REPORT OF THE COMMITTEE ON FINANCE

PUBLIC HEARING

February 10, 2011
Recessed and Reconvened on February 15 and February 16, 2011

The Honorable,
The Board of Commissioners of Cook County

ATTENDANCE

Present:	Chairman Daley, Vice Chairman Sims, Commissioners Beavers, Butler, Collins, Fritchey, Gainer, Garcia, Gorman, Goslin, Murphy, Reyes, Schneider, Silvestri, Steele, Suffredin and Tobolski (17)
Absent:	None (0)
Also Present:	Zara Ali – Director of Revenue; Tariq Malhance - Chief Financial Officer
Court Reporter:	Anthony W. Lisanti, C.S.R.

Ladies and Gentlemen:

Your Committee on Finance of the Board of Commissioners of Cook County met pursuant to published notice on Thursday, February 10, 2011 at the hour of 10:30 A.M. for a public hearing in the Board Room, Room 569, County Building, 118 North Clark Street, Chicago, Illinois.

Chairman Daley informed the Committee that the purpose of the meeting would be to hear public testimony and entertain questions from committee members on any of the thirteen (13) proposed ordinance amendments on the agenda. Further consideration of these matters will then be deferred to Tuesday, February 15, 2011.

Commissioner Suffredin, seconded by Commissioner Gainer, moved to place Communication Nos. 310964 through 310976 on the floor for discussion purposes only. The motion carried.

Chairman Daley asked the Secretary of the Board to call upon the registered public speakers, in accordance with Cook County Code, Sec. 2-107(dd). The Secretary informed the Chairman that there were no public speakers present.

Chairman Daley recessed the meeting to Tuesday, February 15, 2011.

February 15, 2011

Chairman Daley reconvened the recessed Finance Committee meeting of February 10, 2011.

Commissioner Suffredin, seconded by Commissioner Murphy, moved to further amend the proposed amendment to the Amusement Tax Ordinance (Communication No. 310964). The motion carried, and Communication No. 310964 was amended, as follows:

AMENDMENT TO COMMUNICATION NUMBER 310964
(changes enacted by this amendment are in **bold and double underlined**)

Sponsored by:
THE HONORABLE LARRY SUFFREDIN, COUNTY COMMISSIONER

310964 **COOK COUNTY AMUSEMENT TAX ORDINANCE** (PROPOSED ORDINANCE AMENDMENT). Submitting a Proposed Ordinance sponsored by Toni Preckwinkle, President, Jerry Butler, John P. Daley, Jesus G. Garcia, Joan Patricia Murphy, Edwin Reyes, Deborah Sims, Robert B. Steele, Larry Suffredin and Jeffrey R. Tobolski, County Commissioners.

PROPOSED ORDINANCE AMENDMENT

COOK COUNTY AMUSEMENT TAX ORDINANCE

WHEREAS, the County of Cook is a home rule unit of local government pursuant to Article VII, section 6(a) of the 1970 Illinois Constitution; and

WHEREAS, pursuant to its home rule powers, the Cook County Board of Commissioners adopted an Ordinance to provide for an Amusement Tax on February 1, 1997 and has adopted subsequent amendments; and

WHEREAS, the Cook County Department of Revenue (Department) in the interest of fair and equitable enforcement seeks to clarify significant definitions and the application of each tax rate by amending Section 74-391 and Section 74-392, respectively; and

WHEREAS, in the interest of fair and equitable enforcement the Department seeks to clarify exemptions, exclusions guidelines and tax registration procedures by amending Section 74-393, and Section 74-394, respectively; and
WHEREAS, in the interest of fair and equitable enforcement the Department seeks to clarify tax return and remittance guidelines, and refund request time limitations by amending Section 74-395 and Section 74-398, respectively; and

WHEREAS, the Department seeks to collect total amount of tax remitted monthly by tax collectors, thereby eliminating the 1% tax collector tax credit for collections discount by amending Section 74-395; and

WHEREAS, in the interest of fair and equitable enforcement the Department seeks the consistent application of violation penalties by amending Section 74-401.

NOW, THEREFORE, BE IT ORDAINED, by the Cook County Board of Commissioners that Chapter 74, Article X of the Cook County Code of Ordinances is hereby amended as follows:

Sec. 74-390. Short title.

This article shall be known and may be cited as the Cook County Amusement Tax Ordinance.

Sec. 74-391. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Amusement means, but not limited to, any exhibition, performance, presentation or show for entertainment purposes, including, but not limited to, any theatrical, dramatic, musical or spectacular performance, promotional show, motion picture show, flower, poultry or animal show, animal act, circus, rodeo, athletic contest, sport, game or similar exhibition, such as boxing, wrestling, skating, dancing, swimming, riding on animals or vehicles, baseball, basketball, softball, soccer, football, tennis, golf, hockey, track and field games, bowling, ~~or~~ billiard and pool games or paid television.

Department and *Department of Revenue* means the County Department of Revenue.

Gross Admission fees or charges means, the entire or total amount paid to enter, witness or view an amusement.

Live theatrical, live musical or *other live cultural performance* means a live performance in any of the disciplines which are commonly regarded as part of the fine arts, such as live theater, music, opera, drama, comedy, ballet, modern or traditional dance, and book or poetry readings. The term does not include such amusements as athletic events, races, or performances conducted at adult entertainment cabarets (as defined in Section 14.2.1 of the Cook County Zoning Ordinance of 2001).

Maximum capacity means the persons that an auditorium, theater or other space may accommodate as determined by the local fire department or other appropriate governmental agency; provided, however, that maximum capacity shall not exceed the maximum number of tickets or admissions that may be made available for sale to a performance as stated in any binding written agreement relating to that performance. If the number of tickets or admissions

actually sold to a performance exceeds the legally permissible limit, then, for purposes of determining the applicable tax, the term "maximum capacity" shall mean such greater number.

Owner means:

Owner of a place where an amusement is being held means, any person who has an ownership or leasehold interest in a building, structure, vehicle, boat, area or other place who presents, conducts or operates an amusement in such place or who allows, by agreement or otherwise, another person to present, conduct or operate an amusement in such place;

Owner of an amusement means, any person which has an ownership or leasehold interest in such amusement or any person who has a proprietary interest in the amusement so as to entitle such person to all or a portion of the proceeds, after payment of reasonable expenses, from the operation, conduct or presentation of such amusement, excluding proceeds from non-amusement services and from sales of tangible personal property.

Paid television means programming that can be viewed on a television or other screen, and is transmitted by cable, fiber optics, laser, microwave, radio, satellite or similar means to members of the public for consideration.

Place of amusement means any building or part of a building, park or other grounds used or intended to be used for any amusement as defined in this Article.

Patron means any person who acquires the privilege to witness, to view or participate in an amusement.

Person means any individual, corporation, Limited Liability Corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity.

***Special seating area* means an enclosed or substantially enclosed apartment-style room containing or making available amenities for the exclusive use of the patrons thereof whether denominated as luxury or super suites or skyboxes or by other similar terms. Such amenities may include, but are not necessarily limited to, television (including closed-circuit capacity), bathroom, refrigerator, telephone service, storage sink, living room or lounge furniture, special spectator seating, food, heat, air conditioning and parking.**

Tax Collector means, any person as required by this article to register, collect, and remit Cook County Amusement Tax.

Ticket means the privilege to enter, to witness, or view an amusement, whether or not issued, obtained, provided, or expressed in a tangible form.

Ticket Reseller means any person who purchases or acquires a ticket for resale and not for use or consumption; or for consideration resells a ticket on behalf of the ticket's owner or assists the owner in reselling the ticket. The term includes but is not limited to an auctioneer, a broker or a seller of tickets for amusements, as those terms are used in 65 ILCS 5/11-42-1, and applies whether the ticket is resold by bidding, consignment or otherwise, and whether the ticket is resold in person, at a site on the Internet or otherwise.

Ticket Reseller maintaining a place of business in the County means

(1) Having or maintaining within the County, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business or any agent or other representative operating within the County, irrespective of whether such place of business or agent or other representative is located in Cook County permanently or temporarily; or

(2) Making ticket sales at location in Cook County; or

(3) Owning or possessing real or personal property located or used in Cook County for the purpose of or incidental to the making of sales of tickets.

Ticket Reseller Service Fee means any amount in addition to, over or above the basic ticket price included in the selling price paid by the purchaser of the ticket.

Sec. 74-392 Tax Imposed.

(a) Three-percent tax rate.

Except as otherwise as provided in this section, an amusement tax is imposed upon the patrons of every amusement which takes place within the County. The rate of the tax shall be equal to 3 percent of the admission fees or other charges paid for the privilege to enter, to witness or to view such amusement, except as otherwise provided by this section.

(d) The tax imposed in subsection (a) of this section shall apply to and be imposed upon 60 percent of the admission fees or other charges (including, but not limited to, the gross lease or rental amount) paid for the privilege of using special seating areas to witness or to view an amusement.

~~**Sec 74-392(g)(2) Tax Imposed.**~~

(b) One and one-half percent tax rate.

The rate of the tax imposed in Subsection (a) of this section shall be 1.5 percent of the admission fees or other charges to witness in person live theatrical, live musical or other live cultural performances that take place in any auditorium, theater or other space in the County whose maximum capacity, including all balconies and other sections, is 5,000 persons or more.

~~**Sec 74-392 (g) (1) Tax Imposed).**~~

(c) One-percent tax rate.

The rate of the tax imposed in Subsection (a) of this section shall be one percent of the admission fees or other charges to witness in person live theatrical, live musical or other live cultural performances that take place in any auditorium, theater or other space in the County whose maximum capacity, including all balconies and other sections, is more than 750 persons and less than 5,000 persons.

~~**Sec 74-392(d)Tax Imposed.**~~

~~**(d) Tax applied to 60% of Gross Admission charges or fees**~~

~~**Where non-amusement charges for conveniences such as food, beverages, parking, or other similar services are included in gross admission charges or fees, but not separately stated, the applicable tax rate mentioned in this section shall be applied to 60% of the gross admission charges or fees.**~~

~~**Sec 74-392(e) Tax Imposed.**~~

(e) Tax applied to Tickets reseller service charges or fees

Ticket resellers shall collect the tax on the ticket reseller service fee, as described in section 74-391 of this Article, from persons seeking to enter, witness or view an amusement in Cook County. The rate of this tax shall be three percent of the ticket reseller service fee. This tax shall not apply if the is amusement exempt, as described in this Article, or otherwise not subject to the tax imposed by this section.

~~**Sec. 74-392(f) Tax Imposed.**~~

(f) Tax additional.

The tax imposed in this article is in addition to all other taxes imposed by the County, the State of Illinois or any municipal corporation or political subdivision of any of the foregoing.

~~**Sec 74-392(e) Tax Imposed.**~~

(g) Federal; State; Local taxes

For the purpose of determining the amount of the amusement tax due under this article, admission fees or other charges shall be computed exclusive of any Federal, State or municipal taxes imposed upon the amusement patron and any separately stated charges for non-amusement services or for sales of tangible personal property.

~~**Sec 74-392 (f) Tax Imposed.**~~

(h) Unlawful not to collect tax

It is unlawful for any person to produce, present or conduct any amusement without collection of the tax, except as provided in this article.

~~**Sec. 74-393) Tax additional**~~ **moved to Sec 74-392(f)**

Sec. 74-393 Exemptions and Exclusions.

(a) Exemption Application; exemptions

Admission charges or fees paid to enter, witness or view an Amusement sponsored or conducted by, and the proceeds of which, after payment of reasonable expenses inure exclusively to the benefit of the persons noted below, shall not be exempt unless the owner or operator of the amusement makes a written application for exemption on forms prescribed by the Department at least 15 days prior to the date of the amusement.

~~Tax Imposed Sec 74-392 (c) and (d)~~

~~(c) None of the exemptions contained in Subsection (b)(3) of this section shall apply to a person or privilege unless a written application for exemption is filed with the Department at least 15 calendar days prior to the amusement. The application shall be on a form prescribed by the Director of Revenue and shall contain all information and materials necessary to permit the Department to determine whether the exemption claimed by the applicant is applicable.~~

~~(d) The tax imposed in Subsection (a) of this section shall not apply to or be imposed upon:~~

~~a.~~1. Religious, educational and charitable institutions, societies or organizations;

~~b.~~2. Societies or organizations for the prevention of cruelty to children or animals;

~~c.~~3. Societies or organizations conducted and maintained for the purpose of civic improvement;

~~d.~~4. Fraternal organizations, legion posts, social and political groups which conduct amusements, sponsored occasionally but not more often than twice yearly; provided, however, that the entities described in Subsections (b)(3)a--d of this section are not-for-profit institutions, organizations, groups or societies, where no part of the net earnings inure to the benefit of any private shareholder or person;

~~e.~~5. Organizations or persons in the armed services of the United States, or National Guard organizations, reserve officers' associations, or organizations or posts of war veterans, or auxiliary units or societies of such posts or organizations, if such posts, organizations, units or societies are organized in the State, and if no part of their earnings inure to the benefit of any private shareholder or person;

~~f.~~6. Organizations or associations created and maintained for the purpose of benefiting the members, or dependents or heirs of members, of the police or fire provided that the exemptions contained in Subsections (b) (3) a--f of this section shall apply only to benefits or other fundraising events and shall not apply to more than two events per calendar year which shall not exceed a total of 14 calendar days.

~~g.~~7. Societies or organizations conducted for the sole purpose of maintaining symphony orchestras, opera performances or artistic presentations, including, but not limited to, musical presentations, ("artistic societies or organizations"), if the artistic society or organization:

~~1.~~a. Receives substantial support from voluntary contributions;

~~2.~~b. Is a not-for-profit institution where no part of the net earnings inure to the benefit of any private shareholder or person; and

~~3.~~c. Either (I) bears all risk of financial loss from its presentation of the amusement, where the amusement takes place at a venue that is owned or operated, a not-for-profit institution, no part of whose net earnings inure to the benefit of any private shareholder or person, and where the amusement is limited to an engagement of not more than four calendar days over the course of a calendar year or (ii) is substantially and materially involved in the production and performance of the amusement. Where an amusement is

sponsored or conducted by two or more artistic societies or organizations, the requirements of Subsections (b) (3) g.1 and 2 of this section must be met by each of such artistic societies or organizations, but the requirements of Subsection (b) (3) g.3 may be met by any of such artistic societies or organizations, individually or in combination.

(b) Exclusions

The tax shall not be imposed on the following persons or privileges:

~~**Sec 74-392 (d) The tax imposed in Subsection (a) of this section shall not apply to or be imposed upon:**~~

(1) The privilege of witnessing any stock show or business show that is not open to the general public;

(2) The privilege of witnessing any amateur production or activity such as amateur musicals, plays and athletic events conducted by a not-for-profit organization operated exclusively for charitable, educational or religious purposes; or

(3) The admission fees to witness, in person live, theatrical, live musical or other live cultural performances that take place in any auditorium, theater or other space in the County, whose maximum capacity, including all balconies and other sections, is not more than 750 persons.

(4) Initiation fees and membership dues paid to a health club, racquetball club, tennis club or a similar club or organization, when such club or organization is organized and operated on a membership basis and for the recreational purposes of its members and its members' guests, shall be exempt from the tax imposed in Subsection (a) of this section. This exemption shall not be construed to apply to any fees paid or based upon a per-event or a per-admission basis.

(5) Fees or other charges paid by a patron for the privilege of witnessing, viewing or participating in an amusement, solely within the confines of such patron's home, shall be exempt from the imposition of the tax imposed in Subsection (a) of this section. For purposes of this exemption, the term "home" means the permanent dwelling residence of the patron. For patrons who live in condominium buildings, apartment buildings or other multiple-unit structures, the individual dwelling unit the patron occupies shall be considered the patron's home.

Sec 74-394 Registration.

Every owner, manager or operator of an amusement temporarily or permanently in the County, or a place of amusement in the County, shall register with the Department no later than 30 days after the effective date of this ordinance. It shall be unlawful to engage in the business of sponsoring, conducting or providing amusements in Cook County without a certificate of registration. Application for registration shall be made to the Department on forms prescribed by the Department.

