator privilege fee.

20 (a) Purpose. It is the intent of this subsection that for and in consideration of the use
21 of the facilities of General Mitchell International Airport ("airport") and the business
22 generated by the airport, and further, in and for consideration of the business benefits
23 received by the off-airport parking operators from their use of airport facilities, the airport
24 agrees to allow and authorizes the off-airport parking operators to do business at the
25 airport under the terms, conditions and restrictions identified herein, including imposition
26 of a fee upon the off-airport parking operators for the privileges, opportunity, benefits
27 and authorization provided for in this subsection.

28 (b) Definitions.

29 (i) Airport customer. For the purpose of this subsection [4.33\(3\)](#) only, airport
30 customer is defined as any customer arriving at the airport terminal intending to travel
31 by air and using the airport for such purpose, or patrons and tenants of the airport, any
32 of whom use the vehicle parking and related services of an off-airport parking operator.

33 (ii) Courtesy vehicle. A courtesy vehicle is a motor vehicle transporting airport
34 customers and which is further identified and defined in [section 4.01\(13\)](#) and [section](#)
35 [4.05.04](#) of these Milwaukee County Ordinances.

36 (iii) Off-airport parking operator. An off-airport parking operator is a business
37 association, entity or enterprise which operates a parking business off or outside of the
38 airport premises and, without being party to a concession agreement with the airport,
39 transports airport customers by means of a courtesy vehicle to or from off-airport
40 facilities or the airport for the purpose of providing vehicle parking or related services for
41 said airport customer.

42 ~~(iv) Parking space. A parking space is defined as any physical location at the off-~~
43 ~~airport parking operator's parking business made available for the parking of any vehicle~~
44 ~~that is capable of being licensed for operation on roadways in the county. A parking~~
45 ~~space shall be considered to be operated if that space is available for parking at any~~
46 ~~time during a calendar year. Parking spaces dedicated to a hotel stay/park program~~
47 ~~shall not be considered a parking space within the meaning of this section.~~

48 (iv) Hotel stay/park program. A hotel stay/park program shall be defined as a
49 promotion offered by a hotel or motel that includes within the room rate a provision for a
50 guest to park a single vehicle for no more than fourteen (14) consecutive days.

51 (c) Privileges.

52 (i) The off-airport parking operator is authorized to do business at the airport, to
53 provide vehicle parking or related services, to arrange for and operate its courtesy
54 vehicles on the public roadway at the airport by the most direct route authorized by the
55 airport director, and to pick up and deliver airport customers, all in accordance with
56 [chapter 4](#) of Milwaukee County Ordinances, as well as all other rules, regulations and
57 procedures of the airport.

58 (ii) The off-airport parking operator will provide pickup and delivery service only for
59 off-airport parking customers. Courtesy vehicles are expressly prohibited from
60 transporting customers for any reason other than to take them to off-airport parking
61 facilities for the sole purpose of vehicle parking. The off-airport parking operator's
62 courtesy vehicles (and drivers of same), which are operated by the off-airport parking
63 operator shall, at all times, comply with and be regulated by [section 4.01](#)(13), [section](#)
64 [4.05.04](#), and all other applicable Milwaukee County Ordinances.

65 (iii) The off-airport parking operator shall operate on the airport in a safe and orderly
66 fashion and shall not allow its agents, servants or employes to solicit, in any way, any
67 business on the airport. The off-airport parking operator will not allow its agents,
68 servants or employes to engage in any open or public disputes or conflicts tending to be
69 incompatible with the best interests of the traveling public. The airport shall have the
70 right to resolve all such disputes or conflicts by the same procedure as that identified in
71 [section 4.05.04](#)(8) applicable to permit revocations.

72 (iv) The authority and permission identified herein and granted to an off-airport
73 parking operator is not exclusive and shall in no way establish or vest any priority use of
74 the facilities relative to other commercial users of the airport, nor does it restrict the
75 airport from assigning exclusive or priority use of airport facilities to others.

76 (v) This subsection authorizes an off-airport parking operator to pick up and
77 discharge its airport customers at the airport in an area designated by the airport
78 director or his designated representative and to enjoy the benefits derived from use of
79 the related airport facilities in the operation of the off-airport parking operator's business.
80 The off-airport parking operator shall not operate an office or conduct any other kind of
81 vehicle parking or any other business on the airport without the written express

82 authorization of the airport director or otherwise entering into a separate concession or
83 lease agreement with the airport.

