

METROPOLITAN AIRPORTS COMMISSION

ORDINANCE No. 120

RENTAL AUTO FACILITY CHARGE (RAFC)

Adopted by Commission: December 21, 2015
Effective Date: January 1, 2016

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ORDINANCE NO. 120

RENTAL AUTO FACILITY CHARGE (RAFC)

An Ordinance to promote and conserve the public safety, health, peace, convenience, and welfare; to establish uniform fees for on-Airport rental auto Customers to fund Rental Auto Facilities at Minneapolis-St. Paul International Airport consistent with Minnesota Statutes § 473.651; establishing payment procedures; and prescribing the penalty for violation thereof and amending and repealing Ordinance 110.

The Metropolitan Airports Commission does ordain:

SECTION 1 – DEFINITIONS

- 1.1 Airport. Minneapolis-St. Paul International Airport, Wold-Chamberlain Field, a public airport operated by the Metropolitan Airports Commission and located in Hennepin County, Minnesota.
- 1.2 Capital Maintenance Projects. Projects that maintain, refurbish, and improve the Rental Auto Facilities.
- 1.3 Commission or MAC. The Metropolitan Airports Commission, a public corporation organized and operating pursuant to Chapter 500, Laws of Minnesota 1943 and amendments thereto.
- 1.4 Customer. Any person that rents a motor vehicle from a Rental Auto Company, regardless of whether the Customer receives the vehicle on Airport premises or is shuttled to an off-Airport location. Customer includes any person receiving complimentary or discounted rentals.
- 1.5 Executive Director/CEO. The Commission's chief executive officer or a designated representative.
- 1.6 Extraordinary Costs. Costs incurred by MAC or the Rental Auto Companies for improvements to the overall operation of the Rental Auto Facilities including approved relocation/moving costs. Payment and/or reimbursement of all such Extraordinary Costs under this Ordinance shall be at MAC's sole discretion and shall require Commission approval. Only improvements costing \$50,000 or more shall be eligible to qualify as Extraordinary Costs. Payments made to Rental Auto Companies must be supported by documentation of all costs for goods or services provided by a vendor or contractor, which will be subject to MAC audit review.
- 1.7 Operating & Maintenance Costs. Costs incurred by the Commission to operate and maintain the Rental Auto Facilities.
- 1.8 Rental Auto Facilities. The facilities dedicated to rental autos located in the Airport parking structures.

- 1.9 Rental Auto Company or Company. Any company that has a lease or concession agreement with the Commission for the purpose of renting vehicles to Customers who originate on Airport property. This Ordinance applies to all of the company's Customers, regardless of whether the company shuttles some Customers to an off-Airport location. This definition applies to any company that has a lease or concession agreement on the date this Ordinance takes effect, any new entrants from the date they begin on-Airport operations, and any company that meets this definition but later leaves the Airport with respect to any Customers that arrive or depart from the Airport. This Ordinance does not apply to a company that does not have a lease or concession agreement with the Commission and shuttles all its Customers to either off-Airport locations or to Airport locations that are located in facilities not built, improved, or maintained with Rental Auto Facility Charges. It also does not apply to a company that leases only counter space from the Commission but otherwise shuttles all its Customers to either off-Airport locations or to Airport locations that are located in facilities not built, improved, or maintained with Rental Auto Facility Charges.
- 1.10 Rental Auto Facility Charge. A per day charge applicable to all Customers.
- 1.11 Terminal 2-Humphrey Costs. The pro rata share of the total debt service associated with the Rental Auto Facilities of the Terminal 2-Humphrey ramp, ground transportation building, and Quick Turn Around areas under lease to Rental Auto Companies, along with costs associated with the construction of a consolidated Rental Auto Facility at Terminal 2-Humphrey.
- 1.12 Terminal 1-Lindbergh Bond Costs. The par amount of the bonds issued in 2016 for the future newly constructed Rental Auto Facilities in Terminal 1-Lindbergh, which include project costs, capitalized interest, bond insurance, underwriter costs, costs of issuance, accrued interest, and contingency costs.
- 1.13 Tram Maintenance Costs. All costs associated with engineering, material, labor, testing, repairs and inspections needed to operate and maintain the entire Automatic People Mover (Tram) system.

SECTION 2 – PURPOSE

The purpose of this Ordinance is to impose a uniform per-day charge for on-Airport Customers to pay for costs of Rental Auto Facilities, Tram Maintenance Costs, Capital Maintenance Costs, Extraordinary Costs, and Operating and Maintenance Costs as set forth in this Ordinance. The Rental Auto Facility Charge enables the Commission and the Rental Auto Companies to provide convenient, on-Airport facilities for the traveling public as part of the public parking structure or in other Airport locations as determined by the Commission.

SECTION 3 – FINANCING OF RENTAL AUTO FACILITIES

3.1 Terminal 1-Lindbergh Bond Costs

The Terminal 1-Lindbergh Bond Costs will be financed with the Rental Auto Facility Charge over an estimated 18 years starting in 2016.