~~**Sec. 74-394. Registration.**~~

~~Every owner, manager or operator of an amusement or of a place where an amusement is being held in the County, shall apply for registration as a tax collector with the Department no later than 30 days after commencing such business or 30 days after the effective date of the ordinance from which this article is derived, whichever occurs later. Application for registration shall be made to the Department by use of the form furnished by the Department for such purpose and shall contain such information as the Department may reasonably require.~~

~~**Sec 74-395 (a) collection; payment; and accounting.**~~

Sec 74-395 Returns and remittances.

It shall be the joint and several duty of every owner, manager, operator of an amusement, a place where an amusement is being held or place of amusement and every ticket reseller to secure from each patron the tax imposed by this article. Tax payments accompanied by tax returns prescribe the Department shall be remitted to the Department on or before the 20th day of the month following the month for which the tax is due.

~~**Sec. 74-395 (a) Collection, payment and accounting.**~~

~~(a) It shall be the joint and several duty of every owner, manager or operator of an amusement or of a place where an amusement is being held to secure from each patron the tax imposed by this article and to remit the tax to the Department of Revenue not later than the last day of each calendar month for all admission fees or other charges received during the immediately preceding calendar month, less a discount of one percent of the tax collected. This discount is allowed to reimburse the tax collector for the expenses incurred in collecting the tax, keeping records, remitting the tax and supplying data to the Department of Revenue. However, the discount provided in this section shall not be allowed for any taxes not paid when due. A verified statement of admission fees or charges in a form prescribed by the Director of Revenue shall accompany each remittance. Acceptance by the County of any amount tendered in payment of the tax shall be without prejudice to any claim, demand or right on account of any deficiency.~~

~~**Sec 74-395 (b) Collection, payment and accounting.**~~

Sec. 74-396 Books and records.

(a) Canceled admission tickets and complete and accurate records, books and accounts, in detail, of all receipts shall be kept at the place of amusement or such other place in the County as may be designated in writing by the person liable for collection of the tax. All such books, records and accounts shall be open to inspection by the Department at all reasonable times during business hours.

~~**Sec 74-395 (b) Collection, payment and accounting.**~~

~~(b) Canceled admission tickets and complete and accurate records, books and accounts in detail of all receipts shall be kept at the place of amusement or such other place in the County as may be designated in writing by the person liable for collection of the tax. All such books, records and accounts shall be open to inspection by the Department at all reasonable times during business hours.~~

~~**Sec 74-395(c) Collection, payment and accounting.**~~

Sec 74-397 Tax collector.

Every owner, manager, or operator who is required to collect the tax imposed by this article shall be considered a tax collector for the County. All amusement taxes collected shall be held by such tax collector as trustee for and on behalf of the County. The failure of the tax collector to collect the tax shall not excuse or release the patron from the obligation to pay the tax.

~~**Sec 74-395(d) Collection, payment and accounting.**~~

Sec 74-398 Refund Statue of Limitations.

Notwithstanding any other provision of this article, in order to permit sound fiscal planning and budgeting by the County, no person shall be entitled to a refund of, or credit for, the tax imposed by this article unless the person files a claim for refund or credit within one year after the date on which the tax was paid or remitted to the Department.

~~**Sec. 74-396. Rules and regulations; authorized.**~~

Sec 74-399 Rules and regulations; authorized.

The Department of Revenue is authorized to adopt, promulgate and enforce rules and regulations pertaining to the administration and enforcement of this article.

~~**Sec. 74-396. Rules and regulations; authorized.**~~

~~The Department of Revenue is authorized to adopt, promulgate and enforce rules and regulations pertaining to the administration and enforcement of this article.~~

~~**Sec. 74-398 Violations; penalty.**~~

Sec 74-400 Violations; penalty.

Any person determined to have violated this article, as amended, shall be subject to a fine of $1,000.00 for the first offense, and a fine of $2,000.00 for the second and each subsequent offense. Separate and distinct offense shall be regarded as committed each day upon which said person shall continue any such violation, or permit any such violation to exist after notification thereof. It shall be deemed a violation of this article for any person to knowingly furnish false or inaccurate information to the Department. Criminal prosecution pursuant to this article shall in no way bar the right of the County to institute civil proceedings to recover delinquent taxes, interest and penalty due and owing as well as costs incurred for such proceeding.

~~**Sec. 74-398 Violations; penalty.**~~

~~Any person violating any of the provisions of this article shall be fined not less than $200.00 nor more than $500.00 for each offense. Every day such violation continues, shall constitute a separate and distinct offense.~~

~~**Sec. 74-397. Application of uniform penalties, interest and procedures ordinance.**~~

Sec 74-401 Application of uniform penalties, interest and procedures ordinance.

Whenever not inconsistent with the provisions of this article or whenever this article is silent, the provisions of the Uniform Penalties, Interest and Procedures Ordinance shall apply and supplement this article.

***Referred to the Committee on Finance on 2/1/11.**

Chairman Daley recessed the meeting until February 16, 2011.

February 16, 2011

Chairman Daley reconvened the recessed Finance Committee meeting of February 10 and February 15, 2011.

Before proceeding with the agenda, Chairman Daley entered into the record a letter dated February 14, 2011, from Tanya Triche, Senior Counsel for the Illinois Retail Merchants Association (Attachment A). The Chairman then called the first item, Communication No. 310964, for consideration.

Commissioner Gainer, seconded by Commissioner Steele, moved to accept a Substitute Ordinance Amendment to Communication No. 310964, as amended. The motion carried, and Communication No. 310964 was further amended by substitution, as follows:

Substitute Amendment to Communication Number 310964
(Changes by this action are indicated by underlined or stricken)

Sponsored by:
THE HONORABLE BRIDGET GAINER

Cosponsored by:
THE HONORABLE ROBERT STEELE, PETER SILVESTRI and LARRY SUFFREDIN

Sec. 74-390. - Short title.

This article shall be known and may be cited as the Cook County Amusement Tax Ordinance.

Sec. 74-391. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Amusement means any exhibition, performance, presentation or show for entertainment purposes, including, but not limited to, any theatrical, dramatic, musical or spectacular performance, promotional show, motion picture show, flower, poultry or animal show, animal act, circus, rodeo, athletic contest, sport, game or similar exhibition, such as boxing, wrestling, skating, dancing, swimming, riding on animals or vehicles, baseball, basketball, softball, soccer, football, tennis, golf, hockey, track and field games, bowling, or billiard and pool games. For purposes of this article, the term "amusement" shall not mean any recreational activity offered for public participation or on a membership or other basis, including, but not limited to, carnivals, amusement park rides and games, bowling, billiards and pool games, dancing, tennis, golf, racquetball, swimming, weightlifting, body building or similar activities. For purposes of this article, the term "amusement" shall not mean raffles, as defined in 230 ILCS 15/1 (Raffles Act—

definitions), intertrack wagering facilities, as defined in the Illinois Horse Racing Act of 1975 (230 ILCS 5/1 et seq.), or automatic amusement devices.

Automatic amusement devices means any machine which upon the insertion of a coin, slug, token, or similar object may be operated generally by any person for use as a game, entertainment or amusement, whether or not registering a score, and includes but is not limited to such devices as jukeboxes, marble machines, pinball machines, video games, movie or video booths or stands and all games, operations or transactions similar thereto under whatever name by which they may be indicated.

Department and *Department of Revenue* mean the County Department of Revenue.

Live theatrical, live musical or *other live cultural performance* means a live performance in any of the disciplines which are commonly regarded as part of the fine arts, such as live theater, music, opera, drama, comedy, ballet, modern or traditional dance, and book or poetry readings. The term does not include such amusements as athletic events, races, or performances conducted at adult entertainment cabarets (as defined in Section 14.2.1 of the Cook County Zoning Ordinance of 2001).

Maximum capacity means the persons that an auditorium, theater or other space may accommodate as determined by the local fire department or other appropriate governmental agency; provided, however, that maximum capacity shall not exceed the maximum number of tickets or admissions that may be made available for sale to a performance as stated in any binding written agreement relating to that performance. If the number of tickets or admissions actually sold to a performance exceeds the legally permissible limit, then, for purposes of determining the applicable tax, the term "maximum capacity" shall mean such greater number.

Owner means:

(1) With respect to the owner of a place where an amusement is being held, any person who has an ownership or leasehold interest in a building, structure, vehicle, boat, area or other place who presents, conducts or operates an amusement in such place or who allows, by agreement or otherwise, another person to present, conduct or operate an amusement in such place;

(2) With respect to the owner of an amusement, any person which has an ownership or leasehold interest in such amusement or any person who has a proprietary interest in the amusement so as to entitle such person to all or a portion of the proceeds, after payment of reasonable expenses, from the operation, conduct or presentation of such amusement, excluding proceeds from nonamusement services and from sales of tangible personal property.

Person means any natural individual, firm, society, foundation, institution, partnership, limited liability company, association, joint stock company, joint venture, public or private corporation, receiver, executor, trustee or other representative appointed by the order of any court, or any other entity recognized by law as the subject of rights and duties. The masculine, feminine, singular and plural are included in any circumstance.

(Ord. No. 96-O-29, § 2, 11-22-1996; Ord. No. 98-O-29, 11-17-1998; Ord. No. 99-O-15, § 2, 4-6-1999.)

Sec. 74-392. - Tax imposed.

(a) Except as otherwise provided by this section, an amusement tax is imposed upon the patrons of every amusement which takes place within the County. The rate of the tax shall be equal to three percent of the admission fees or other charges paid for the privilege to enter, to witness or to view such amusement, unless Subsection (g) of this section provides for a lower rate.

(b) The tax imposed by Subsection (a) of this section shall not apply to the following persons or privileges:

(1) The privilege of witnessing any stock show or business show that is not open to the general public;

(2) The privilege of witnessing any amateur production or activity such as amateur musicals, plays and athletic events conducted by a not-for-profit organization operated exclusively for charitable, educational or religious purposes; or

(3) Subject to satisfying the requirement contained in Subsection (c) of this section, the privilege of witnessing any amusement sponsored or conducted by and the proceeds of which, after payment of reasonable expenses, inure exclusively to the benefit of:

a. Religious, educational and charitable institutions, societies or organizations;

b. Societies or organizations for the prevention of cruelty to children or animals;

c. Societies or organizations conducted and maintained for the purpose of civic improvement;

d. Fraternal organizations, legion posts, social and political groups which conduct amusements, sponsored occasionally but not more often than twice yearly; provided, however, that the entities described in Subsections (b)(3)a—d of this section are not-for-profit institutions, organizations, groups or societies, where no part of the net earnings inure to the benefit of any private shareholder or person;

e. Organizations or persons in the armed services of the United States, or National Guard organizations, reserve officers' associations, or organizations or posts of war veterans, or auxiliary units or societies of such posts or organizations, if such posts, organizations, units or societies are organized in the State, and if no part of their earnings inure to the benefit of any private shareholder or person;

f. Organizations or associations created and maintained for the purpose of benefiting the members, or dependents or heirs of members, of the police or fire provided that the exemptions contained in Subsections (b)(3)a—f of this section shall apply only to benefits or other

fundraising events and shall not apply to more than two events per calendar year which shall not exceed a total of 14 calendar days.

g. Societies or organizations conducted for the sole purpose of maintaining symphony orchestras, opera performances or artistic presentations, including, but not limited to, musical presentations, ("artistic societies or organizations"), if the artistic society or organization:

1. Receives substantial support from voluntary contributions;

2. Is a not-for-profit institution where no part of the net earnings inure to the benefit of any private shareholder or person; and

3. Either (i) bears all risk of financial loss from its presentation of the amusement, where the amusement takes place at a venue that is owned or operated, a not-for-profit institution, no part of whose net earnings inure to the benefit of any private shareholder or person, and where the amusement is limited to an engagement of not more than four calendar days over the course of a calendar year or (ii) is substantially and materially involved in the production and performance of the amusement. Where an amusement is sponsored or conducted by two or more artistic societies or organizations, the requirements of Subsections (b)(3)g.1 and 2 of this section must be met by each of such artistic societies or organizations, but the requirements of Subsection (b)(3)g.3 may be met by any of such artistic societies or organizations, individually or in combination.

(c) None of the exemptions contained in Subsection (b)(3) of this section shall apply to a person or privilege unless a written application for exemption is filed with the Department at least 15 calendar days prior to the amusement. The application shall be on a form prescribed by the Director of Revenue and shall contain all information and materials necessary to permit the Department to determine whether the exemption claimed by the applicant is applicable.

(d) The tax imposed in Subsection (a) of this section shall not apply to or be imposed upon:

(1) The admission fees to witness in person, live theatrical, live musical or other live cultural performances that take place in any auditorium, theater or other space in the County, whose maximum capacity, including all balconies and other sections, is not more than 750 persons.

(2) Initiation fees and membership dues paid to a health club, racquetball club, tennis club or a similar club or organization, when such club or organization is organized and operated on a membership basis and for the recreational purposes of its members and its members' guests, shall be exempt from the tax imposed in Subsection (a) of this section. This exemption shall not be construed to apply to any fees paid or based upon a per-event or a per-admission basis.

(3) Fees or other charges paid by a patron for the privilege of witnessing, viewing or participating in an amusement, solely within the confines of such patron's home, shall be exempt from the imposition of the tax imposed in Subsection (a) of this section. For purposes of this exemption, the term "home" means the permanent dwelling residence of the patron. For

patrons who live in condominium buildings, apartment buildings or other multiple-unit structures, the individual dwelling unit the patron occupies shall be considered the patron's home.

(e) For the purpose of determining the amount of the amusement tax due under this article, admission fees or other charges shall be computed exclusive of any Federal, State or municipal taxes imposed upon the amusement patron and any separately stated charges for nonamusement services or for sales of tangible personal property.

(f) It is unlawful for any person to produce, present or conduct any amusement without collection of the tax, except as provided in this article.

(g) (1) The rate of the tax imposed in Subsection (a) of this section shall be one percent of the admission fees or other charges to witness in person live theatrical, live musical or other live cultural performances that take place in any auditorium, theater or other space in the County whose maximum capacity, including all balconies and other sections, is more than 750 persons and less than 5,000 persons.

(2) The rate of the tax imposed in Subsection (a) of this section shall be 1.5 percent of the admission fees or other charges to witness in person live theatrical, live musical or other live cultural performances that take place in any auditorium, theater or other space in the County whose maximum capacity, including all balconies and other sections, is 5,000 persons or more.

(Ord. No. 96-O-29, § 3, 11-22-1996; Ord. No. 99-O-15, § 3, 4-6-1999.)

Sec. 74-393. - Tax additional.

The tax imposed in this article is in addition to all other taxes imposed by the County, the State of Illinois or any municipal corporation or political subdivision of any of the foregoing.

(Ord. No. 96-O-29, § 1, 11-22-1996; Ord. No. 99-O-15, § 1, 4-6-1999.)

Sec. 74-394. - Registration.

Every owner, manager or operator of an amusement or of a place where an amusement is being held in the County, shall apply for registration as a tax collector with the Department no later than 30 days after commencing such business or 30 days after the effective date of the ordinance from which this article is derived, whichever occurs later. Application for registration shall be made to the Department by use of the form furnished by the Department for such purpose and shall contain such information as the Department may reasonably require.

(Ord. No. 96-O-29, § 4, 11-22-1996; Ord. No. 99-O-15, § 4, 4-6-1999.)

Sec. 74-395. - Collection, payment and accounting.

It shall be the joint and several duty of every owner, manager, operator of an amusement, a place when an amusement is being held or place of amusement and every ticket reseller to secure from each patron the tax imposed by this article. Tax payments accompanied

by tax returns prescribe the Department shall be remitted to the Department on or before the 20th day of the month following the month for which the tax is due.

