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ORDINANCE NO. 2015-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO CODE ENFORCEMENT AND THE REGULATION OF MOTOR CARRIERS; AMENDING CHAPTER 8½ OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE"); UPDATING CIVIL PENALTIES FOR VIOLATIONS OF THE MOTOR CARRIER REGULATIONS; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by the Board of County Commissioners)

WHEREAS, on April 28, 2015, the Board of County Commissioners enacted new regulations relating to the operations of motor carriers, including transportation network companies, that went into effect on May 4, 2015; and

WHEREAS, as a result of these new motor carrier regulations, Chapter 8½ of the Broward County Code of Ordinances ("Code") needs to be amended so that civil penalties may be imposed for violations of the new regulations; and

WHEREAS, the Board desires to have the authority to impose fines in excess of Five Hundred Dollars (\$500) pursuant to Section 162.09(2)(d), Florida Statutes (2014) for violations of the Code,

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

Section 1. Section 8½-12 of the Code is hereby amended as follows:

**Sec. 8½-12. Hearings; hearing officer.**

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

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(n) A fine imposed pursuant to this Chapter shall not exceed One Thousand Dollars (\$1,000) per day per violation for a first violation and shall not exceed Five Thousand Dollars (\$5,000) per day per violation for a repeat violation. However, if the hearing officer finds the violation to be irreparable or irreversible in nature, a fine not to exceed Fifteen Thousand Dollars (\$15,000) per violation may be imposed. In determining whether the fine imposed, if any, is appropriate, the hearing officer shall consider the following factors:

- (1) The gravity of the violation;
- (2) Any actions taken by the violator to correct the violation; and
- (3) Any previous violations committed by the violator.

~~(n)~~ (o) A hearing on a citation shall not be conducted if the named alleged violator, prior to the scheduled hearing date, files with a duly authorized County board of appropriate jurisdiction an appeal concerning the interpretation or application of the code provision on which the alleged violation was based. Upon exhaustion of the administrative appeal and finalization of the administrative order by such board in favor of the County, a hearing previously requested may be scheduled.

~~(n)~~ (p) The hearing officer shall be bound by the interpretations and decisions of duly authorized County boards concerning the provisions of the codes within their respective jurisdictions.

Section 2. Section 8½-16(t) of the Code is hereby deleted in its entirety and replaced with the following:

[Underlining omitted]

(t) *Violations of Motor Carriers Law and Regulations:*

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		<i>Fine</i>			
	<i>Violation</i>	<i>*First Violation</i>	<i>*Second Violation</i>	<i>*Third Violation</i>	<i>*Four or More Violations</i>
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5	(1) Operating without a certificate (sec. 22½-2)	\$250.00	\$500.00	\$1,000.00	\$5,000.00
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7	(2) Advertising without a certificate (sec. 22½-2)	250.00	500.00	1,000.00	5,000.00
8					
9	(3) Operation of a vehicle by a driver not registered pursuant to sec. 22½-8 (sec. 22½-8, sec. 22½-9A(d), and sec. 22½-7B(k))	250.00	500.00	1,000.00	5,000.00
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11					
12	(4) Operating without displaying a current valid permit (sec. 22½-6A(k) and sec. 22½-7B(g)(7))	250.00	500.00	1,000.00	5,000.00
13					
14					
15	(5) Operating without a current valid permit (sec. 22½-6A and sec. 22½-7B(g))	250.00	500.00	1,000.00	5,000.00
16					
17	(6) Operating without a current valid chauffeur's registration in his or her possession (sec. 22½-6B(a)(2)(b))	250.00	500.00	1,000.00	5,000.00
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19					
20	(7) Failure to comply with the minimum standards of conduct (sec. 22½-9A)	250.00	500.00	500.00	500.00
21					
22					
23	(8) Failure to comply with the minimum vehicle standards (sec. 22½-9B and sec. 22½-7B(o))	250.00	500.00	500.00	500.00
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1	(9)	Failure to keep insurance in full force and effect (sec. 22½-9C and sec. 22½-7B(n))	250.00	500.00	1,000.00	5,000.00
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3	(10)	Operating with a defective or inaccurate taximeter or failure to collect a fee consistent with the operating taximeter (sec. 22½-10)	250.00	500.00	1,000.00	5,000.00
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7	(11)	Operating without a current valid Port Everglades Business Permit (sec. 22½-6D(a))	250.00	500.00	1,000.00	5,000.00
8						
9						
10	(12)	Operating without a current valid Port Everglades decal (sec. 22½-6D(j))	250.00	500.00	1,000.00	5,000.00
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12	(13)	Operating without the proper amount of insurance required to operate in Port Everglades (sec. 22½-6D(k))	250.00	500.00	1,000.00	5,000.00
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15	(14)	Submitting a false vehicle inspection form (sec. 22½-9B(j))	250.00	500.00	1,000.00	5,000.00
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17	(15)	Failure to use a Division-approved certified technician to inspect vehicle for hire (sec. 22½-9B(j))	250.00	500.00	1,000.00	5,000.00
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20	(16)	Operating without a license (sec. 22½-7B(a))	250.00	500.00	1,000.00	5,000.00
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22	(17)	Advertising without a license (sec. 22½-7B(a))	250.00	500.00	1,000.00	5,000.00
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1	(18)	Failure to comply with transportation network company rules of operation (sec. 22½-7B(g))	250.00	500.00	1,000.00	5,000.00
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4	(19)	Failure to comply with transportation network company antidiscrimination regulations (sec. 22 ½-7B(l))	250.00	500.00	1,000.00	5,000.00
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7	(20)	Operating at the Airport without a current valid contract, license, lease, permit, or decal (sec. 22½-6B(a))	250.00	500.00	1,000.00	5,000.00
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\*The number of violations shall be determined pursuant to the definition of repeat violation in Section 8½-9(c).

~~Section 3.~~ SEVERABILITY.

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

Section 4. INCLUSION IN CODE.

It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Broward County Code; and that the sections of this Ordinance may be renumbered or relettered and the word

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1 "ordinance" may be changed to "section," "article," or such other appropriate word or  
2 phrase in order to accomplish such intentions.

3  
4 Section 5. EFFECTIVE DATE.

5 This Ordinance shall become effective as provided by law.  
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7 ENACTED

8 FILED WITH THE DEPARTMENT OF STATE

9 EFFECTIVE  
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13 Approved as to form and legal sufficiency:  
14 Joni Armstrong Coffey, County Attorney

15  
16 By /s/ Annika E. Ashton 05/07/15  
17 Annika E. Ashton (date)  
18 Assistant County Attorney  
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**PROPOSED**

23 AEA/hb  
05/07/15  
MotorCarrierPenaltyOrd.doc  
24 #15-411.00

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