

1  
2  
3 FROM THE OFFICE OF JOSPEH J. CZARNEZKI  
4 MILWAUKEE COUNTY CLERK

5 County Ordinance No. 16-28

6  
7 File No. 16-567

8  
9  
10 AN ORDINANCE

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

14  
15 **SECTION 1.** Section 4.33(3) of the Code of 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  
21 the use of the facilities of General Mitchell International Airport ("airport")  
22 and the business generated by the airport, and further, in and for  
23 consideration of the business benefits received by the off-airport parking  
24 operators from their use of airport facilities, the airport agrees to allow and  
25 authorizes the off-airport parking operators to do business at the airport  
26 under the terms, conditions and restrictions identified herein, including  
27 imposition of a fee upon the off-airport parking operators for the privileges,  
28 opportunity, benefits and authorization provided for in this subsection.

29  
30 (b) *Definitions.*

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

37  
38 (ii) *Courtesy vehicle.* A courtesy vehicle is a motor vehicle transporting  
39 airport customers and which is further identified and defined in  
40 section 4.01(13) and section 4.05.04 of these Milwaukee County  
41 Ordinances.

42  
43 (iii) *Off-airport parking operator.* An off-airport parking operator is a  
44 business association, entity or enterprise which operates a parking  
45 business off or outside of the airport premises and, without being  
46 party to a concession agreement with the airport, transports airport

47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92

customers by means of a courtesy vehicle to or from off-airport facilities or the airport for the purpose of providing vehicle parking or related services for said airport customer.

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

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

(c) *Privileges.*

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

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

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

93  
94  
95  
96  
97  
98  
99  
100  
101  
102  
103  
104  
105  
106  
107  
108  
109  
110  
111  
112  
113  
114  
115  
116  
117  
118  
119  
120  
121  
122  
123  
124  
125  
126  
127  
128  
129  
130  
131  
132  
133  
134  
135  
136  
137  
138

- (iv) The authority and permission identified herein and granted to an off-airport parking operator is not exclusive and shall in no way establish or vest any priority use of the facilities relative to other commercial users of the airport, nor does it restrict the airport from assigning exclusive or priority use of airport facilities to others.
- (v) This subsection authorizes an off-airport parking operator to pick up and discharge its airport customers at the airport in an area designated by the airport director or his designated representative and to enjoy the benefits derived from use of the related airport facilities in the operation of the off-airport parking operator's business. The off-airport parking operator shall not operate an office or conduct any other kind of vehicle parking or any other business on the airport without the written express authorization of the airport director or otherwise entering into a separate concession or lease agreement with the airport.

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

- ~~(i) During the term and time period that the off-airport parking operator is operating, the operator shall operate its courtesy vehicle in accordance with the terms and conditions identified in section 4.05.04(2)(a) of the Milwaukee County Ordinances. In addition, pursuant to the exercise of the privileges identified herein, said off-airport parking operator will pay to the airport a privilege fee for the privilege and opportunity of using the airport and the business benefit it derives therefrom, said privilege fee to be in the amount of thirty-eight dollars and fifty-one cents (\$38.51) per year for each parking space made available for the parking of any vehicle by the off-airport parking operator at its facility, payable monthly as defined in subsection (d)(ii) below.~~
- ~~(ii) Within twenty (20) days after January 1 of each year, the off-airport parking operator shall submit to the airport, in a form and with details satisfactory to the airport, a statement of the number of parking spaces operated by the off-airport parking operator at its facility, such statement to be signed by a responsible officer or manager of the off-airport parking operator. All remittances for privilege fees shall be made payable to the Milwaukee County Department of Public Works-Airport Division and remitted to the Office of the Airport Director, General Mitchell International Airport, Drawer No. 979, Milwaukee, Wisconsin 53278-0979.~~
- ~~(iii) The privilege fee required under this ordinance shall be calculated by multiplying the total number of parking spaces in existence at~~

139 the off-airport parking lot and contained in the report required by  
140 subsection (d)(ii) above by thirty-eight dollars and fifty-one cents  
141 (\$38.51).  
142

143 (e) *Audit.*

- 144 (i) Milwaukee County may, at any time and at its own expense, verify  
145 the number of parking spaces subject to this ordinance at each off-  
146 airport operator's business premises.  
147

148 (d) Charges, fees and accounting.