(a) ~~It shall be the joint and several duty of every owner, manager or operator of an amusement or of a place where an amusement is being held to secure from each patron the tax imposed by this article and to remit the tax to the Department of Revenue not later than the last day of each calendar month for all admission fees or other charges received during the immediately preceding calendar month, less a discount of one percent of the tax collected. This discount is allowed to reimburse the tax collector for the expenses incurred in collecting the tax, keeping records, remitting the tax and supplying data to the Department of Revenue. However, the discount provided in this section shall not be allowed for any taxes not paid when due. A verified statement of admission fees or charges in a form prescribed by the Director of Revenue shall accompany each remittance. Acceptance by the County of any amount tendered in payment of the tax shall be without prejudice to any claim, demand or right on account of any deficiency.~~

(b) Canceled admission tickets and complete and accurate records, books and accounts in detail of all receipts shall be kept at the place of amusement or such other place in the County as may be designated in writing by the person liable for collection of the tax. All such books, records and accounts shall be open to inspection by the Department at all reasonable times during business hours.

(c) Every owner, manager, or operator who is required to collect the tax imposed by this article shall be considered a tax collector for the County. All amusement taxes collected shall be held by such tax collector as trustee for and on behalf of the County. The failure of the tax collector to collect the tax shall not excuse or release the patron from the obligation to pay the tax.

(d) Notwithstanding any other provision of this article, in order to permit sound fiscal planning and budgeting by the County, no person shall be entitled to a refund of, or credit for, the tax imposed by this article unless the person files a claim for refund or credit within one year after the date on which the tax was paid or remitted to the Department.

(Ord. No. 96-O-29, § 5, 11-22-1996; Ord. No. 99-O-15, § 5, 4-6-1999.)

Sec. 74-396. - Rules and regulations; authorized.

The Department of Revenue is authorized to adopt, promulgate and enforce rules and regulations pertaining to the administration and enforcement of this article.

(Ord. No. 96-O-29, § 6, 11-22-1996; Ord. No. 99-O-15, § 6, 4-6-1999.)

Sec. 74-397. - Application of uniform penalties, interest and procedures ordinance.

Whenever not inconsistent with the provisions of this article or whenever this article is silent, the provisions of the Uniform Penalties, Interest and Procedures Ordinance shall apply and supplement this article.

(Ord. No. 96-O-29, § 7, 11-22-1996; Ord. No. 99-O-15, § 7, 4-6-1999.)

Sec. 74-398. - Violations; penalty.

Any person violating any of the provisions of this article shall be fined not less than $200.00 nor more than $500.00 for each offense. Every day such violation continues shall constitute a separate and distinct offense.

(Ord. No. 96-O-29, § 9, 11-22-1996; Ord. No. 99-O-15, § 9, 4-6-1999.)

Commissioner Gainer, seconded by Commissioner Steele, moved approval of the Substitute Proposed Ordinance Amendment (Communication No. 310964). Commissioner Steele called for a roll call, the vote of yeas and nays being as follows:

Roll Call on Motion to Approve a Substitute Proposed Amendment to the Amusement Tax Ordinance (Communication No. 310964)

Yeas: **Chairman Daley and Commissioners Gainer, Garcia, Gorman, Goslin, Murphy, Schneider, Silvestri, Vice Chairman Sims, Steele, Suffredin, and Tobolski (12)**

Nays: **Commissioners Beavers and Collins (2)**

Absent: **Commissioners Butler, Fritchey and Reyes (3)**

The motion carried and the Substitute Proposed Amendment to the Amusement Tax Ordinance (Communication No. 310964), as amended, was approved and adopted.

Chairman Daley then called the next item on the agenda, Communication No. 310965, for consideration.

310965 **AMENDMENT TO THE COOK COUNTY RETAIL SALE OF GASOLINE AND DIESEL FUEL TAX ORDINANCE** (PROPOSED ORDINANCE AMENDMENT). Submitting a Proposed Ordinance Amendment sponsored by Toni Preckwinkle, President, Jerry Butler, John P. Daley, Jesus G. Garcia, Joan Patricia Murphy, Edwin Reyes, Deborah Sims, Robert B. Steele, Larry Suffredin and Jeffrey R. Tobolski, County Commissioners.

PROPOSED ORDINANCE AMENDMENT

COOK COUNTY RETAIL SALE OF GASOLINE AND DIESEL FUEL TAX ORDINANCE

WHEREAS, the County of Cook is a home rule unit of local government pursuant to Article VII, Section 6(a) of the 1970 Illinois Constitution; and

WHEREAS, pursuant to its home rule powers, the Cook County Board of

Commissioners adopted an Ordinance to provide for a tax on the retail sale of gasoline and diesel fuel ("Retail Sale of Gasoline and Diesel Fuel Tax Ordinance") on July 1, 1975 and has adopted subsequent amendments; and

WHEREAS, in the interest of fair and equitable enforcement the Cook County Department of Revenue (Department) seeks clarify the significant enforcement language by amending Section 74-471; and, the application of the tax on biodiesel fuel by amending Section 74-472; and,

WHEREAS, in the interest of fair and equitable enforcement the Department seeks to apply the tax to Gdiesel fuel by amending Section 74-472; require retail gas and diesel fuel dealers to register with the Department by amending Section 74-474; and, require retail dealers to file monthly gas and diesel fuel inventory, purchases and sales information returns by amending Section 74-475; and

WHEREAS, in the interest of fair and equitable enforcement the Department seeks to provide the types of books and records to be maintained by gas distributors and retail dealers by amending Section 74-478; and

WHEREAS, in the interest of fair and equitable enforcement the Department seeks to incentivize the timely filing of municipality or township request tax rebates by the addition of Section 74-481.

NOW, THEREFORE, BE IT ORDAINED, by the Cook County Board of Commissioners that Chapter 74, Article XII, Section 74-470 through 74-482 of the Cook County Code of Ordinances is hereby amended as follows:

Sec. 74-470. Short title.

This article shall be known and may be cited as the Cook County Retail Sale of Gasoline and Diesel Fuel Tax Ordinance.

Sec. 74-471. Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Biodiesel Fuel means a fuel made wholly or partly from vegetable oils, animal fats or any other renewable resource or naturally occurring material, for use in a diesel engine. This definition does not include home heating oil or railroad locomotive fuel.

Consumer means end user

Department means the Department of Revenue.

Diesel fuel means any petroleum product intended for use or offered for sale as a fuel for engines in which the fuel is injected into the combustion

chamber and ignited by pressure without electric spark. This definition does not include home heating oil or railroad locomotive fuel.

Gasoline means all products sold as gasoline, which also includes aviation gasoline and gasohol, or any product which consists of gasoline blended with alcohol. This definitions does not include propane, kerosene or jet fuel.

Gas Distributor means any person who either produces, refines, blends, compounds, or manufactures gasoline or diesel fuel in this County or transports or has transported gasoline or diesel fuel into this County or receives gasoline, diesel fuel or biodiesel fuel in Cook County on which this tax has not been paid.

~~*Distributor* and *supplier* means a person who either produces, refines, blends, compounds, or manufactures gasoline or diesel fuel in this County or transports or has transported gasoline or diesel fuel into this County or receives gasoline, diesel fuel in Cook County on which this tax has not been paid~~.

GDiesel Fuel means fuel made wholly or partly from Ultraslow Sulfur Diesel and Natural Gas intended for use or offered for sale as a fuel for a diesel engine. This definition does not include home heating oil or rail locomotive fuel.

Person means any individual, corporation, Limited Liability Corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity.

Retail dealer means any person who engages in the business of selling gasoline, diesel fuel, biodiesel fuel or gdiesel fuel in the County to a purchaser for use or consumption and not for resale in any form.

Sale, resale and *selling* means any transfer of ownership or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever. In every case where gasoline, diesel fuel, biodiesel, or gdiesel fuel are exchanged, given or otherwise disposed of, it shall be deemed to have been sold.

Sec. 74-472. Tax imposed.

(a) Tax rate. A tax is hereby imposed on the retail sale in Cook County of gasoline, diesel fuel, biodiesel fuel, and GDiesel Fuel at the rate of $0.06 per gallon or fraction thereof. The tax is to be paid by the purchaser, and nothing in this article shall be construed to impose a tax upon the occupation of distributors, suppliers or retail dealers.

(b) The incidence of and liability for payment of the tax levied in this article is to be borne by the consumer of the gasoline, diesel fuel, biodiesel fuel and gdiesel fuel. Therefore, it shall be deemed a violation of this article for any distributor or retail dealer to fail to include the tax in the retail sale price of

gasoline, diesel fuel, biodiesel fuel, gdiesel fuel or to otherwise absorb the tax.

(c) Taxable transactions. Except as provisions are made in this article for the collection of the tax levied in this article upon the sale of gasoline, diesel fuel, biodiesel fuel and gdiesel fuel in the possession of distributors or retail dealers on the effective date of the ordinance from which this article is derived, the tax levied in this article shall be collected by each distributor or supplier who sells gasoline, diesel fuel, biodiesel fuel, or gdiesel fuel to:

(1) A retail dealer doing business in the County;

(2) A consumer who purchases gasoline, diesel fuel, biodiesel fuel or gdiesel fuel directly from a Gas Distributor ~~or supplier~~ for delivery in the County; or

(3) Another Gas Distributor ~~or supplier~~ doing business in the County that is not holding a valid registration certificate.

(e) Any Gas Distributor or supplier of gasoline, diesel fuel, biodiesel fuel or gdiesel fuel shall pay the tax levied by this article to the Department. Any person receiving payment of this tax shall be a trustee for the County.

(f) If the retail dealer shall receive gasoline, diesel fuel, biodiesel fuel or gdiesel fuel upon which no tax has been collected by the distributor or supplier, and then the retail dealer shall collect such tax and remit it directly to the Department within 30 days of the receipt of such gasoline or diesel fuel.

(g) ~~**Sec. 74-477**~~ Tax in addition to other taxes. The tax imposed by this article is in addition to all other taxes imposed by the Government of the United States, the State, or by any unit of local government.

Sec. 74-473. Tax-free sales.

Gas Distributors ~~and suppliers~~ doing business in the County shall make tax-free sales of gasoline, diesel fuel, biodiesel fuel or gdiesel fuel with respect to which they are otherwise required to collect the tax to the following:

(1) Another Gas Distributor ~~or supplier~~ holding a valid ~~registration~~ Cook County Department of Revenue gas tax certificate of registration;

(2) Another Gas Distributor, ~~supplier~~, or a retail dealer where the selling distributor, or its agent, delivers the gasoline, diesel fuel, biodiesel fuel or gdiesel fuel to a location outside of the County;

(3) The United States of America, the State, or their instrumentalities.

Sec. 74-474. Gas Distributor; retail dealer registration.

(a) Gas Distributors who produce, refine, blend, compound, or manufacture gasoline, diesel fuel, biodiesel fuel or gdiesel fuel in this County or transports or has transported gasoline, diesel fuel, biodiesel fuel or gdiesel fuel into this County or receives gasoline, diesel fuel, biodiesel fuel or gdiesel fuel in Cook County on which this tax has not been paid shall register with the Department within 30 days after the effective date of this ordinance.

(b) Retail Dealers engaged in the business of selling gasoline, diesel fuel, biodiesel fuel or gdiesel fuel in the County to a purchaser for use or consumption and not for resale in any form, shall register with the Department within 30 days after the effective date of this ordinance.

(c) It shall be unlawful to engage in the business of a Gas Distributor or Retail Dealer, as defined in this article, prior to obtaining a certificate of Gas Tax registration issued by the Department;

~~**Sec. 74-474. Registration of distributors and suppliers**~~ **Moved to Sec 74-474 and Sec 74-475.**

~~A person becoming a distributor or supplier after the adoption of the ordinance from which this article is derived shall register with the Department within 20 days after the commencement of business. Distributors and suppliers shall file each month with the Department a report of sales of gasoline and diesel fuel in such form as prescribed and furnished by the Department. Such report of sales must be mailed in sufficient time to be postmarked on or before the 20th day from the last day of the month for which the return is due. Each report of sales of gasoline or diesel fuel shall be accompanied by a remittance of the appropriate amount of tax applicable to the sales reported. The remittance shall be made payable to the County Collector.~~

~~**Sec 74-475 Rulemaking**~~ **moved to 74-480.**

Sec 74-475 Returns and remittances.

(a) *Gas Distributors* shall file each month with the Department a report of sales of gasoline, diesel fuel, biodiesel fuel or gdiesel fuel in such form as prescribed and furnished by the Department on or before the 20th day from the last day of the month for which the return is due. Each report of sales of gasoline or diesel fuel shall be accompanied by a remittance of the appropriate amount of tax applicable to the sales reported. The remittance shall be made payable to the County Collector.

(b) *Retailers Dealers* shall file each month with the Department gasoline, diesel fuel, biodiesel fuel, or gdiesel fuel beginning inventory, purchases, sales, and ending inventory information on forms prescribed and furnished by the Department on or before the 20th day of the month following the month for which the for which the forms are due.

~~**Sec 74-476 Penalties**~~ **moved to Sec 74-478 and changed title to Violation**

Penalties.

Sec 74-476 Tax in addition to other taxes.

The tax imposed by this article is in addition to all other taxes imposed by the Government of the United States, the State, or by any unit of local government.

~~**Sec 74-477 Tax in addition to other taxes**~~ **moved to Sec 74-472.**

Sec 74-477 Books and records .

Every gas distributor and retail dealer, as defined in this article, shall keep accurate books and records of its beginning inventory, purchases, sales and ending inventory including original source documents and books of entry denoting the transactions that gave rise, or may have given rise, to any tax liability, exemption or deduction or defense to liability. Books and records and other papers relating to transactions which occurred during any period with respect to which the Department is authorized to issue notices of tax liability as provided in Chapter 34, Article III, Uniform Penalties, Interest and Procedures Ordinance shall be preserved until the expiration of such period unless the Department, in writing, authorizes their destruction or disposal prior to such expiration. All those books and records shall be kept in the English language and, at all times during business hours, shall be subject to and available for inspection or copying by the Department.

~~**Sec 74-478 Municipality and township tax rebate**~~ **moved to Sec 74-479.**

Sec 74-478 Violation Penalties.

Any person determined to have violated this article, as amended, shall be subject to a fine of $1,000.00 for the first offense, and a fine of $2,000.00 for the second and each subsequent offense. Separate and distinct offense shall be regarded as committed each day upon which said person shall continue any such violation, or permit any such violation to exist after notification thereof. It shall be deemed a violation of this article for any person to knowingly furnish false or inaccurate information to the Department. Criminal prosecution pursuant to this article shall in no way bar the right of the County to institute civil proceedings to recover delinquent taxes, interest and penalty due and owing as well as costs incurred for such proceeding.

~~**Sec 74-476 Penalties.**~~

~~Any violation of this article shall be punishable by a fine of not less than $100.00 and not more than $1,000.00 or imprisonment for a period not to exceed six months, or by both such fine and imprisonment. It shall be deemed a violation of this article for any person knowingly to furnish false or inaccurate information as required herein. Criminal prosecutions pursuant to this article shall in no way bar the right of the County to institute civil proceedings to recover delinquent~~

~~taxes, interest and penalties due and owing, as well as costs incurred for such proceeding. Civil penalties and interest assessed pursuant to this article shall be computed at the rate provided by Chapter 34, Article III of this Code. The tax required in this article to be collected by any distributor, supplier or retail dealer pursuant to this article shall constitute a debt owed by such distributor, supplier or retail dealer to the County.~~

Sec 74-479 Municipality and township tax rebate.

Any municipality or township with its primary administrative office located in the County shall be entitled to a tax rebate. Such rebate shall be paid on an annual basis. Claims for such reimbursement must be made within six months from the end of each calendar year, upon forms prescribed by the Department. The Department shall determine the proof required to substantiate the rebate by rule.

Sec 74-480 Tax Rebate Late Filing Penalty.

Any request for gas tax rebate received by the Department, postmarked or physically received after the due date, June 30th of the year following the calendar year for which the tax rebate is being requested, shall be assessed a penalty equal to 10% of the total amount of the tax rebate due or owed by the Department to the municipality or township.

