

**COUNTY OF MILWAUKEE
INTEROFFICE COMMUNICATION**

DATE: November 17, 2017

TO: Theodore Lipscomb, Sr. Chairman, Milwaukee County Board of Supervisors
Michael Mayo, Sr., Chairman, Transportation, Public Works and Transit
Committee

FROM: James Martin, Interim Director, Department of Transportation

SUBJECT: AUTHORIZATION FOR THE AIRPORT DIRECTOR TO UPDATE RULES AND REGULATIONS AND FOR AN AMENDMENT TO MILWAUKEE COUNTY ORDINANCE, SECTIONS 110.02, 4.16 AND 63.09(2) TO ALLOW AIRPORT STAFF TO CONDUCT ADMINISTRATIVE HEARINGS FOR VIOLATIONS OF AIRPORT RULES AND REGULATIONS AND THE COUNTY SHERIFF TO ISSUE COUNTY CITATIONS TO INDIVIDUALS WHO VIOLATE AIRPORT RULES AND REGULATIONS.

POLICY

Milwaukee County Ordinance Section 4.07 requires County Board approval for airport rules and regulations prepared by the Airport Director. Milwaukee County Ordinance Chapter 110.02 (c) (9) requires an amendment to allow Airport staff to conduct administrative hearings. Milwaukee County Ordinances Sections 4.16 (a) and (b) and 63.09(2) (d) require amendment in order to allow the Sheriff's Department to issue citations for infractions of Airport Rules and Regulations.

BACKGROUND

Authoritative Basis for Airport Rules and Regulations, including Issuance of NOBORs
The authority to adopt policies, standards, rules, regulations, or directives, including the Primary Management and Compliance Documents (PMCDs) for the operation of airports is delegated to the County by Wisconsin Statute, including chapter 114. Aeronautics and Astronautics, Subchapter 1. Air Transportation, Wis. Stats. §114.01 *et seq.*

Milwaukee County Ordinance Section 4.07 provides that the airport director shall prepare, for the County Board's approval, airport rules and regulations consistent with all applicable state, federal and local laws for the efficient and safe operation of the County's airports. These Airport Rules and Regulations have been in place and are now being organized into one single manual. The attached Rules and Regulations Manual represents the airport director's effort to bring together in one place rules and practices at Milwaukee County's airports for the benefit of all airport users and operations, use of the passenger terminal building, vehicle operation on airport property, construction activities on airport property, aviation fueling, the handling of hazardous materials, and airport security regulations. This manual also provides clarity to tenants and users of the airport.

Of particular interest is the issuance of a Notice of Breach of Rules (NOBOR) for violations of Airport Rules and Regulations. NOBORs may be issued by Airport Management and/or the

Milwaukee County Sheriff's Office Deputies to airport badge holders found in violation of the Airport Rules and Regulations. Violation of City of Milwaukee Department of Neighborhood Services (DNS), or Fire Code shall be issued by the Fire Department or individuals/organizations authorized by the Fire Department. Any violation not attributable to an employee shall be assessed to the Tenant Company responsible for the violation. Company violations may be issued in addition to individual violations. Penalties are as follows:

- 1st violation results in retraining, and a \$25 fine, or warning notice.
- 2nd violation results in a fine of \$50 and review of continued eligibility of airport access.
- 3rd violation results in a fine of \$100 and possible revocation of Airport Identification and access privileges.

Examples of Airport Violations that may result in an administrative forfeiture:

- Fails to return their Airport ID Badge upon separation or change of status with his/her company or when access is no longer required.
- Is responsible for any violation of the Rules and Regulations or the Airport's Security Program, Airport Certification Manual, or City of Milwaukee building code.
- Piggybacks, tailgates or allows another individual or vehicle to piggyback, through a portal into security sensitive area.
- Does not possess a valid Airport ID Badge while in a security sensitive area.
- Fails to adhere to the "Authorized Signers" guidelines and requirements.

Milwaukee is within the range of monetary penalties as generally most large to medium hub airports range \$25 to \$250. These fines can vary, although the high majority of data we've collected is less than \$300. For instance, individuals or a firm at Chicago's airports can be fined not less than \$25 nor more than \$200 for similar violations.

Milwaukee County Sheriff's Office Deputies may issue County Citations to individuals (non-badge holders) under Milwaukee County Ordinance Sections 4.16 and 63.09(2) for violations of the Airport Rules and Regulations Manual. Examples include:

- Smoking in unauthorized locations.
- Submitting a weapon at the security checkpoint for screening.
- Disorderly conduct.

NOBORs will not be issued by the Milwaukee County Sheriff's Office Deputies.

Proposed NOBOR Appeal Process

State statutory law (Wis. Stats. chapter 68) provides a person with a right to an informal hearing before an impartial hearing officer prior to the termination of access privileges. Under Chapter 110 of the Milwaukee County Code of General Ordinances, these privileges would be subject to review by the standing committee of the County Board having jurisdiction over Airport safety and security matters. This existing process is time consuming for the County Board of Supervisors, Airport staff and persons who have been issued citations for violations of Airport Security and other rules.

As part of its Rules and Regulations, the Airport has, therefore, included an administrative hearing procedure that will take the place of the procedure contained in Milwaukee County Ordinance Ch. 110. The proposed procedure will provide an efficient hearing process for

Airport staff and aggrieved parties while still preserving a person's right to appeal matters to the Milwaukee County Circuit Court. The proposed procedure establishes a review and appeals process for recipients of a NOBOR. Recipients may request a review of the NOBOR to contest the forfeiture, suspension, and/or termination of an Airport ID access privileges. A written request must be made within 10 days of the date of the NOBOR with a written notice provided to Airport Management with additional rights to appeal a contested NOBOR to Milwaukee County Circuit Court. Accordingly, Airport staff recommend that the County Board of Supervisors authorize the amendment to Section 110.02(c)(9), 4.16 (a) and (b), and 63.09 (2) (d) of the Milwaukee County Code of General Ordinances as they pertain to administrative decisions made through the Airport for violations of its Rules and Regulations.

Milwaukee County Sheriff's Office Citations will continue to be appealed through the Milwaukee County Court system.

RECOMMENDATION

The Airport Director recommends the enclosed Airport Rules and Regulations be established for the greater efficient and safe operations for the County's airport system.

FISCAL NOTE

A fiscal note is attached. There is no fiscal impact for this amendment.

Prepared by: Thomas Stastny, Deputy Airport Director of Operations and Maintenance

Approved by:

James Martin, Interim Director
Department of Transportation