84 ~~(d) — Charges, fees and accounting.~~

85 ~~(i) — During the term and time period that the off-airport parking operator is operating,~~
86 ~~the operator shall operate its courtesy vehicle in accordance with the terms and~~
87 ~~conditions identified in [section 4.05.04\(2\)\(a\)](#) of the Milwaukee County Ordinances. In~~
88 ~~addition, pursuant to the exercise of the privileges identified herein, said off-airport~~
89 ~~parking operator will pay to the airport a privilege fee for the privilege and opportunity of~~
90 ~~using the airport and the business benefit it derives therefrom, said privilege fee to be in~~
91 ~~the amount of thirty-eight dollars and fifty-one cents (\$38.51) per year for each parking~~
92 ~~space made available for the parking of any vehicle by the off-airport parking operator at~~
93 ~~its facility, payable monthly as defined in subsection (d)(ii) below.~~

94 ~~(ii) — Within twenty (20) days after January 1 of each year, the off-airport parking~~
95 ~~operator shall submit to the airport, in a form and with details satisfactory to the airport,~~
96 ~~a statement of the number of parking spaces operated by the off-airport parking~~
97 ~~operator at its facility, such statement to be signed by a responsible officer or manager~~
98 ~~of the off-airport parking operator. All remittances for privilege fees shall be made~~
99 ~~payable to the Milwaukee County Department of Public Works Airport Division and~~
100 ~~remitted to the Office of the Airport Director, General Mitchell International Airport,~~
101 ~~Drawer No. 979, Milwaukee, Wisconsin 53278-0979.~~

102 ~~(iii) — The privilege fee required under this ordinance shall be calculated by multiplying~~
103 ~~the total number of parking spaces in existence at the off-airport parking lot and~~
104 ~~contained in the report required by subsection (d)(ii) above by thirty-eight dollars and~~
105 ~~fifty-one cents (\$38.51).~~

106 ~~(e) — Audit.~~

107 ~~(i) — Milwaukee County may, at any time and at its own expense, verify the number of~~
108 ~~parking spaces subject to this ordinance at each off-airport operator's business~~
109 ~~premises.~~

110 (d) Charges, fees and accounting.

111 (i) During the time period that the off-airport parking operator is operating on the
112 premises of the airport, the off-airport parking operator will pay to the airport a privilege
113 fee for the privilege and opportunity of using the airport and for the business benefit it
114 derives therefrom, said privilege fee to be in the amount of six (6) percent of the off-
115 airport parking operator' gross receipts, as that term is defined herein, payable monthly
116 to an address and location identified by the airport director.

117 (ii) The term "gross receipts" as used herein, shall mean the aggregate amount of
118 the gross selling price of all parking, services, and merchandise sold and/or dispensed
119 by operator. It shall also include all fees or charges which operator shall impose upon a
120 customer in order to cover anticipated gross receipts payments to county. It shall be all-
121 inclusive, whether or not such sales are made by cash, debit, or credit or whether the

122 selling price is collected or uncollected. Deductions shall be allowed only for the amount
123 of any bona fide reimbursements to customers tendered to correct an erroneous
124 charge.

125 (iii) Federal, state or municipal excise, sales or other similar taxes shall not be
126 included as part of the off-airport parking operator's gross receipts.

127 (e) Statements, books and records.

128 (i) The off-airport parking operator shall keep accurate books and records in
129 accordance with generally accepted accounting principles (GAAP) as approved by the
130 county director of audits. The off-airport parking operator shall operate its business at its
131 off-airport facility in a manner and method acceptable to the airport director such that
132 those parking agreements, contracts or transactions entered into with airport customers
133 can be identified.

134 Within twenty (20) days after the close of each calendar month, the off-airport parking
135 operator shall submit to the airport, in a form and with details satisfactory to the airport,
136 a statement of its gross receipts during the then-preceding month from its operations as
137 a result of the off-airport parking operator's business as defined herein, upon which the
138 percentage payments to be made to the county are computed, such statement to be
139 signed by a responsible officer or manager of the off-airport parking operator. The off-
140 airport parking operator shall keep full and accurate books and records showing all of its
141 gross receipts pertaining to its off-airport operations, as identified herein, and airport
142 shall have the right, through its representatives at all reasonable times to inspect such
143 books and records including sales tax returns. All such records and documents will be
144 made available for at least a three-year period.

145 (ii) An off-airport parking operator with gross sales in excess of two hundred fifty
146 thousand dollars (\$250,000.00) per year shall employ an independent certified public
147 accountant who shall furnish within sixty (60) days after the close of each year, or
148 portion thereof, a written statement to the airport certifying that in their opinion the
149 percentage fee paid by the off-airport parking operator during the preceding year was
150 made in accordance with the terms and conditions of this subsection.

151 (iii) Airport reserves the right to prescribe or change reporting forms, the method or
152 time of their submission, and the payment schedule. Airport shall first submit in writing
153 to the off-airport parking operator any desired changes.

154 (f) Audit.

155 (i) Airport reserves the right, at airport's expense, to audit the off-airport parking
156 operator's books and records of receipts at any time for the purpose of verifying the off-
157 airport parking operator's gross receipts. If, as a result of such audit, it is established
158 that the off-airport parking operator has understated the gross receipts by five (5)
159 percent or more, the entire expense of the audit shall be borne by the off-airport parking
160 operator.