Sec 74-481 Application of uniform penalties, interest and procedures ordinance.

Whenever not inconsistent with the provisions of this article or whenever this article is silent, the provisions of the Uniform Penalties, Interest and Procedures Ordinance shall apply and supplement this article.

~~Sec. 74-475~~ Sec 74-482 Rulemaking

(a) The Department shall prescribe reasonable rules, definitions, and regulations necessary to carry out the duties imposed upon it by this article. Such rules, definitions, and regulations shall include, but not be limited to, reasonable procedures consistent with existing practices of distributors, suppliers and retail dealers for collection and remittance of the tax herein levied upon the purchaser of gasoline or diesel fuel.

(b) The Department may appoint distributors or suppliers and any other person within or without the County as agents for the tax levied in this article. The Department is hereby authorized to grant a commission not exceeding one-half of one percent of the tax due to the County to such agent for services rendered in connection with the tax levied in this article, provided the tax is remitted, in full, by the due date.

***Referred to the Committee on Finance on 2/1/11.**

Commissioner Steele, seconded by Commissioner Garcia, moved approval of the Proposed Amendment to the Retail Sale of Gasoline and Diesel Fuel Tax Ordinance (Communication No. 310965). Prior to a vote on the main motion, Commissioner Suffredin, seconded by Commissioner Silvestri, moved to amend the main motion by approval of Amendment A to Communication No. 310965. The motion carried, and Communication No. 310965 was amended, as follows:

AMENDMENT A TO COMMUNICATION NUMBER 310965
(Changes are in **bold and double underlined**)

Sponsored by:
THE HONORABLE LARRY SUFFREDIN, JOHN P. DALEY, JESUS G. GARCIA, ELIZABETH "LIZ" DOODY GORMAN, GREGG GOSLIN, JOAN PATRICIA MURPHY, TIMOTHY O. SCHNEIDER, PETER N. SILVESTRI, DEBORAH SIMS, ROBERT B. STEELE, AND JEFFREY R. TOBOLSKI, COOK COUNTY COMMISSIONERS

Sec. 74-474. Gas Distributor; retail dealer registration.
(a) Gas Distributors who produce, refine, blend, compound, or manufacture gasoline, diesel fuel, biodiesel fuel or gdiesel fuel in this County or transports or has transported gasoline, diesel fuel, biodiesel fuel or gdiesel fuel into this County or receives gasoline, diesel fuel, biodiesel fuel or gdiesel fuel in Cook County on which this tax has not been paid shall register with the Department within 30 days after the effective date of this ordinance.

~~(b) Retail Dealers engaged in the business of selling gasoline, diesel fuel, biodiesel fuel or gdiesel fuel in the County to a purchaser for use or consumption and not for resale in any form, shall register with the Department within 30 days after the effective date of this ordinance.~~

(b) Retail dealers shall register and provide information as provided by rules and regulations promulgated by the Department of Revenue.

(c) It shall be unlawful to engage in the business of a Gas Distributor ~~**or Retail Dealer**~~, as defined in this article, prior to obtaining a certificate of Gas Tax registration issued by the Department;

~~**Sec. 74-474. Registration of distributors and suppliers Moved to Sec 74-474 and Sec 74-475.**~~
~~A person becoming a distributor or supplier after the adoption of the ordinance from which this article is derived shall register with the Department within 20 days after the commencement of business. Distributors and suppliers shall file each month with the Department a report of sales of gasoline and diesel fuel in such form as prescribed and furnished by the Department. Such report of sales must be mailed in sufficient time to be postmarked on or before the 20th day from the last day of the month for which the return is due. Each report of sales of gasoline or diesel fuel shall be accompanied by a remittance of the appropriate amount of tax applicable to the sales reported. The remittance shall be made payable to the County Collector.~~

~~**Sec 74-475 Rulemaking moved to 74-480.**~~

Sec 74-475 Returns and remittances.

(a) Gas Distributors shall file each month with the Department a report of sales of gasoline, diesel fuel, biodiesel fuel or gdiesel fuel in such form as prescribed and furnished by the Department on or before the 20th day from the last day of the month for which the return is due. Each report of sales of gasoline or diesel fuel shall be accompanied by a remittance of the appropriate amount of tax applicable to the sales reported. The remittance shall be made payable to the County Collector.

~~**(b) *Retailers Dealers* shall file each month with the Department gasoline, diesel fuel, biodiesel fuel, or gdiesel fuel beginning inventory, purchases, sales, and ending inventory information on forms prescribed and furnished by the Department on or before the 20th day of the month following the month for which the for which the forms are due.**~~

Sec 74-477 Books and records.
Every gas distributor ~~**and retail dealer**~~, as defined in this article, shall keep accurate books and records of its beginning inventory, purchases, sales and ending inventory including original source documents and books of entry denoting the transactions that gave rise, or may have given rise, to any tax liability, exemption or deduction or defense to liability. Books and records and other papers relating to transactions which occurred during any period with respect to which the Department is authorized to issue notices of tax liability as provided in Chapter 34, Article III, Uniform Penalties, Interest and Procedures Ordinance shall be preserved until the expiration of such period unless the Department, in writing, authorizes their destruction or disposal prior to such expiration. All those books and records shall be kept in the English language and, at all times during business hours, shall be subject to and available for inspection or copying by the Department.

Commissioner Suffredin, seconded by Commissioner Tobolski, moved approval of the Proposed Ordinance Amendment (Communication No. 310965), as amended. Commissioner Steele called for a roll call, the vote of yeas and nays being as follows:

Roll Call on Motion to Approve a Proposed Amendment to the Retail Sale of Gasoline and Diesel Fuel Tax Ordinance, as Amended (Communication No. 310965)

Yeas:	**Chairman Daley and Commissioners Gainer, Garcia, Gorman, Goslin, Murphy, Reyes, Schneider, Silvestri, Vice Chairman Sims, Steele, Suffredin, and Tobolski (13)**
Nays:	**Commissioners Beavers and Collins (2)**
Absent:	**Commissioners Butler and Fritchey (2)**

The motion carried and the Proposed Amendment to the Retail Sale of Gasoline and Diesel Fuel Tax Ordinance (Communication No. 310965), as amended, was approved and adopted.

Chairman Daley then called the next item on the agenda, Communication No. 310966, for consideration.

310966 **AMENDMENT TO THE COOK COUNTY RETAIL SALE OF ALCOHOLIC BEVERAGES ORDINANCE** (PROPOSED ORDINANCE AMENDMENT). Submitting a Proposed Ordinance Amendment sponsored by Toni Preckwinkle, President, Jerry Butler, John P. Daley, Jesus G. Garcia, Joan Patricia Murphy, Edwin Reyes, Deborah Sims, Robert B. Steele, Larry Suffredin and Jeffrey R. Tobolski, County Commissioners.

PROPOSED ORDINANCE AMENDMENT

RETAIL SALE OF COOK COUNTY ALCOHOLIC BEVERAGES TAX

WHEREAS, the County of Cook is a home rule unit of local government pursuant to Article VII, section 6(a) of the 1970 Illinois Constitution; and

WHEREAS, pursuant to its home rule powers, the Cook County Board of Commissioners adopted an Ordinance to provide for a tax on the retail sale of liquor, "Cook County Tax On The Retail Sale of Alcoholic Beverages", effective July 1, 1975, and has adopted subsequent amendments; and

WHEREAS, in the interest of fair and equitable enforcement the Cook County Department of Revenue (Department) seeks required retail alcoholic beverages dealers to register by amending Section 74-354; and

WHEREAS, in the interest of fair and equitable enforcement the Department seeks to clarify books and records to be maintained by wholesalers and retailers by amending Section 74-356; and

WHEREAS, in the interest of fair and equitable enforcement the Department seeks the consistent application of violation penalties and tax assessment penalties, by amending Sections 74-359 and 74-361, respectively.

NOW THEREFORE, BE IT ORDAINED, by the Cook County Board of Commissioners that Article IX, Chapter 74-350 through 74-362 of the Cook County Code of Ordinances is hereby amended as follows:

Sec. 74-350. Short title.

This article shall be known and may be cited as the Cook County Retail Sale of Alcoholic Beverages Tax Ordinance.

Sec. 74-351. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcohol means the product of distillation of any fermented liquid, whether rectified or diluted, whatever may be the origin thereof, and includes synthetic ethyl alcohol. The term does not include denatured alcohol or wood alcohol.

Alcoholic beverage includes alcohol spirits, wine and beer and any liquid or solid, patented or not, containing alcohol, spirits, wine, or beer, and capable of being consumed as a beverage by a human being. The provisions of this article shall not apply to alcohol used in the manufacture of denatured alcohol produced in accordance with Acts of Congress and regulations promulgated there-under, nor to any liquid or solid containing one-half of one percent or less of alcohol by volume.

Beer means a beverage obtained by the alcoholic fermentation of an infusion or concoction of barley, or other grain, malt, and hops in water, and includes, among other things, beer, ale, stout, lager, beer, porter and the like.

Department means the Department of Revenue.

Person means any individual, corporation, Limited Liability Corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity.

Retail alcoholic beverage dealer means any person who engages in the business of selling alcoholic beverages in the County to a purchaser for use or consumption, and not for resale in any form.

Sale, resale and *selling* mean any transfer of ownership or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever for a valuable consideration.

Spirits means any beverage which contains alcohol obtained by distillation, mixed with water or other substances in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors, and such liquors when rectified, blended or otherwise mixed with alcohol or other substances.

Wholesale alcoholic beverage dealer means any person who engages in the business of selling or supplying alcoholic beverages to any person for resale in the County.

Wine means any alcoholic beverage obtained by the fermentation of the natural contents of fruits, or vegetables, containing sugar, including such beverages when fortified by the addition of alcohol or spirits, as above defined.

Sec. 74-352. Tax imposed.

(a) A tax is hereby imposed on the retail sale in the County of all alcoholic beverages. Such tax is to be paid by the purchaser, and nothing in this article shall be construed to impose a tax upon the occupation of retail or wholesale alcoholic beverage dealers. This tax shall be levied according to the following schedule:

(1) Alcoholic beverages other than beer, containing 14 percent or less

alcohol by volume, a tax at the rate of $0.16 per gallon or the pro rata portion thereof.

(2) Alcoholic beverages containing more than 14 percent and less than 20 percent alcohol by volume, a tax at the rate of $0.30 per gallon or the pro rata portion thereof.

(3) Alcoholic beverages containing 20 percent or more alcohol by volume, a tax at the rate of $2.00 per gallon or the pro rata portion thereof.

(4) Beer, a tax at the rate of $0.06 per gallon or the pro rata portion thereof.

(b) The ultimate incidence of and liability for payment of the tax levied in this article is to be borne by the consumer of the alcoholic beverages.

(c) It shall be deemed a violation of this article for a retail alcoholic beverage dealer to fail to include the tax imposed in this article in the sale price of the alcoholic beverage or to otherwise absorb such tax. The tax levied in this article shall be in addition to any and all other taxes.

(d) Except as provisions are made in this article for the collection of the tax levied in this article upon the sale of alcoholic beverages in the possession of retail dealers of alcoholic beverages on the effective date of the ordinance from which this article is derived, the tax levied in this article shall be collected by each wholesale dealer of alcoholic beverages who sells alcoholic beverages to a retail dealer of alcoholic beverages doing business in the County.

(e) Any wholesale alcoholic beverage dealer who shall pay the tax levied by this article to the Department shall collect the tax from any retail alcoholic beverage dealer to whom the sale of the alcoholic beverages is made, and any retail alcoholic beverage dealer shall in turn then collect the tax from the purchaser of the alcoholic beverages. The tax shall be paid to the person required to collect it as trustee for and on account of the County.

Sec. 74-353. Exceptions.

The tax imposed by this article shall not apply to sales of alcoholic beverages wherein the purchaser is a passenger on an interstate carrier, nor shall this tax apply to the extent it would violate the United States Constitution or the Constitution of the State of Illinois. Further, the tax levied in this article shall not apply to wine intended for use and used by any church or religious organization for sacramental purposes, provided that such wine shall be purchased legally under the laws of Illinois and the United States; but no exemption from this tax is permitted with respect to wine sold to private persons for such purposes. Except

~~**Sec. 74-354 Dealer registration.**~~

Sec. 74-354. Wholesaler and Retailer Registration.

(a) Any wholesaler or any retailer who engages in the business of selling alcoholic beverages in the County must register with the Department, in accordance with procedures prescribed by the Department prior engaging in the business of supplying or selling alcoholic beverages for resale, use or consumption in the County.

(b) Wholesale alcoholic beverage dealers shall file each month with the Department a report of sales of alcoholic beverages in such form as prescribed and furnished by the Department. Such report of sales must be mailed in sufficient time to be postmarked on or before the 15th day from the last day of the month for which the return is due. Each report of sales of alcoholic beverages shall be accompanied by a remittance of the appropriate amount of tax applicable to the sales reported. The remittance shall be made payable to the County Collector. Registered wholesale alcoholic beverage dealers must file a monthly return even if no tax is due.

(c) Retail alcoholic beverage dealers shall file each month with the Department beginning inventory, purchases, sales, and ending inventory information on forms prescribed and furnished by the Department on or before the 20th day of the month following the month for which the forms are due.

(d) A retail alcoholic beverages dealer who receives alcoholic beverages upon which no tax has been collected by the distributor or supplier shall remit the tax directly to the Department within 30 days of the receipt of such alcoholic beverages.

(e) The tax required in this article to be collected by any wholesale or retail alcoholic beverages dealer pursuant to this article shall constitute a debt owed by the wholesale or retail alcoholic beverages dealer to the County.

~~**Sec. 74-354. Dealer registration.**~~

~~A person becoming a wholesale alcoholic beverage dealer after adoption of the ordinance from which this article is derived shall register with the Department within 20 days after the commencement of business. Wholesale alcoholic beverage dealers shall file each month with the Department a report of sales of alcoholic beverages in such form as prescribed and furnished by the Department. Such report of sales must be mailed in sufficient time to be postmarked on or before the 15th day from the last day of the month for which the return is due. Each report of sales of alcoholic beverages shall be accompanied by a remittance of the appropriate amount of tax applicable to the sales reported. The remittance shall be made payable to the County Collector.~~

~~**Sec. 74-355 Rulemaking**~~ **moved to 74-362.**

Sec. 74-355 Additional to other taxes.

The tax imposed by this article is in addition to all other taxes imposed by the Government of the United States, the State, or by any unit of local government.

~~**Sec. 74-356 Seizure and sale**~~ **moved to 74-358.**

Sec. 74-356 Documents; Books; Records.

(a) It shall be the duty of every wholesale and retail alcoholic beverage dealer to keep and maintain accurate documents, books and records used to process taxable and nontaxable sales and purchase transactions from start to completion, and make them available for inspection, audit, or copying during regular business hours.

(b) Documents, books and records shall be kept, by wholesale and retail alcoholic beverages dealers, as provided in Cook Code of Ordinances, Article III Sec 34-60, Uniform Penalties, Interest and Procedures Ordinance.

~~**Sec. 74-357 Penalties**~~ **moved to Sec 74-359.**

Sec. 74-357 Tax assessment penalties and interest.

Cook County Code of Ordinances, Article III, Chapter 34, Uniform Penalties, Interest and Procedures Ordinance shall apply to violations of this Ordinance.

~~**Sec. 74-358 Additional to other taxes**~~ **moved to Sec 74-360.**

Sec 74-358 Seizures.

Whenever any duly authorized representative of the Department discovers any alcoholic beverages subject to the tax levied in this article and upon which the tax has not been paid in accordance with provisions of this article, such representative is hereby authorized and empowered forthwith to seize and take possession of such alcoholic beverages, which shall be deemed to be forfeited to the County. Such seizure shall not be deemed to relieve any person from fine or imprisonment provided in this article for violation of any provision of this article.