- 149  
150 (i) During the time period that the off-airport parking operator is  
151 operating on the premises of the airport, the off-airport parking  
152 operator will pay to the airport a privilege fee for the privilege and  
153 opportunity of using the airport and for the business benefit it  
154 derives therefrom, said privilege fee to be in the amount of six (6)  
155 percent of the off-airport parking operator' gross receipts, as that  
156 term is defined herein, payable monthly to an address and location  
157 identified by the airport director.  
158

- 159 (ii) The term "gross receipts" as used herein, shall mean the aggregate  
160 amount of the gross selling price of all parking, services, and  
161 merchandise sold and/or dispensed by operator. It shall also  
162 include all fees or charges which operator shall impose upon a  
163 customer in order to cover anticipated gross receipts payments to  
164 county. It shall be all-inclusive, whether or not such sales are made  
165 by cash, debit, or credit or whether the selling price is collected or  
166 uncollected. Deductions shall be allowed only for the amount of any  
167 bona fide reimbursements to customers tendered to correct an  
168 erroneous charge.  
169

- 170 (iii) Federal, state or municipal excise, sales or other similar taxes shall  
171 not be included as part of the off-airport parking operator's gross  
172 receipts.  
173

174 (e) Statements, books and records.

- 175 (i) The off-airport parking operator shall keep accurate books and  
176 records in accordance with generally accepted accounting  
177 principles (GAAP) as approved by the county director of audits. The  
178 off-airport parking operator shall operate its business at its off-  
179 airport facility in a manner and method acceptable to the airport  
180 director such that those parking agreements, contracts or  
181 transactions entered into with airport customers can be identified.  
182

183 Within twenty (20) days after the close of each calendar month, the  
184 off-airport parking operator shall submit to the airport, in a form and

185 with details satisfactory to the airport, a statement of its gross  
186 receipts during the then-preceding month from its operations as a  
187 result of the off-airport parking operator's business as defined  
188 herein, upon which the percentage payments to be made to the  
189 county are computed, such statement to be signed by a responsible  
190 officer or manager of the off-airport parking operator. The off-airport  
191 parking operator shall keep full and accurate books and records  
192 showing all of its gross receipts pertaining to its off-airport  
193 operations, as identified herein, and airport shall have the right,  
194 through its representatives at all reasonable times to inspect such  
195 books and records including sales tax returns. All such records and  
196 documents will be made available for at least a three-year period.

197  
198 (ii) An off-airport parking operator with gross sales in excess of two  
199 hundred fifty thousand dollars (\$250,000.00) per year shall employ  
200 an independent certified public accountant who shall furnish within  
201 sixty (60) days after the close of each year, or portion thereof, a  
202 written statement to the airport certifying that in their opinion the  
203 percentage fee paid by the off-airport parking operator during the  
204 preceding year was made in accordance with the terms and  
205 conditions of this subsection.

206  
207 (iii) Airport reserves the right to prescribe or change reporting forms,  
208 the method or time of their submission, and the payment schedule.  
209 Airport shall first submit in writing to the off-airport parking operator  
210 any desired changes.

211  
212 (f) Audit.

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

220  
221 (f-g) Delinquent charges of fees.

222 (i) Interest. Unless waived by the Milwaukee County Board of  
223 Supervisors, the off-airport parking operator shall be responsible for  
224 payment of interest on amounts not remitted in accordance with the  
225 terms of this ordinance. The rate of interest shall be the statutory  
226 rate in effect for all delinquent county property taxes (presently one  
227 (1) percent per month or fraction of a month) as described in s.  
228 74.80(1), Wis. Stats. The obligation for payment and calculation  
229 thereof, shall commence upon the day following the due date  
230 established herein.

231  
232  
233  
234  
235  
236  
237  
238  
239  
240  
241  
242  
243  
244  
245  
246  
247  
248  
249  
250  
251  
252  
253  
254  
255  
256  
257  
258  
259  
260  
261  
262  
263  
264  
265  
266  
267  
268  
269  
270  
271  
272  
273  
274  
275  
276

(ii) *Penalty.* In addition to the interest described above, the off-airport parking operator shall be responsible for payment of penalties and amounts not remitted in accordance with the terms of this ordinance, as may be determined by the administrator of this ordinance, or his designee. Said penalties shall be the statutory rate in effect for delinquent Milwaukee County property taxes (presently .5 percent per month or fraction of a month) as described in Milwaukee County Ordinance section 6.06(1) and s. 74.80(2), Wis. Stats. The obligation for payment and calculation thereof shall commence upon the day following the due date established herein.