3.2 Terminal 2–Humphrey Cost

The Terminal 2-Humphrey Costs were financed with the Rental Auto Facility Charge and are scheduled to be paid in full prior to December 31, 2019.

3.3 Apportioned Tram Maintenance Costs

The Rental Auto Facility Charge will also include that portion of the annual Tram Maintenance Costs assigned to the Rental Auto Companies by the Executive Director/CEO.

3.4 Credit for Operating and Maintenance Costs

A credit, as designated by the Executive Director/CEO, for a portion of the Terminal 1-Lindbergh and Terminal 2-Humphrey building rent attributed to Operating and Maintenance Costs will be financed with the Rental Auto Facility Charge. This credit may be adjusted or revoked in the Executive Director/CEO's sole discretion.

3.5 Payment or Reimbursement of Extraordinary Costs

In addition to the capital costs associated with the Terminal 1-Lindbergh and Terminal 2-Humphrey Rental Auto Facilities, the Commission shall pay directly or reimburse the Rental Auto Companies for Extraordinary Costs through money collected as part of the Rental Auto Facility Charge. Extraordinary Costs shall include but not be limited to facility improvements that in MAC's opinion, improve the overall operation of the facility, any professional consulting costs associated with rebidding the concession agreement or reallocation of leased premises between the companies, new or additional directional/way finding signage, and common area maintenance costs. Extraordinary Costs shall be distributed to each individual Company in one payment, within a reasonable time after submission of the Company's conforming cost statement. MAC reserves the right to audit all costs to determine if the expenditures fall within the definition of Extraordinary Costs and for the correctness of the dollar amount. Any payment or reimbursement of Extraordinary Costs is subject to Commission approval.

3.6 Payment of Capital Maintenance Projects

In addition to the capital costs associated with the Terminal 1-Lindbergh and Terminal 2-Humphrey Rental Auto Facilities, the Rental Auto Facility Charge will also include payment for approved Capital Maintenance Projects performed by MAC through its Capital Improvement Program or other similar capital programs.

SECTION 4 – RENTAL AUTO FACILITY CHARGE

4.1 Collection of Rental Auto Facility Charge

Each Rental Auto Company shall charge and collect the same Rental Auto Facility Charge from all Customers per transaction day. Each 24-hour period or fraction thereof within the rental period shall constitute a transaction day for which the Rental Auto Facility Charge must be charged and collected.

4.2 Designation on Rental Agreement

The Rental Auto Company shall separately designate the Rental Auto Facility Charge on its rental agreement with the Customer. It shall be labeled a "Rental Auto Facility Charge." No other designation with respect to the Rental Auto Facility Charge shall be permitted on the rental agreement without the prior written approval of the Executive Director/CEO.

4.3 Amount of Rental Auto Facility Charge and Rate Adjustment

a. Initial Amount

The Rental Auto Facility Charge shall be \$5.90 per rental day beginning on the effective date of this Ordinance through December 31, 2019.

b. Post Construction Adjustment

In 2019, the Executive Director/CEO shall recalculate the Rental Auto Facility Charge based on the number of transaction days using the 12-month period ending September 30, 2019 to be effective January 1, 2020 to recover:

1. An amount equivalent to the remaining portion of the Terminal 1-Lindbergh Bond Costs amortization;
2. Projected Tram Maintenance Costs;
3. Projected Extraordinary Costs; and
4. Projected Operating and Maintenance Costs.

The Commission shall approve and have the sole and final determination of the amount.

c. Future Adjustments and Minimum Amount

Starting January 1, 2025, or anytime thereafter, the Executive Director/CEO may, at his discretion, request that the RAFC be recalculated based on the number of transaction days using the 12-month period ending 60 days prior to the recalculation request to be effective January 1 the following year to recover:

1. An amount equivalent to the remaining portion of the Terminal 1-Lindbergh Bond Costs amortization;
2. Projected Tram Maintenance Costs;
3. Projected Extraordinary Costs; and
4. Projected Operating and Maintenance Costs.

The Executive Director/CEO may only adjust the RAFC once every five years. The Commission shall approve the adjusted RAFC and have the sole and final determination of the amount.

The Rental Auto Facility Charge shall remain in effect until the Terminal 1-Lindbergh Bond Costs are fully paid, and at such time, the Rental Auto Facility

Charge shall be reduced to an amount necessary to pay for any Tram Maintenance Costs, Extraordinary Costs, Operating and Maintenance Costs, and Capital Maintenance Project Costs. The Commission shall approve and have the sole and final determination of the amount.

d. Notice to Rental Auto Companies

The Commission shall provide notice to the Rental Auto Companies by December 1 of each year of the Rental Auto Facility Charge amount when recalculated according to Sections 4.3.b. or 4.3.c. for the upcoming year. The Commission may waive the December 1 notice date if all Rental Auto Companies do not provide the information required in Section 5.3.a. by the date specified.