~~The Director of the Department may within a reasonable time thereafter, by a public notice given at least five days before the day of sale sell such forfeited alcoholic beverages at a public sale and pay the proceeds into the Treasury of the County. In the alternative, the Director of the Department, on reasonable notice, may permit the person from whom the alcoholic beverages were seized to redeem same by payment of the tax due together with a penalty of 50 percent thereof and the cost incurred in such proceedings; provided, however, that such seizure and sale or redemption shall not be deemed to relieve any person from fine or imprisonment provided in this article for violation of any~~

~~provision of this article.~~

Sec 74-359 Violation Penalties.

Any person determined to have violated this article, as amended, shall be subject to a fine of $1,000.00 for the first offense, and a fine of $2,000.00 for the second and each subsequent offense. Separate and distinct offense shall be regarded as committed each day upon which said person shall continue any such violation, or permit any such violation to exist after notification thereof. It shall be deemed a violation of this article for any person to knowingly furnish false or inaccurate information to the Department. Criminal prosecution pursuant to this article shall in no way bar the right of the County to institute civil proceedings to recover delinquent taxes, interest and penalty due and owing as well as costs incurred for such proceeding.

Sec. 74-358.

~~**Sec. 74-358 Additional to other taxes**~~

Sec 74-360 Additional to other taxes

The tax imposed by this article is in addition to all other taxes imposed by the Government of the United States, the State, or by any unit of local government.

Sec. 74-361 Application of Uniform Penalties, Interest and Procedures Ordinance

Whenever not inconsistent with the provisions of this Article or whenever this chapter is silent, the provisions of the uniform penalties, interest and procedures ordinance, Article III, Chapter 34 of the Cook County Code of Ordinances shall apply and supplement this Article.

~~**Sec. 74-355. Rulemaking**~~

Sec 74-362 Rulemaking

(a) The Department shall prescribe reasonable rules, definitions, and regulations to carry out the duties imposed upon it by this article. Such rules, definitions, and regulations shall include, but not be limited to, reasonable procedures consistent with existing practices in the wholesale and retail liquor industry, for collection and remittance of the tax levied in this article upon the consumer of alcoholic beverages.

(b) The Department may appoint wholesale dealers of alcoholic beverages and any other person within or without the County as agents for the tax herein levied. The Department is hereby authorized to grant a commission not exceeding one-half of one percent of the tax due to the County to such agent for services rendered in connection with the tax levied in this article, provided the

tax is remitted, in full, by the due date.

(c) If any business selling liquor at the retail level shall receive liquor upon which no tax has been collected by the distributor or supplier, then the retail operator shall collect such tax and remit it directly to the Department within 30 days of the receipt of such liquor.

Commissioner Steele, seconded by Commissioner Suffredin, moved approval of the Proposed Amendment to the Retail Sale of Alcoholic Beverages Tax Ordinance (Communication No. 310966). Prior to a vote on the main motion, Commissioner Suffredin, seconded by Commissioner Steele, moved to amend the main motion by approval of Amendment A to Communication No. 310966. The motion carried, and Communication No. 310966 was amended, as follows:

AMENDMENT A TO COMMUNICATION NUMBER 310966
(Changes are in **bold and double underlined**)

Sponsored by:
THE HONORABLE LARRY SUFFREDIN, JOHN P. DALEY, JESUS G. GARCIA, ELIZABETH "LIZ" DOODY GORMAN, GREGG GOSLIN, JOAN PATRICIA MURPHY, TIMOTHY O. SCHNEIDER, PETER N. SILVESTRI, DEBORAH SIMS, ROBERT B. STEELE, AND JEFFREY R. TOBOLSKI, COOK COUNTY COMMISSIONERS

Sec. 74-354. Wholesaler and Retailer Registration.
(a) Any wholesaler ~~**or any retailer**~~ who engages in the business of selling alcoholic beverages in the County must register with the Department, in accordance with procedures prescribed by the Department prior engaging in the business of supplying or selling alcoholic beverages for resale, use or consumption in the County.

(b) Wholesale alcoholic beverage dealers shall file each month with the Department a report of sales of alcoholic beverages in such form as prescribed and furnished by the Department. Such report of sales must be mailed in sufficient time to be postmarked on or before the 15th day from the last day of the month for which the return is due. Each report of sales of alcoholic beverages shall be accompanied by a remittance of the appropriate amount of tax applicable to the sales reported. The remittance shall be made payable to the County Collector. Registered wholesale alcoholic beverage dealers must file a monthly return even if no tax is due.

~~(c) Retail alcoholic beverage dealers shall file each month with the Department beginning inventory, purchases, sales, and ending inventory information on forms prescribed and furnished by the Department on or before the 20th day of the month following the month for which the forms are due.~~

(~~d~~**c**) A retail alcoholic beverages dealer who receives alcoholic beverages upon which no tax has been collected by the distributor or supplier shall remit the tax directly to the Department within 30 days of the receipt of such alcoholic beverages.

(**ed**) The tax required in this article to be collected by any wholesale ~~**or retail**~~ alcoholic beverages dealer pursuant to this article shall constitute a debt owed by the wholesale ~~**or retail**~~ alcoholic beverages dealer to the County.

(e) Retailers shall register and provide information as provided by rules and regulations promulgated by the Department of Revenue.

Sec. 74-356 Documents; Books; Records.
(a) It shall be the duty of every wholesale ~~and retail~~ alcoholic beverage dealer to keep and maintain accurate documents, books and records used to process taxable and nontaxable sales and purchase transactions from start to completion, and make them available for inspection, audit, or copying during regular business hours.

(b) Documents, books and records shall be kept, by wholesale ~~and retail~~ alcoholic beverages dealers, as provided in Cook Code of Ordinances, Article III Sec 34-60, Uniform Penalties, Interest and Procedures Ordinance.

Commissioner Suffredin, seconded by Commissioner Steele, moved approval of the Proposed Ordinance Amendment (Communication No. 310966), as amended. Commissioner Suffredin called for a roll call, the vote of yeas and nays being as follows:

Roll Call on Motion to Approve a Proposed Amendment to the Retail Sale of Alcoholic Beverages Tax Ordinance, as Amended (Communication No. 310966)

Yeas: **Chairman Daley and Commissioners Gainer, Garcia, Gorman, Murphy, Reyes, Schneider, Silvestri, Vice Chairman Sims, Steele, Suffredin, and Tobolski (12)**

Nays: **Commissioners Beavers and Collins (2)**

Absent: **Commissioners Butler, Fritchey and Goslin (3)**

The motion carried and the Proposed Amendment to the Retail Sale of Alcoholic Beverages Tax Ordinance (Communication No. 310966), as amended, was approved and adopted.

Chairman Daley then called the next item on the agenda, Communication No. 310967, for consideration.

310967 **AMENDMENT TO THE COOK COUNTY NEW VEHICLE AND TRAILER TAX ORDINANCE** (PROPOSED ORDINANCE AMENDMENT). Submitting a Proposed Ordinance Amendment sponsored by Toni Preckwinkle, President, Jerry Butler, John P. Daley, Jesus G. Garcia, Joan Patricia Murphy, Edwin Reyes, Deborah Sims, Robert B. Steele, Larry Suffredin and Jeffrey R. Tobolski, County Commissioners.

PROPOSED ORDINANCE AMENDMENT

COOK COUNTY SALES OF NEW MOTOR VEHICLE AND TRAILER TAX ORDINANCE

WHEREAS, the County of Cook is a home rule unit of local government pursuant to Article VII, Section 6(a) of the 1970 Illinois Constitution; and

WHEREAS, pursuant to its home rule powers, the Cook County Board of Commissioners adopted an Ordinance to provide for a tax on the retail sale of new motor vehicles and trailers ("Retail Sale of New Motor Vehicle and Trailer Tax Ordinance") on January 1, 1972 and has adopted subsequent amendments; and

WHEREAS, in the interest of fair and equitable enforcement the Cook Department of Revenue (Department) seeks to clarify enforcement significant language definitions by amending Section 74-231; and collection of the tax by amending Section 74-232; and

WHEREAS, in the interest of fair and equitable enforcement the Department seeks to clarify filing tax remittances and returns by amending Section 74-235; and

WHEREAS, in the interest of fair and equitable enforcement the Department seeks the consistent application of violation penalties by amending Section 74-238.

NOW, THEREFORE, BE IT ORDAINED, by the Cook County Board of Commissioners that Chapter 74, Article VI, of the Cook County Code of Ordinances is hereby amended as follows:

Sec. 74-230. Short title.

This article shall be known and may be cited as the Cook County New Motor Vehicle and Trailer Excise Tax Ordinance.

Sec. 74-231. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~*Dealer* means every person engaged in the business of buying, selling or exchanging new motor vehicles and who has an established place of business for such purposes in the County.~~

Department means the Department of Revenue of the County.

Mobile Home means a large trailer, fitted with parts for connection to utilities, that can be installed on a relatively permanent site and that is used as a residence

Motor vehicle means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails, including but not limited to aircraft, watercraft, cars,

trucks or other similar vehicles; the term motor vehicle does not include vehicles moved solely by human power, motorized wheelchairs, low-speed electric bicycles, and low-speed gas bicycles.

~~*Motor vehicle* means every vehicle which is propelled otherwise than by muscular power, including but not limited to motorcycles, motor driven cycles, pole trailers, automobiles, reconstructed vehicles, road tractors, busses, semi-trailers, special mobile equipment, trackless trailers, coaches, trailers, trucks, truck tractors and mobile homes.~~

New Motor vehicle dealer means any person who, in the ordinary course of business, is engaged in the business of selling, at a location in Cook County, new motor vehicles to consumers or other end users.

~~*Dealer* means every person engaged in the business of buying, selling or exchanging new motor vehicles and who has an established place of business for such purposes in the County.~~

Person means any individual, corporation, Limited Liability Corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity.

Pole trailer means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes or structural members capable generally of sustaining themselves as beams between the supporting connection.

Purchaser means, means any person who, through a sale at retail, acquires the ownership of or title to tangible personal property

Retail sale means any transfer for valuable consideration of the ownership of or title to tangible personal property to a consumer or end user.

~~*Retail sale* means the act or attempted act of selling motor vehicles or otherwise disposing of a motor vehicle to a person for use as a consumer.~~

Semi-trailer means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

Tax collector means any new *motor vehicle dealer* selling, at location in Cook County, new motor vehicles to consumers or other end users.

Trailer means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing

vehicle.

Truck means every motor vehicle designed, used or maintained primarily for the transportation of property.

Truck tractor means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn. For the purposes of this article, trailers or semi-trailers designed with shipping weights of 1,000 pounds or under shall be taxed on the sale thereof at a rate of $7.50 per vehicle.

Sec. 74-232. Tax Imposed.

(a) A tax is hereby imposed on the retail sale in the County of new motor vehicles and trailers. The tax shall be collected by the tax collector, as described in this article, from the purchaser The ultimate incidence of and liability for payment of the tax is on the purchaser, and nothing in this article shall be construed to impose a tax upon the occupation of motor vehicle dealers.

~~**Sec 74-232 Tax.**~~

~~(a) *Imposed.* A tax is hereby imposed on the retail sale in the County of new motor vehicles and trailers. Such tax is to be paid by the purchaser, and nothing in this article shall be construed to impose a tax upon the occupation of motor vehicle dealers~~

(b) Tax rates

~~(b) *Schedule.* This tax shall be levied according to the following schedule~~:

(1) Sale of a two-wheel motor vehicle, $7.50.

(2) Sale of a three-wheel motor vehicle, $11.25.

(3) Sale of a four-wheel motor vehicle, $15.00.

(4) Sale of a truck, truck tractor, trailer, semi-trailer or pole trailer as defined in this article, $22.50.

(c) *Failure to pay.* It shall be deemed a violation of this article for a dealer to fail to add the tax imposed in this article to the sale price of a motor vehicle or to otherwise absorb such tax.

The tax imposed by this article shall, when collected, be stated as a distinct item separate and apart from the selling price of tangible personal property; and, the tax collector when collecting the tax shall give to the purchaser a receipt for such tax in the manner and form prescribed by the Department. Such receipt shall be sufficient to relieve the purchaser from further liability for

the tax to which such receipt may refer.

Sec. 74-233. Exceptions

The tax imposed by this article shall not apply to sales of motor vehicles wherein:

(1) The purchaser is any governmental body or private corporation, society, foundation, or other institution organized and operated exclusively for charitable, religious, or educational purposes;

(2) The purchaser is an interstate carrier for hire and the subject vehicle is purchased for use as rolling stock moving in interstate commerce;

(3) Such sale is made to a person who is not a resident of the State if such motor vehicle is not to be titled in the State and if a drive-away decal permit is issued to such motor vehicle as provided in 625 ILCS 5/3-601(f) (operation of vehicles under special plates). The issuance of the drive-away plate shall be prima facie evidence that such motor vehicle will not be titled in the State;

(4) The subject motor vehicle is a farm tractor, riding lawn mower, fork lift truck, mini-bike, snowmobile, or off-the-road motor vehicle used for competitive racing, which under the laws of the State requires no lights or license;

(5) The subject motor vehicle is sold to persons for use outside the State and is registered or titled in a state other than Illinois.

Sec. 74-234. New motor vehicle dealer registration.

New motor vehicle dealers, as described in this article, shall register with the Department prior to commencing business. It shall be unlawful to conduct business in Cook County as a new motor vehicle dealer prior to obtaining a Cook County Department of Revenue Sales of New Motor Vehicle certificate of tax registration.

~~**Sec 74-234 Dealer registration.**~~

~~Dealers doing business shall register with the department within 20 days after commencement of business. Dealers shall file each month, with the Department, a report of sales of new motor vehicles, in such form as prescribed and furnished by the Department. Such report of sales must be mailed in sufficient time to be postmarked on or before the last day of the month following the month for which the return is due. Each report of sales of motor vehicles shall be accompanied by a remittance of the appropriate amount of tax applicable to the sales reported. Payment of the tax imposed herein shall be remitted to the Department and made payable to the County Collector.~~

~~**Sec. 74-235. Penalties.**~~

Sec 74-235 Tax remittance and returns.

(a) Every new motor vehicle dealer shall file, on forms prescribed by the Department, a remittance return and remit all taxes due on or before the 20th day of the month following the month for which the tax is due Every new motor vehicle dealer shall file a monthly return even when no tax is due.

(b) Final monthly return; remittance. Any new motor vehicle who ceases to engage in the business of making retail sales of new motor vehicles shall file a final return under this article with the Department not later than one calendar month after making the last sale at retail. All taxes due to be paid to the County shall be remitted to the County at the time the final return is filed with the Department.

(c) New motor vehicle dealer Annual Return. New motor vehicle dealers shall file an annual information return, on forms prescribed by the Department, on the last day of the month following the year for which the return is due. Such annual return shall include a statement of beginning inventory, purchases, sales, ending inventory, and receipts as shown on the retailer's State income tax return. The tax collector's annual return to the Department shall also disclose such additional reasonable information as the Department shall require to enable the Department to determine the accuracy of any periodic return filed by such tax collector as provided by this section.

~~**Sec. 74-236. Additional to other taxes.**~~

Sec. 74-236 Books and records to be kept.

It shall be the duty of all new motor vehicle dealers to keep and maintain all books, papers and records related to all transactions taxable or non-taxable under this article and to make such records available to the Director on request for inspection, audit and/or copying during regular business hours. Books, papers and records which relate to a return filed or required to be filed with the Department shall be kept for a period as provided for in the Cook County Uniform Penalties, Interest and Procedures Ordinance.

Sec 74-237 New motor vehicle dealer liable.

The new motor vehicle dealer shall be liable to the County for the amount of tax that it is required to collect; and, shall collect the tax from purchasers by adding the tax to the selling price of tangible personal property, when sold, in the manner prescribed by this article and the Department. If any new motor vehicle collects more from the purchaser than the actual tax due on the transaction, the purchaser shall have a legal right to claim a refund of such amount from such the new motor vehicle dealer. However, if such amount is not refunded to the purchaser for any reason, the new motor vehicle dealer is liable to pay such

amount to the Department.