(iii) *Audit results.* If, as a result of any audit required herein, additional amounts are discovered to be due and owing, interest and penalty shall be calculated thereon in accordance with the above method. The off-airport parking operator shall remit to the Milwaukee County any additional amounts identified as due and owing as a result of the audit including interest and penalty thereon within thirty (30) days following receipt of the audit report.

(iv) *Non-exclusivity.* This provision permitting collection of interest and penalties by Milwaukee County on delinquent payments shall not be considered to be an exclusive remedy against off-airport parking operator. Violation of any of the terms and conditions described in this ordinance with respect to delinquent payments and exercise of this remedy is not a waiver by Milwaukee County of any other remedy permitted by law.

~~(g) *Security.* To provide security for the privilege fee required hereunder, the off-airport parking operator shall comply with either of the following options prior to commencing operations under this ordinance.~~

~~(i) Post with the airport a surety bond to be maintained throughout the term and time of operation by the off-airport parking operator in an amount equal to the privilege fee required hereunder for a period of three (3) months or one thousand five hundred dollars (\$1,500.00), whichever is greater. In the absence of historical data upon which to base the amount of security to be paid, the off-airport parking operator shall post a bond in the amount of one thousand five hundred dollars (\$1,500.00) as the security required herein. Such bonds shall be issued by a surety company acceptable to the airport and authorized to do business in the state and shall be in the form and content satisfactory to the airport.~~

~~(ii) Deliver to the airport an irrevocable letter of credit drawn in favor of the airport upon a bank which is satisfactory to the airport and~~

277 which is authorized to do business in the State of Wisconsin. Said  
278 irrevocable letter of credit shall be in an amount equal to the  
279 privilege fee required hereunder for a period of three (3) months or  
280 one thousand five hundred dollars (\$1,500.00), whichever is  
281 greater. In the absence of historical data upon which to base said  
282 letter of credit, the off-airport parking operator shall furnish an  
283 irrevocable letter of credit in the amount of one thousand five  
284 hundred dollars (\$1,500.00) as the security required herein.

285  
286 (iii) In the event the off-airport parking company is unable to secure a  
287 surety bond or irrevocable letter of credit as required hereunder, the  
288 airport may, at its sole discretion, accept a cash deposit in the  
289 amount stated herein in lieu thereof.

290  
291 (iv) If the off-airport parking company fails to make payments as  
292 required under this ordinance, the off-airport parking company shall  
293 forfeit to the airport the bond or other security posted pursuant to  
294 this ordinance or so much of that bond or other security as is  
295 necessary to satisfy that difference. If the bond or other security is  
296 insufficient to satisfy the difference owed, the airport may proceed  
297 to recover the deficiency and any damages allowed by law,  
298 including attorney fees and costs

299  
300 (h) Security deposit. If an off airport parking company defaults on any  
301 payments or reports due under this section and does not cure the default  
302 within ten (10) days of receiving written notice of the default from the  
303 county, the county has the right, by written notice to the off airport parking  
304 company given at any time after such event of default, to impose or  
305 reimpose the requirements of this section; however, the county may  
306 immediately impose this security deposit requirement without such 10-day  
307 notice if the off airport parking company is in default for the second time  
308 within any one calendar year. In such event, the off airport parking  
309 company shall within fifteen (15) days from date of the notice provide the  
310 county with a security deposit equal to the off airport parking company's  
311 past three months of payments due in a form acceptable to the county.  
312 The off airport parking company shall maintain the security deposit in  
313 effect for twelve (12) consecutive months during which the off airport  
314 parking company commits no event of default under this section or in any  
315 other payments due to the county. The county has the right to reimpose  
316 this requirement each time the off airport parking company commits such  
317 an event of default. The county's rights under this section shall be in  
318 addition to any other rights provided by agreement or by law.

319  
320 (v) If the off-airport parking operator fails to make payments as  
321 required under this ordinance, the off-airport parking operator shall  
322 forfeit within fourteen (14) days of the date such payments become

323  
324  
325  
326  
327  
328  
329  
330  
331

due all permits for the operation of courtesy vehicles on airport roadways.

**SECTION 2.** The provisions of this Ordinance shall become effective on January 1, 2017.

**Adopted by the Milwaukee County Board of Supervisors  
November 7, 2016**