SECTION 5 – PAYMENTS AND REPORTS

5.1 Rental Auto Facility Charges Held in Trust

Each Rental Auto Company shall hold the Rental Auto Facility Charges collected in trust for the benefit of the Commission. The Rental Auto Facility Charges are the Commission's property and the Rental Auto Companies acknowledge that they shall have only a possessory interest (not an equitable interest) in such Rental Auto Facility Charges.

5.2 Payments

a. Each Rental Auto Company shall remit electronically each month's Rental Auto Facility Charges to the Commission by the 15th of the following month, or such other date, as the Commission shall notify the Rental Auto Company in writing.

5.3 Reporting Requirements

a. Monthly Reports

Simultaneously with each payment, the Rental Auto Company shall submit electronically to the Commission a report identifying the number of transaction days and the Rental Auto Facility Charges separate from any other payments owed to the Commission. The report shall be in a form acceptable to the Commission.

5.4 Rent and Concession Fees

The Rental Auto Facility Charges collected and remitted to the Commission shall be in addition to any rent and concession fees due to the Commission under agreements between the Rental Auto Companies and the Commission. The Rental Auto Facility Charges shall not be included as part of each Rental Auto Company's gross receipts.

5.5 Audits

In addition to any audit provisions in its lease or concession agreement with the Commission, the Commission has the authority to audit the Rental Auto Company's books and records with respect to Rental Auto Facility Charges at any time upon written notice.

5.6 Late Payment Penalty

For any amounts due under this Ordinance, a Rental Auto Company shall pay a penalty for late or delinquent payments of eighteen percent (18%) per annum on any past due balance calculated from the date the amount is due to the Commission until the close of the business day upon which the delinquent payment is received by the Commission.

5.7 Security Deposit

If a Rental Auto Company defaults on any payments or reports due under this Ordinance and does not cure the default within 10 days of receiving written notice of the default from the Commission, the Commission has the right, by written notice to the Company given at any time within ninety days of such event of default, to impose or reimpose the requirements of this section; however, the Commission may immediately impose the security deposit requirement without such 10-day notice if the Company is in default for the second time within one calendar year. In such event, the Company shall within 15 days from date of the notice provide the Commission with a security deposit equal to the Company's past three months of Rental Auto Facility Charges in a form acceptable to the Commission. The Company shall maintain the security deposit in effect for 12 consecutive months during which the Company commits no event of default under this Ordinance or in any other payments due to the Commission. The Commission has the right to reimpose this requirement each time the Company commits such an event of default. The Commission's rights under this section shall be in addition to any other rights provided by agreement or by law.

SECTION 6 – TERMINATION OF RENTAL AUTO FACILITY CHARGE

6.1 Termination of Rental Auto Facility Charge

The Rental Auto Facility Charge shall cease on the date the Commission no longer permits use of any of the Rental Auto Facilities for on-Airport rental auto purposes.

If the Rental Auto Company's agreement with the Commission is expired or terminated or the Company abandons the property or the Rental Auto Facility Charge ceases according to the terms of this section, such event does not release the Company from the responsibility for payments and reports due to the Commission for customer transactions prior to the date of that event.

SECTION 7 – GENERAL PROVISIONS

7.1 Penalty

Any person violating any of the provisions of this Ordinance shall upon conviction be punished by sentence within the parameters of the maximum penalty for misdemeanors set forth in Minn. Stat. § 609.03, or as may be amended.

The penalties prescribed under this Ordinance in no way preclude the Commission from taking any other civil action authorized under the Rental Auto Company's agreement(s) with the Commission or by law.

7.2 Provisions Severable

If any part or parts of this Ordinance is declared unconstitutional or invalid, this does not affect the validity of the remaining parts of this Ordinance. The Commission declares it would have passed the remaining parts of this Ordinance without the unenforceable provisions.

If for any reason the Rental Auto Facility Charges described in this Ordinance are declared illegal or invalid by a court of competent jurisdiction, the Rental Auto companies remain responsible to pay the Commission the outstanding Terminal 1-Lindbergh Bond Costs and Terminal 2-Humphrey Costs for the Rental Auto Facilities. Each Rental Auto Company shall pay the Commission an amount equivalent to one year's portion of the remaining Terminal 1-Lindbergh Bond Costs and Terminal 2-Humphrey Costs on January 1 of each year according to each Company's percentage of market share.

7.3 Notice

Any notice required by this Ordinance is sufficient if delivered in person, sent by U. S. mail to the last address on file with the Commission, or transmitted by E-mail to the last E-mail address on file with the Commission.

7.4 Amendment

Ordinance 110 is amended and repealed on the date this Ordinance takes effect.

7.5 Effective Date

This Ordinance is effective January 1, 2016.