~~**Sec. 74-235. Penalties.**~~

Sec 74-238 Penalties.

Any person determined to have violated this article, as amended, shall be subject to a fine of $1,000.00 for the first offense, and a fine of $2,000.00 for the second and each subsequent offense. Separate and distinct offense shall be regarded as committed each day upon which said person shall continue any such violation, or permit any such violation to exist after notification thereof. It shall be deemed a violation of this article for any person knowingly to furnish false or inaccurate information to the Department. Criminal prosecution pursuant to this article shall in no way bar the right of the County to institute civil proceedings to recover delinquent taxes, interest and penalty due and owing as well as costs incurred for such proceeding.

~~(a) Any violation of this article shall be punishable by a fine of not less than $100.00 and not more than $1,000.00 or imprisonment for a period not to exceed six months, or by both such fine and imprisonment. It shall be deemed a violation of this article for any person knowingly to furnish false or inaccurate information as required in this article.~~

~~(b) Criminal prosecutions pursuant to this article shall in no way bar the right of the County to institute civil proceedings to recover delinquent taxes, interest and penalties due and owing as well as costs incurred for such proceedings. Civil penalties assessed pursuant to this article shall not exceed $500.00 for each offense. For the purpose of this article, interest shall be computed at the rate provided by Chapter 34, Article III of this Code.~~

~~**Sec. 74-236. Additional to other taxes.**~~

Sec 74-239 Additional to other taxes.

The tax imposed by this article is in addition to all other taxes imposed by the government of the United States, the State, or any unit of local government.

Sec 74-240 Application of uniform penalties, interest and procedures.

Whenever not inconsistent with the provisions of this article or whenever this article is silent, the provisions of Chapter 34, Article III, Uniform Penalties, Interest and Procedures Ordinance, shall apply and supplement this article.

Commissioner Steele, seconded by Commissioner Garcia, moved approval of the Proposed Ordinance Amendment (Communication No. 310967). Commissioner Beavers called for a roll call, the vote of yeas and nays being as follows:

Roll Call on Motion to Approve a Proposed Amendment to the New Motor Vehicle and Trailer Excise Tax Ordinance (Communication No. 310967)

Yeas: **Chairman Daley and Commissioners Gainer, Garcia, Gorman, Goslin, Murphy, Silvestri, Vice Chairman Sims, Steele, Suffredin, and Tobolski (11)**

Nays: **Commissioners Beavers and Collins (2)**

Absent: **Commissioners Butler, Fritchey, Reyes and Schneider (4)**

The motion carried and the Proposed Amendment to the New Motor Vehicle and Trailer Excise Tax Ordinance (Communication No. 310967) was approved and adopted.

Chairman Daley then called the next item on the agenda, Communication No. 310968, for consideration.

310968 **AMENDMENT TO THE COOK COUNTY PARKING GARAGE AND OPERATIONS TAX ORDINANCE** (PROPOSED ORDINANCE AMENDMENT). Submitting a Proposed Ordinance Amendment sponsored by Toni Preckwinkle, President, Jerry Butler, John P. Daley, Jesus G. Garcia, Joan Patricia Murphy, Edwin Reyes, Deborah Sims, Robert B. Steele, Larry Suffredin and Jeffrey R. Tobolski, County Commissioners.

PROPOSED ORDINANCE AMENDMENT

COOK COUNTY PARKING GARAGE AND OPERATIONS TAX ORDINANCE

WHEREAS, the County of Cook is a home rule unit of local government pursuant to Article VII, Section 6(a) of the 1970 Illinois Constitution; and

WHEREAS, pursuant to its home rule powers, the Cook County Board of Commissioners adopted an Ordinance to provide for a Parking Garage and Operations Tax on January 1, 2001; and

WHEREAS, the Cook County Department Revenue (Department) in the interest of fair and equitable enforcement seeks to clarify significant enforcement language by amending Section 74-511; and

WHEREAS, in the interest of fair and equitable enforcement the Department seeks to consistently apply the tax to valet parking operators that park motor vehicles at a parking lot or garage by amending Sections 74-512 and 74-513 respectively; and

WHEREAS, in the interest of fair and equitable enforcement the Department seeks to clarify the types of books or records to be maintained by amending Section 74-514; and

WHEREAS, the Department seeks to clarify parked vehicle ticket, tag and receipt enforcement criteria by amending Section 74-515; and

WHEREAS, in the interest of increasing monthly revenue collections, the Department

seeks to eliminate the 1% tax collector commission by amending Section 74-516; and

WHEREAS, the Department seeks the uniform application of violation fines, by amending Section 74-519.

NOW THEREFORE be it ordained, by the Cook County Board of Commissioners that Chapter 74, Article XIII, of the Cook County Code of Ordinances is hereby amended as follows:

Sec. 74-510. Short title.

This article shall be known and may be cited as the Cook County Parking Lot and Garage Operations Tax Ordinance.

Sec. 74-511. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Department or *Department of Revenue* means the County Department of Revenue.

Motor Vehicle means any vehicle that is self-propelled.

Operator means any person conducting the operation of a parking lot or garage, as defined by this article, or receiving consideration for parking or storage of motor vehicles at a parking place within Cook County.

Parking lot or *garage* means any building, structure, premises, enclosure or other place, whether enclosed or not, except a public way, within the County, where four or more motor vehicles are stored, housed or parked for hire, charge, fee or other valuable consideration in a condition ready for use, or where rent or compensation is paid to the owner, manager or lessee of the premises for the housing, storing, sheltering, keeping or maintaining of such motor vehicles.

Person means any individual, corporation, Limited Liability Corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity.

Valet Parking Operator means a person who employs one or more attendants for the purpose of providing a valet parking service or who contracts his own services, but not in the capacity of employee, to any business establishment, for the purpose of providing a valet parking service to such establishment located in Cook County.

Valet Parking Service means a parking service provided to accommodate patrons of any business establishment, which service is incidental to the business of the establishment and by which an attendant on behalf of the establishment takes temporary custody of the patrons' motor vehicle and moves, parks, stores or retrieves the vehicle for

the patrons' convenience.

Sec. 74-512. Tax imposed.

(a) A tax is imposed upon the use and privilege of parking a motor vehicle in or upon any parking lot or garage in the County. The tax shall be collected by operators and valet parking operators, as described in this article, from any person who seeks the privilege of occupying space in or upon any parking lot or garage.

~~(a) There is imposed upon the use and privilege of parking a motor vehicle in or upon any parking lot or garage in the County a tax based upon the parking charge or fee imposed by the operator for each motor vehicle parked in or upon each parking lot or garage.~~

(b) Valet Parking Operators are required to collect and remit the tax imposed by this article, for each motor vehicle parked at a Parking Lot or Garage, as described in this article; however the valet parking operator is not required to collect or remit the tax if the Valet Parking Operator pays the tax to the Operator, who shall remit the tax to the Department..

~~(b) The tax~~ rate ~~imposed by this article for the privilege of parking is as follows:~~

~~TABLE INSET:~~

(c) Tax rates

Parking Charge or Fee Time Period	*Imposed by Operator*	*Tax Amount*
24 hours or less	$3.00 or Less	$0.00
24 hours or less	$3.01 to $4.99	$0 .50
24 hours or less	$5.00 to $11.00	$0.75
24 hours or less	$12.00 or more	$ 1.00
Weekly	$15.00 or less	$00.00
Weekly	$15.01 to $24.99	$ 2.50
Weekly	$25.00 to $59.99	$3.75
Weekly	$60.00 or more	$5.00
Monthly	$60.00 or less	$00.00
Monthly	$60.01 to $99.99	$10.00
Monthly	$100.00 to $239.00	$15.00
Monthly	$240.00 or more	$20.00

(d)~~(c)~~ The ultimate incidence of and liability for payment of the tax is on the person who seeks the privilege of occupying space in or upon the parking lot or garage.

(e) The tax imposed by this section shall not apply to:

(1) Residential off-street parking of house or apartment or condominium occupants, wherein an arrangement for parking is provided in the house or apartment lease in a written agreement between the landlord and tenant;

(2) Residential parking provided for condominium occupants pursuant to a written agreement between the condominium association and the owner, occupant or guest of a unit owner, whether the parking charge is payable to the landlord, condominium association, or to the operator of the parking lot or garage; or

(3) To hospital and medical center employees parking at a parking lot or garage where the hospital or medical center is the employer and, as described in this article, operator.

~~(3) To hospital and medical employees at a hospital or medical center parking lot or garage.~~

(d) The amount of the tax due under this article shall be computed exclusive of any Federal, State or municipal taxes imposed.

Sec. 74-513. Registration.

Every operator and valet parking operator shall obtain a parking tax certificate of registration from the Department prior to the first date of commencing business. Application for registration shall be made on forms prescribed by the Department.

~~**Sec 74-513.**~~

~~Every operator and shall apply for registration as a tax collector with the Department no later than 30 days after commencing business. Application for registration shall be made to the Department by use of the form furnished by the Department for that purpose and shall contain such information as the Department may reasonably require.~~

Sec. 74-514. Maintenance of records.

(a) It shall be the duty of every operator to keep accurate and complete books and records to which the Director of Revenue shall, at all times, have full access. These books and records shall include all cash register or other receipts required by this article, all tickets and voided tags, and a daily sheet for each location showing:

(1) The number of motor vehicles parked in or on each lot or garage, segregated on a daily, weekly, monthly, or other basis, and also segregated by the amount of the charge or fee imposed for parking; and

(2) The actual parking lot or garage tax receipts collected from all parking transactions.

(3) Any other original source documents and books of entry denoting the transactions that gave rise, or may have given rise, to any tax liability, exemption or deduction or defense to liability

(b) All books and records required by this section shall be retained for not less than four years after the end of the calendar year in which they are created; provided, however, that an operator on an annual basis may request approval from the Director of Revenue to discard tickets or tags that were issued more than one year earlier, and the Director shall grant approval if the director determines that the operator's books and records satisfy the requirements of this article.

Sec. 74-515 Tickets; tags; receipts.

(a) Daily Parker Tickets. It shall be the duty of every operator to issue to all persons seeking the privilege of parking a motor vehicle on a daily basis a distinctive ticket in the form and manner provided by this section. Tickets shall be issued by the operator in numerical sequence.

(b) Daily Parker Ticket Detail. Each ticket issued by an operator shall indicate the name of the operator and the address of the parking lot or garage upon or in which the motor vehicle is parked. Unless the parking lot or garage is equipped with an automated ticket dispenser which triggers the opening of a gate, tickets shall consist of three parts; one part shall be issued by the operator to the recipient, one part shall be retained by the operator, who shall indicate on the back thereof the time of arrival and departure of the motor vehicle, and one part shall be attached to the parked motor vehicle for the purpose of identification. All three-part tickets shall contain the same serial number on each part of the ticket.

(c) Valet Parking tickets. All valet parking attendants must, upon taking custody of a patron's Motor Vehicle, for the purpose of parking such Motor Vehicle in or upon any Parking Lot or Garage, issue a distinctive ticket in the form and manner provided by this section, such tickets or receipts shall be issued in numerical sequence.

(d) Valet Parking ticket detail. Each ticket issued by the valet parking operator shall indicate the name, address and telephone number of the company providing the valet service, the time and date the valet parking operator took custody of the vehicle, and the license plate number of the vehicle. Prior to returning custody of the vehicle to each customer the valet parking attendant must time stamp the ticket with the time, date the valet parking operator surrendered custody of the vehicle, and indicate the amount of tax paid.

(e) Weekly; monthly parking tags.

~~(d)~~ Every operator shall require a tag to be attached to each motor vehicle that is permitted to park on a weekly or monthly basis, or other basis longer than one day. Each tag shall show the name of the operator and address of the parking lot or

garage upon or in which the motor vehicle parked; an identification number; the number and issuing state of the license plate of the parked motor vehicle; and whether the motor vehicle is parked on a weekly or monthly or other basis longer than one day, indicating starting and ending dates of the week, month or other period. Tags shall be issued by the operator in numerical sequence.

(f) Tag Book.

~~(e)~~ The operator shall keep a book record of all tags issued, showing each tag's date of issuance, identification number and parking charge imposed. The operator shall remove, or cause to be removed, and shall void each tag at the end of the week, month or other applicable period, and shall cause a new tag to be attached to the motor vehicle at the beginning of each new period.

(f) Parking receipts.

~~(e)~~ It shall be the duty of every operator and valet parking operator to issue a receipt to all persons seeking the privilege of parking a motor vehicle on a daily basis. The receipt shall indicate the parking charge paid and the amount of tax paid. The operator shall maintain records showing the number of motor vehicles parked, the total charges paid and the amount of tax collected for each range of parking charges described in Section 74-512.

~~**Sec 74-516. Tax remittance and returns; commission.**~~

Sec. 74-516. Tax remittance and returns.

(a) Every operator and valet parking operator shall file, on forms prescribed by the Department, a remittance return and remit all taxes due on or before the 20th day of the month following the month for which the tax is due Every operator and valet parking operator shall file a monthly return even when no tax is due.

~~**Sec. 74-516. Tax remittance and returns; commission.**~~

~~(a) On or before the last day of each calendar month, every operator shall file with the Department of Revenue a remittance return and remit all taxes due for the preceding calendar month. The return shall be filed on a form prescribed by the Director of Revenue, containing such information as the Director of Revenue may reasonably require.~~

~~(b) Operators may retain a commission of one percent of the parking tax they collect to reimburse themselves for expenses incurred in connection with collecting, accounting for and remitting the tax. This commission shall not be allowed for taxes not timely remitted to the Department of Revenue or for periods during which an operator is not in compliance with the tickets, tag or receipt requirements contained in this article.~~

~~(c) In addition to any other information required by the Director of Revenue, every operator shall report on the remittance return the total amount of charges collected from recipients during the preceding calendar month for the privilege of parking a motor~~

~~vehicle in or upon a parking lot or garage located in the County~~

~~**Sec. 74-517. Rules and regulations.**~~

Sec. 74-517 . Fines.

Any person determined to have violated this article, as amended, shall be subject to a fine of $1,000.00 for the first offense, and a fine of $2,000.00 for the second and each subsequent offense. Separate and distinct offense shall be regarded as committed each day upon which said person shall continue any such violation, or permit any such violation to exist after notification thereof. It shall be deemed a violation of this article for any person to knowingly furnish false or inaccurate information to the Department. Criminal prosecution pursuant to this article shall in no way bar the right of the County to institute civil proceedings to recover delinquent taxes, interest and penalty due and owing as well as costs incurred for such proceeding.

Sec 74-518. ~~Sec. 74-517.~~ Rules and Regulations.

The Director of Revenue is authorized to adopt, promulgate and enforce rules and regulations pertaining to the administration and enforcement of this article.

Sec 74-519. ~~Sec. 74-518.~~ Application of uniform penalties, interest and procedures.

Whenever not inconsistent with the provisions of this article or whenever this article is silent, the provisions of chapter 34, article III, Uniform Penalties, Interest and Procedures Ordinance, shall apply and supplement this article.

***Referred to the Committee on Finance on 2/1/11.**

Commissioner Steele, seconded by Commissioner Suffredin, moved approval of the Proposed Ordinance Amendment (Communication No. 310968). Commissioner Beavers called for a roll call, the vote of yeas and nays being as follows:

Roll Call on Motion to Approve a Proposed Amendment to the Parking Lot and Garage Operations Tax Ordinance (Communication No. 310968)

Yeas: **Chairman Daley and Commissioners Gainer, Garcia, Gorman, Goslin, Murphy, Schneider, Silvestri, Vice Chairman Sims, Steele, Suffredin, and Tobolski (12)**

Nays: **Commissioners Beavers and Collins (2)**

Absent: **Commissioners Butler, Fritchey, and Reyes (3)**

The motion carried and the Proposed Amendment to the Parking Lot and Garage Operations Tax Ordinance (Communication No. 310968) was approved and adopted.