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- 162 (f-g) Delinquent charges of fees.
- 163 (i) Interest. Unless waived by the Milwaukee County Board of Supervisors,
164 the off-airport parking operator shall be responsible for payment of interest
165 on amounts not remitted in accordance with the terms of this ordinance.
166 The rate of interest shall be the statutory rate in effect for all delinquent
167 county property taxes (presently one (1) percent per month or fraction of a
168 month) as described in s. 74.80(1), Wis. Stats. The obligation for payment
169 and calculation thereof, shall commence upon the day following the due
170 date established herein.
171
- 172 (ii) Penalty. In addition to the interest described above, the off-airport parking
173 operator shall be responsible for payment of penalties and amounts not
174 remitted in accordance with the terms of this ordinance, as may be
175 determined by the administrator of this ordinance, or his designee. Said
176 penalties shall be the statutory rate in effect for delinquent Milwaukee
177 County property taxes (presently .5 percent per month or fraction of a
178 month) as described in Milwaukee County Ordinance section 6.06(1) and
179 s. 74.80(2), Wis. Stats. The obligation for payment and calculation thereof
180 shall commence upon the day following the due date established herein.
181
- 182 (iii) Audit results. If, as a result of any audit required herein, additional
183 amounts are discovered to be due and owing, interest and penalty shall be
184 calculated thereon in accordance with the above method. The off-airport
185 parking operator shall remit to the Milwaukee County any additional
186 amounts identified as due and owing as a result of the audit including
187 interest and penalty thereon within thirty (30) days following receipt of the
188 audit report.
- 189 (iv) Non-exclusivity. This provision permitting collection of interest and
190 penalties by Milwaukee County on delinquent payments shall not be
191 considered to be an exclusive remedy against off-airport parking operator.
192 Violation of any of the terms and conditions described in this ordinance
193 with respect to delinquent payments and exercise of this remedy is not a
194 waiver by Milwaukee County of any other remedy permitted by law.
- 195 (g) ~~Security. To provide security for the privilege fee required hereunder, the off-~~
196 ~~airport parking operator shall comply with either of the following options prior to~~
197 ~~commencing operations under this ordinance.~~
- 198 ~~(i) — Post with the airport a surety bond to be maintained throughout the term~~
199 ~~and time of operation by the off-airport parking operator in an amount equal to~~
200 ~~the privilege fee required hereunder for a period of three (3) months or one~~
201 ~~thousand five hundred dollars (\$1,500.00), whichever is greater. In the absence~~
202 ~~of historical data upon which to base the amount of security to be paid, the off-~~
203 ~~airport parking operator shall post a bond in the amount of one thousand five~~
204 ~~hundred dollars (\$1,500.00) as the security required herein. Such bonds shall be~~
205 ~~issued by a surety company acceptable to the airport and authorized to do~~

206 business in the state and shall be in the form and content satisfactory to the
207 airport.

208 (ii) — Deliver to the airport an irrevocable letter of credit drawn in favor of the airport
209 upon a bank which is satisfactory to the airport and which is authorized to do business
210 in the State of Wisconsin. Said irrevocable letter of credit shall be in an amount equal to
211 the privilege fee required hereunder for a period of three (3) months or one thousand
212 five hundred dollars (\$1,500.00), whichever is greater. In the absence of historical data
213 upon which to base said letter of credit, the off-airport parking operator shall furnish an
214 irrevocable letter of credit in the amount of one thousand five hundred dollars
215 (\$1,500.00) as the security required herein.

216 (iii) — In the event the off-airport parking company is unable to secure a surety bond or
217 irrevocable letter of credit as required hereunder, the airport may, at its sole discretion,
218 accept a cash deposit in the amount stated herein in lieu thereof.

219 (v) — If the off-airport parking company fails to make payments as required
220 under this ordinance, the off-airport parking company shall forfeit to the
221 airport the bond or other security posted pursuant to this ordinance or so
222 much of that bond or other security as is necessary to satisfy that
223 difference. If the bond or other security is insufficient to satisfy the
224 difference owed, the airport may proceed to recover the deficiency and
225 any damages allowed by law, including attorney fees and costs.

226 (h) Security deposit. If an off airport parking company defaults on any payments or
227 reports due under this section and does not cure the default within ten (10) days of
228 receiving written notice of the default from the county, the county has the right, by
229 written notice to the off airport parking company given at any time after such event of
230 default, to impose or reimpose the requirements of this section; however, the county
231 may immediately impose this security deposit requirement without such 10-day notice if
232 the off airport parking company is in default for the second time within any one calendar
233 year. In such event, the off airport parking company shall within fifteen (15) days from
234 date of the notice provide the county with a security deposit equal to the off airport
235 parking company's past three months of payments due in a form acceptable to the
236 county. The off airport parking company shall maintain the security deposit in effect for
237 twelve (12) consecutive months during which the off airport parking company commits
238 no event of default under this section or in any other payments due to the county. The
239 county has the right to reimpose this requirement each time the off airport parking
240 company commits such an event of default. The county's rights under this section shall
241 be in addition to any other rights provided by agreement or by law.

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243 (v) If the off-airport parking operator fails to make payments as required under this
244 ordinance, the off-airport parking operator shall forfeit within fourteen (14) days of the
245 date such payments become due all permits for the operation of courtesy vehicles on
246 airport roadways.

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SECTION 2. This ordinance shall become effective January 1, 2017.