Chairman Daley then called the next item on the agenda, Communication No. 310969, for consideration.

310969 **AMENDMENT TO THE UNIFORM PENALTIES, INTEREST AND PROCEDURES ORDINANCE** (PROPOSED ORDINANCE AMENDMENT). Submitting a Proposed Ordinance Amendment sponsored by Toni Preckwinkle, President, Jerry Butler, John P. Daley, Jesus G. Garcia, Joan Patricia Murphy, Edwin Reyes, Deborah Sims, Robert B. Steele, Larry Suffredin and Jeffrey R. Tobolski, County Commissioners.

PROPOSED ORDINANCE AMENDMENT

UNIFORM PENALTIES, INTEREST AND PROCEDURES ORDINANCE

WHEREAS, the County of Cook is a home rule unit of local government pursuant to Article VII, section 6(a) of the 1970 Illinois Constitution; and

WHEREAS, pursuant to its home rule powers, the Cook County Board of Commissioners adopted the "Uniform Penalties, Interest and Procedures Ordinance" on December 1, 1992 and has adopted subsequent amendments; and

WHEREAS, the "Uniform Penalties, Interest and Procedures Ordinance" provides supplemental uniform Home Rule Tax enforcement policies and procedures; and

WHEREAS, the Cook County Department of Revenue (Department) seeks to clarify the application of this ordinance, significant definitions, tax collector duties, by amending Section 34-61, 34-62, and Section 34-63, respectively; and

WHEREAS, the Department seeks to enhance fair and equitable enforcement penalties applied to failure of a tax collector to file a return when no tax is due; incomplete tax returns or remittances by amending Section 34-72, 34-73 and 34-74, respectively; and

WHEREAS, the Department seeks reimbursement from Home Rule Tax violators for additional collection or legal costs or processing costs incurred by amending Section 34-90; and.

WHEREAS, the Department seeks to enhance voluntary compliance by the inclusion of its on-going Home Rule Tax Voluntary Disclosure Program in this ordinance by amending Section 34-93; and implement a Home Rule Tax enforcement Tip Line by amending Section 34-95.

NOW, THEREFORE, BE IT ORDAINED, by the Cook County Board of Commissioners that Cook Count Code of Ordinances, Article III, Chapter 34, Uniform Penalties, Interest and Procedures Ordinance, Section 34-60 – 34-96 is hereby amended as follows:

ARTICLE III UNIFORM PENALTIES, INTEREST AND PROCEDURES.

Sec. 34-60. Short title.

This article shall be known and may be cited as the Uniform Penalties, Interest and Procedures Ordinance.

~~**Sec. 34-61 Definitions.**~~

Sec 34- 61 Application; tax ordinances and franchise fees.

~~**Sec. 34-62. Application.**~~

(a) This article shall supplement all other County tax ordinances administered by the Cook County Department of Revenue

~~**Sec 34-63. Franchise fees.**~~

(b) All of the provisions of this article are applicable to the collection of franchise fees payable pursuant to chapter 78, article II of this Code, Cable Television.

~~(b)~~ (c) Provisions of this article shall apply to the extent that they are not inconsistent with the provisions of other applicable ordinances and to the extent other ordinances are silent.

~~**Sec 34-62. Application.**~~

Sec. 34-62. Definitions.

The following words, terms and phrases, when used in this division shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Department or Department of Revenue means the Cook County Department of Revenue.

Director or Director of Revenue means the Director of Revenue of the County.

Franchise fee means any cable television franchise fee payable to the County pursuant to chapter 90, article II of this Code.

Hearing officer means an administrative law officer or administrative law judge appointed by the Director of the Department of Administrative Hearings, to conduct hearings and to make final determination regarding taxpayer or tax collector petitions and protests as to any issue arising under the provisions of this article or under any other ordinance that imposes a fee or tax administered by the

Department.

Person means any individual, corporation, limited liability corporation, organization, government, governmental subdivision or agency, business trust,

Processing Fee means all costs, incurred by the Department, associated with the Department's effort to search for or obtain information required to process incomplete or incorrect payment documents, remittance forms, tax returns, or other similar documents received from tax collectors, taxpayers or other County debtors.

Tax means any sum, other than interest, penalties or fines, payable pursuant to a tax ordinance administered by the Department.

Tax collector means any person required to collect and remit any tax payable to the Department.

Tax ordinance means any ordinance passed by the County Board that imposes a fee or tax administered by the Department.

Tax remittance means all tax monies collected from taxpayers by a tax collector which are required to be paid to the Department.

Taxpayer means any person required to pay any tax and upon whom the legal incidence of the tax is placed.

~~**Sec. 34-63. Franchise fees.**~~

Sec. 34-63. Tax as debt; books and records; duty to produce documents; burden of proof.

~~**Sec. 34-89. Tax collector funds as debt to County.**~~

(a) Tax as debt.

Any tax required to be collected by any tax collector under any tax ordinance and any tax in fact collected by a tax collector shall be collected in trust for the County and shall constitute a debt owed by the tax collector to the County.

~~**Sec. 34-78. Maintaining books and records.**~~

(b) Maintaining books and records.

Every taxpayer and tax collector shall keep accurate books and records of its business or activity, including original source documents and books of entry denoting the transactions that gave rise, or may have given rise, to any tax liability, exemption or deduction or defense to liability. Books and records and other papers relating to transactions which occurred during any period with respect to which the Department is authorized to issue notices of tax liability as

provided by Sections 34-64, 34-65 and 34-75 shall be preserved until the expiration of such period unless the Department, in writing, authorizes their destruction or disposal prior to such expiration. All those books and records shall be kept in the English language and, at all times during business hours, shall be subject to and available for inspection or copying by the Department.

~~**Sec. 34-79. Duty to produce documents.**~~

(c) Duty to produce documents.

~~(a)~~ (1) If, during an audit or investigation, any taxpayer or tax collector fails to make its books and records available for inspection by the Department, the Director may serve written notice by United States registered or certified mail or by personal service on the person being audited or investigated to produce the requested documents within 45 days from the date the notice is served. The Director may extend the 45-day time limit.

~~(b)~~ (2) If, the taxpayer or tax collector fails to provide the documents requested in Subsection (a) of this section within the required time:

~~(1)~~ (a) The Director may issue a tax determination and assessment based on the best estimate of the person's tax liability; or

~~(2)~~ (b) The Director may issue a subpoena requiring the attendance of any person having personal knowledge of any relevant facts and may issue subpoenas duces tecum for the production of books, records, papers or memoranda. In addition, the Director may issue a citation for each day beyond the 45-day time limit, or extension thereof, that the documents are not tendered and may request the State's Attorney to bring, or cause to be brought, an action to impose fines for disobeying or refusing to comply with request made under this section. Fines shall be as provided for in Section 34-92.

~~**Sec. 34-76. General presumptions and burden of proof.**~~

(d) *Burden of proof.*

It shall be presumed that any tax, interest or penalty assessed by the Director is due and owing until the contrary is established. The person assessed has the burden of proving with documentary evidence, books and records that any tax, interest or penalty assessed by the Director is not due and owing.

Sec 34-64. General Powers.

(a) In addition to the powers provided in other tax ordinances, the Director may adopt, promulgate, and enforce rules and regulations pertaining to the administration and enforcement of the provisions of this article and any tax ordinance.

(b) The Director:

(1) May correct or amend any tax return or remittance return at any time.

(2) Is authorized to determine and assess any tax, interest or penalty due under this article, or under any tax ordinance, and may amend a tax determination and assessment at any time before it becomes final. Any tax determination and assessment, or amended tax determination and assessment, shall be deemed prima facie correct and the burden shall be on the person assessed to prove the contrary.

(c) The Department is authorized to examine the books and records of any taxpayer or tax collector during business hours to verify the accuracy of any return made or, if no return was made, then to ascertain and assess the tax imposed by any tax ordinance.

(d) In the course of any audit, investigation or other inquiry, the Director may require any taxpayer or tax collector to file information on a form prescribed and furnished by the Department.

(e) The Director may provide by rule for a conference between a taxpayer or tax collector and a representative of the Department to be held after the audit of the taxpayer or tax collector is completed, but before the Tax Director issues a tax determination and assessment.

(f) The Director may compromise all disputes in connection with any tax, interest or penalty due or any tax, interest or penalty assessed.

Sec. 34-65. Power to issue assessments.

The Director may determine and assess the amount of any tax due and unpaid, together with applicable interest and penalties, if it appears that:

(1) A person has violated any provision of this article, or any tax ordinance, or any rule or regulation promulgated under this article or any tax ordinance;

(2) The amount of any tax payment or remittance is incorrect because it does not include all taxes due and owing;

(3) Delay will jeopardize the collection of any accrued taxes that are not yet due or payable, and the Director declares these taxes to be immediately due and payable;

(4) The Director has made any final assessment which did not include all taxes, interest and penalties payable for the periods involved; or

(5) Any person by reason of any act or omission, or by operation of law, has become liable for the payment of any taxes, interest or penalties not originally incurred by that person.

~~**Sec. 34-66. Filing and publication of rules and regulations.**~~

Sec. 34-66 Application of payment.

Any payment or remittance received for a tax period will be applied first to penalties for the period, then to interest due for the period, and then to the tax due for the period.

~~**Sec. 34-67. Notice.**~~

Sec. 34-67 Interest.

(a) If a tax ordinance does not impose an interest charge for late payment, underpayment or nonpayment of the tax imposed by the ordinance, an interest charge of 1.25 percent per month, or fraction thereof, shall apply to any late tax payment or tax remittance or unpaid or un-remitted tax liability.

(b) Notwithstanding Subsection (a) of this section, if the Department requests and obtains a taxpayer's or tax collector's written consent to extend the time to initiate or complete an audit of the taxpayer's or tax collector's books and records beyond the date when the statute of limitations would run on the Department's right to issue a tax determination and assessment, no interest shall accrue from the date written consent is received by the Department to the date the Department issues the notice of tax determination and assessment.

(c) Notwithstanding Subsection (a) of this section, if a hearing is held pursuant to Section ~~34-95~~ 34-80 in connection with a tax determination and assessment, and the director does not issue a final assessment within 90 days of the latest of the following:

(1) The conclusion of the hearing;

(2) The latest date (including extensions) on which any motion, brief or memorandum became due;

(3) The latest date on which the protesting party filed any motion, brief or memorandum; or

(4) The date on which the transcript of the hearing is delivered to the Department, no interest shall accrue on the tax liability from the end of the applicable 90-day period to the date that the Director issues the final assessment.

~~**Sec. 34-68. Postmark rule.**~~

Sec 34-68 Late penalties.

(a) If a tax ordinance does not impose a penalty for late filing of a tax return or remittance return required by the ordinance and the return is not filed within the time or in the manner provided by the ordinance, a late filing penalty equal to ten percent of the total tax due applies for the period for which the return is being filed. This penalty does not apply if the failure to file penalty provided by Section 34-82 applies.

(b) If a tax ordinance does not impose a penalty for late payment or remittance of the tax imposed by the ordinance and the tax is not paid or remitted within the time provided by this article, a late payment or remittance penalty equal to ten percent of the tax due and not timely paid or remitted applies. However, this penalty does not apply if a late filing penalty as provided in Subsection (a) of this section applies.

(c) If the Director determines that the taxpayer or tax collector had reasonable cause for any of the following:

(1) Paying late;

(2) Remitting late;

(3) Underpaying the applicable tax;

(4) Filing a late or incomplete tax return; or

(5) Filing a late or incomplete remittance return, the applicable penalty shall be waived.

~~**Sec. 34-69. Alternative methods of transmitting payment.**~~

Sec 34-69 Failure to file penalty.

If a tax ordinance does not impose a penalty for failure to file a tax remittance return required by the ordinance and no return is filed prior to the Department issuing a notice of tax deficiency or a notice of tax liability to the taxpayer or tax collector, a failure to file penalty equal to 25 percent of the total tax due for the applicable reporting period applies, unless the Director determines that the failure to file a return was due to reasonable cause. This penalty may apply in addition to any late payment or remittance penalty provided by Section 34-68(b).

~~**Sec. 34-70. Confidentiality.**~~

Sec 34-70 Negligence or willfulness penalty.

(a) If a tax ordinance does not impose a penalty for negligent or willful failure to pay or remit the tax imposed by the ordinance, a penalty equal to 25

percent of the tax due and unpaid applies if the taxpayer or tax collector negligently or knowingly failed to pay or remit the tax.

(b) This penalty may apply in addition to any late penalty provided by Section 34-68, but will not apply if a failure to file penalty as provided by Section 34-69 applies.

~~**Sec. 34-71. Application of payment.**~~

Sec. 34-71 Failure to remit collected taxes penalty.

(a) If a tax collector:

(1) Collects any tax imposed by any tax ordinance; and

(2) Knowingly fails to remit the tax collected to the Department before the Department issues a notice of tax deficiency or notice of tax liability, a penalty equal to 50 percent of the total tax collected and not remitted applies, unless the Director determines that the failure to remit collected taxes was due to reasonable cause.

(b) This penalty may apply in addition to the failure to file penalty provided by Section 34-82 or, if the tax collector negligently or willfully failed to remit the tax, this penalty applies in addition to the negligence or willfulness penalty provided by Section 34-83.

(c) For any tax liability to which the failure to remit collected taxes penalty applies, the late penalties provided by Section 34-68 do not apply.

~~**Sec. 34-72. Credits and refunds.**~~

Sec 34-72. Failure to file no liability return penalty.

If a registered tax collector fails to file a return and the Department issues a notice of tax delinquency but subsequently determines no tax is due, a penalty of $200.00 shall apply.

~~**Sec. 34-73. Disposition of claims.**~~

Sec 34-73. Incomplete; Incorrect return or remittance penalty.

For Tax Collectors who file an incomplete or incorrect tax return or remittance document, a penalty of $200.00 shall apply.

~~**Sec. 34-74. Survival of liability.**~~

Sec. 34-74. Processing Fees.

A processing fee, as described in Sec 34-62 of this Article, in the amount of $25.00, shall apply to each incomplete or incorrect remittance documents received.

~~**Sec. 34-75. Time limitation.**~~

Sec 34-75. Non sufficient funds check provision.

If payment or remittance of any tax is made by check and if the financial institution on which the check is drawn refuses to honor the check, it shall be treated as if no tax payment or remittance was made and, in addition, a non sufficient funds check processing fee in an amount provided by rule applies. This fee shall be in addition to any fine, penalties or interest provided by this article or any tax ordinance.

~~**Sec. 34-76. General presumptions and burden of proof.**~~

Sec. 34-76. Reasonable cause standards.

The Director may promulgate standards for determining reasonable cause. If the Director does not promulgate standards, the reasonable cause determination shall be made by applying the reasonable cause criteria of the United States Internal Revenue Service, as these standards may be amended.

~~**Sec. 34-77. Bulk sales or transfers.**~~

Sec. 34-77. Statute of Limitations.

(a) Except as otherwise provided in Subsections (b), (c), and (d) of this section, the Director shall not issue any notice of tax determination and assessment for any period more than seven years after the end of the calendar year in which the return for the period was filed with the Department or the end of the calendar year in which the return for the period was due, whichever is later.

(b) No statute of limitations applies where:

(1) A fraudulent tax return or remittance return was filed;

(2) No tax return or remittance return was filed;

(3) No tax payment or tax remittance was paid or if a payment or remittance was made, the amount paid or remitted was less than 75 percent of the tax due; or

(4) The person agrees to waive the applicable statute of limitations.

(c) If for any tax, during any seven-year period for which the Director may issue a notice of tax determination and assessment, the tax paid or remitted

was less than 75 percent of the tax due for that period, no statue of limitations applies to that tax and the Director may issue a notice of tax determination and assessment for any and all past periods.

(d) If an amended return was filed for any tax period, the seven-year period shall commence at the end of the calendar year in which the amended return was filed. However, the Department shall not issue a notice of tax determination more than six years after the original return was filed.

(e) This time limitation on the issuance of notices of tax determination and assessment shall apply only to returns filed or payments due after April 1, 1993.

~~**Sec. 34-78. Maintaining books and records.**~~

Sec. 34-78. Notice.

(a) Unless otherwise provided, when the Department or the Director is required to give notice under this article, or under any County tax ordinance, notice may be given by:

(1) United States registered, certified or first class mail, addressed to the person concerned at the person's last known address; or

(2) Personal service.

(b) Unless otherwise provided, whenever notice is required to be given, it shall be given not less than seven calendar days prior to the day fixed for any hearing or the doing of any act by the Department, the Director, or any agent or employee of the Department.

(c) Any person who is entitled to notice under this article or under any County tax ordinance, who, after due diligence, cannot be located by the Department shall be deemed to appoint the County Clerk as agent for the service of notice or process in any matter arising under this article or under any tax ordinance. Notice or process shall be served by the Department on the County Clerk by leaving at the office of the County Clerk, at least 15 days prior to the event specified in the notice, a true and certified copy thereof, and by sending to the person by registered or certified mail, postage prepaid, a like and true certified copy, with an endorsement thereof of service on the County Clerk, addressed to the person's last known address. Service of notice or process in this manner shall have the same force and validity as if served on the person personally.

~~**Sec. 34-79. Duty to produce documents.**~~

Sec. 34-79 Postmark Rule.

Unless otherwise provided, any notice, payment, remittance or other filing required to be made with the Department under this article, or under any County tax ordinance, shall be considered late unless it is either:

(1) Actually received by the Department on or before the due date;

(2) Received in an envelope or wrapper displaying a valid, readable United States mail postmark dated on or before the due date, properly addressed to the Department, with adequate postage prepaid; or

(3) If mailed but not received by the Department, or if received but without a cancellation mark or with the cancellation mark illegible or erroneous, if the sender established by competent evidence that the writing or payment was deposited, properly addressed, in the United States mail on or before the date on which it was required or authorized to be filed or was due. In cases in which the writing or payment was mailed but not received, the sender must also file with, or pay to, the Department a duplicate writing or payment within 30 days after written notification is given by the Department to the person claiming to have sent the writing or payment, of its non-receipt of the writing or payment. If a writing or payment is sent by United States registered mail, certified mail or certificate of mailing, a record authenticated by the United States Postal Service of such registration, certification or certificate shall be considered competent evidence that the writing or payment was mailed. The date of registration, certification or certificate shall be deemed the postmarked date.

~~**Sec. 34-80. Interest.**~~

Sec. 34-80. Right to protest tax determination and assessment.

(a) Any person to whom the Director issues a tax determination and assessment shall be given written notice of the tax determination and assessment along with written demand for payment.

The person named in the tax determination and assessment may file with the Department a written protest and petition for hearing. The written protest and petition must be filed within 20 days of mailing the notice of tax determination and assessment by the Department.

(b) If a timely written protest and petition for hearing is filed, the Director shall fix the time and place for the hearing and shall give written notice thereof.

(c) If a written protest and petition for hearing is not filed within the 20-day period, the tax determination and assessment shall become a final

assessment without further notice and without the necessity of a final assessment being issued the day after the last date for which a protest can be filed.

(d) In the event that a tax determination and assessment is amended, the Department shall give the affected person written notice and an opportunity to be heard with respect to the amendment.

~~**Sec. 34-81. Late penalties.**~~

Sec. 34-81. Hearing procedures.

(a) When a taxpayer or tax collector files a timely written protest and petition for hearing, the Director shall refer the case to the Department of Administrative Hearings who shall conduct the hearing. The hearing officer is authorized to conduct hearings concerning any matter covered by this article or any tax ordinance administered by the Department and may determine the factual and legal matters raised by the parties to the hearing. However, the hearing officer shall not hear or decide any claim that any ordinance is unconstitutional on its face or that the County Board did not have authority to enact the ordinance.

(b) The hearing officer may:

(1) Examine any books, papers, records or memoranda bearing upon the business or activities of the taxpayer or tax collector;

(2) Request the Circuit Court to issue subpoenas requiring the attendance of any person having personal knowledge of any contested issue;

(3) Request the Circuit Court to issue subpoenas duces tecum for the production of books, records, papers, or memoranda;

(4) Administer oaths;

(5) Take testimony;

(6) Make rulings as to the admissibility of evidence; and

(7) Take any other action as may be required for the expeditious conduct of the hearing.

(c) The hearing officer is not bound by the technical rules of evidence. No informality in any proceeding or in the manner of taking testimony or receiving evidence shall invalidate any order, decision, ruling or recommendation of the hearing officer or decision or final assessment of the Director.

(d) The Department's books, papers, records and memoranda or parts thereof may be proved in any hearing or legal proceeding by the original documents or by reproduced copy under the certificate of the Director. Without further proof, the original documents or reproduced copy shall be admissible into evidence before the Department.

(e) If the Circuit Court issues a subpoena or a subpoena duces tecum, the following rules shall apply:

(1) Service shall be made as provided by the Code of Civil Procedure, (735 ILCS 5/1-101 et seq.);

(2) Fees of witnesses for attendance and travel shall be the same as the fees of witnesses before the Circuit Court of Cook County and shall be paid after the witness is excused from further attendance;

(3) When a subpoena or subpoena duces tecum is issued at the instance of either party, the hearing officer may require that party to bear the cost of service and witness fees. The hearing officer may require a deposit to cover the cost of service and witness fees.

(f) Any party to a hearing may apply to any judge of the Circuit Court of this State for enforcement of any subpoena or subpoena duces tecum issued by a hearing officer holding a hearing authorized by this article.

(g) The following provisions shall apply to hearings:

(1) At any hearing held under this article, the tax determination and assessment shall be prima facie correct and the protesting party shall have the burden of proving with books, records and other documentary evidence that is incorrect.

(2) At the conclusion of a hearing, the hearing officer shall issue a final assessment.

(3) The protesting party shall be given written notice of the hearing officer's decision and final assessment. This notice shall contain the Director's statement of the cost of certifying the record to the Circuit Court of Cook County, computed at the rate of $0.20 per page. The party seeking judicial review of the hearing officer's decision and final assessment shall bear the cost of certification. If the protesting party prevails on appeal, the Department shall reimburse that party for cost of certification.

(4) Items constituting the record may include notices and demands; the initial and any amended tax determinations and assessments; the written protest and petition for hearing; all relevant pleadings,

briefs and memoranda of law; evidence admitted at the hearing; the transcribed testimony given at the hearing; and the decision and final assessment of the hearing officer.

(h) Nothing in this Ordinance shall limit the powers and duties of the hearing officers, as authorized by Chapter 2, Article IX of the Cook County Code.

~~**Sec. 34-82. Failure to file penalty.**~~

Sec. 34-82. Officer and employee liability.

(a) Any officer or employee of any taxpayer or tax collector who controls, supervises, or is responsible for filing tax returns or remittance returns or who is responsible for paying or remitting any tax imposed by any tax ordinance, and who willfully fails to file any applicable return or willfully fails to pay or remit any applicable tax, interest or penalty shall be personally liable for a penalty equal to all those amounts due and owing.

(b) The personal liability of any person described in Subsection (a) of this section shall survive the dissolution of the taxpayer or tax collector.

~~**Sec. 34-83. Negligence or willfulness penalty.**~~

Sec. 34-83. Determination of officer and employee liability.

(a) The Department shall determine a penalty due under this section according to its best judgment and information, and that determination shall be prima facie correct and shall be prime facie evidence of a penalty due under this section. Proof of such determination by the Department shall be made at any hearing before it or in any legal proceeding by a reproduced copy of the Department's record relating thereto in the name of the Department under the certificate of the Director. The reproduced copy shall, without further proof, be admitted into evidence before the Department or in any legal proceeding and shall be prima facie proof of the correctness of the penalty due, as shown thereon. The Department shall in every case issue a notice of penalty liability for the amount claimed by the Department pursuant to this section. Procedures for protest and review of a notice of penalty liability issued under this section and assessment of the penalty due hereunder shall be the same as those prescribed for protest and review of a notice of tax liability and the assessment of tax liability under this article as set forth in Sections 34-65, 34-94 and 34-95. No notice of penalty liability shall be issued after the expiration of four years after the date all proceedings in court for the review of any final or revised final assessments issued against a taxpayer or tax collector which constitute the basis of such penalty liability have terminated or the time for the taking thereof has expired without such proceedings being instituted or after the expiration of four years after the date any return is filed with the Department by a taxpayer or tax collector in cases where the return constitutes the basis of such liability. Interest shall accrue on that portion of the penalty imposed by this section which represents the tax unpaid by the taxpayer or tax collector at the same rate and in

the same amount as interest accrued on the tax unpaid by the taxpayer or tax collector.

(b) In addition to any other remedy provided for by the laws of this State, and provided that no hearing or proceedings for review provided by this article which is pending, any section of this article which provides a means for collection of taxes shall in the same manner and to the same extent provide a means for the collection of the penalty imposed by this section. The procedures for the filing of an action for collection of the penalty imposed by this section shall be the same as those prescribed for the filing of an action for collection of the tax assessed. The time limitation period on the Department's right to bring suit to recover the amount of tax, or portion thereof, or penalty or incompetent to file a claim thereof against their estate, shall not run during:

(1) Any period of time in which the order of any court has the effect of enjoining or restraining the Department from bringing a suit or claim against the officer or employee;

(2) Any period of time in which the order of any court has the effect of enjoining or restraining the Department from bringing suit or initiating other proper proceedings for the collection of those amounts from the taxpayer or tax collector; or

(3) Any period of time the officer or employee departs from and remains out of the State; but the foregoing provisions concerning absence from the State shall not apply to any case in which, at the time when a tax or penalty becomes due under this division, the person allegedly liable therefore is not a resident of this State.

~~**Sec. 34-84. Failure to remit collected taxes penalty.**~~

Sec. 34-84. Survival of liability.

If a deceased person owes any tax, penalty, or interest to the County, the Director may request that a claim against the decedent's estate be made.

~~**Sec. 34-85. Reasonable cause standards.**~~

Sec 34-85. Fines.

(a) Any person found guilty of violating, neglecting, disobeying or refusing to comply with any of the provisions of this article, or of any tax ordinance, shall be subject to a fine of ~~not less than $50.00 nor more than $200.00~~ $1,000.00 for the first offense and ~~not less than $300.00 nor more than $500.00~~ $2,000.00 for the second and each subsequent offense. All actions seeking the imposition of fines only shall be filed as quasi-criminal actions subject to the provisions of the Code of Civil Procedure (735 ILCS 5/1-101 et seq.).

(b) Any person found guilty of more than three repeated offenses with

any 180-day period shall, in addition to the fines provided in Subsection (a) of this section, be subject to punishment by incarceration for a term not to exceed six months as provided by the Code of Criminal Procedure of 1964 (725 ILCS 5/100-1 et seq.).

(c) A separate and distinct offense is committed for each day a person continues any violation or permits any violation to exist, after having actual notice thereof.

~~**Sec. 34-86. Non-sufficient funds check provision.**~~

Sec. 34-86. Suit to enforce payment.

If any person fails to pay or remit any tax, interest or penalties, upon request of the Department, the State's Attorney may bring, or cause to be brought, an action to enforce payment.

~~**Sec. 34-87. Officer and employee liability.**~~

Sec. 34-87. License suspension and revocation.

(a) Any license, permit, registration or franchise issued by the County may be suspended or revoked by the issuing authority if it is determined after a hearing that the licensee, or any person controlled by the licensee, has willfully failed to pay or remit any tax, interest or penalty due. No license shall be suspended or revoked under this subsection if, within ten days after the issuance of a license suspension or revocation order, the total tax liability, including interest and penalties, is paid.

(b) Written notice of the hearing shall be given to the licensee at the licensee's last know address not less than seven days before the hearing is to be held.

(c) No action taken under this section shall release or discharge any person who is responsible for paying or remitting any tax from civil liability or from prosecution for any violation of this article or any tax ordinance.

~~**Sec. 34-88. Determination of officer and employee liability.**~~

Sec. 34-88. Liens and right to levy.

(a) To secure payment of any final assessment of any tax, interest or penalty due from a final assessee, the County shall have a lien upon all the real and personal property of the person assessed, which is located or found within the County, including all real or personal property acquired after the date on which any final assessment was issued.

(b) A tax lien shall not be effective against any bona fide purchaser for value of any item purchased in the usual and ordinary course of business from a

person's stock in trade. The Department shall file a tax lien upon the property to be encumbered:

(1) For real property, with the Recorder of Deeds of the County, or similar jurisdiction, in which the real property is located;

(2) For personal property, with the Recorder of Deeds of the County and with the Secretary of State of the State. At least ten days prior to filing a lien, the Department shall give notice to the final assessee of its intent to file the lien.

(c) Nothing in Subsection (a) of this section shall be construed to give the County a preference over the rights of any bona fide purchaser, mortgagee, judgment creditor or other lien holder who perfected its lien prior to the filing of the Department's lien.

(d) In addition to any other remedy provided by this article or otherwise by law, the County may foreclose on its lien on real or personal property to the same extent and in the same manner as in the enforcement of other liens. No proceedings to foreclose shall be instituted more than seven years after the filing of the Department's lien, except that this period shall not run:

(1) For the period of time in assessment that forms the basis for the lien; or

(2) For the duration of any judicial order enjoining or restraining the Department for instituting foreclosure proceedings.

(e) All fees for the recording of notices of liens or release of liens shall be added to the sum payable by the final assessee.

~~**Sec. 34-89. Tax collector funds as debt to County.**~~

Sec. 34-89. Survival of liability.

If a deceased person owes any tax, penalty, or interest to the County, the Director may request that a claim against the decedent's estate be made.

~~**Sec. 34-90. Suit to enforce payment.**~~

Sec 34-90. Credit and refunds.

~~**Sec. 34-72. Credits and refunds.**~~

(a) If it appears that an amount of tax, interest or penalty has been paid or remitted in error to the Department, the taxpayer or tax collector may file a claim for credit or refund. However, no person shall be eligible for a credit or refund unless the person paid or remitted the tax, interest or penalty directly to

the Department.

(b) Any claim for a credit or refund must be filed in writing on forms provided by the Department not later than four years from the date on which payment or remittance in error was made.

(c) The Department shall allow a claim for credit or refund only for sums paid or remitted through a mistake of fact, an error of law or as provided by Subsection (d) of this section.

(d) No credit or refund shall be allowed for any amount paid or remitted in error unless:

(1) In the case of a claim for credit or refund by a taxpayer, the taxpayer either:

a. Bore the burden of paying the tax and did not shift the burden to another person; or

b. Shifted the burden of paying the tax to another person; but has unconditionally repaid the tax to that person.

(2) In the case of a claim for credit or refund by a tax collector, the tax collector has unconditionally repaid the tax collected to the person from whom it was collected.

(e) No credit or refund shall be allowed for any sum paid or remitted in satisfaction of, or in settlement of, any claim for taxes, interest or penalties asserted by the Department.

(f) A claim for credit or refund shall be acknowledged in writing by the Director. The written acknowledgement shall identify the claim and state the date upon which it was received.

~~**Sec. 34-91. Liens and right to levy.**~~

Sec. 34-91. Disposition of claims.

(a) As soon as practicable after a claim for credit or refund is filed, the Director shall examine the credit or refund request and determine the amount of credit or refund due, if any, and shall issue a written notice to the claimant of a tentative determination.

(b) The tentative determination of claim shall be prima facia correct and the claimant has the burden of proving with books, records, or other documentary evidence that the determination is incorrect.

(c) If the claimant disagrees with the tentative determination, the claimant may file with the Department a written protest. The written protest must

be filed within 20 days of mailing the written notice of tentative determination of claim.

(d) Upon the receipt of a timely protest, the Director shall fix the time and place for hearing, by giving written notice to the claimant.

(e) Any hearing held under this section shall be governed by the procedures set forth in Section 34-70.

(f) Upon conclusion of the hearing, the hearing officer shall make a recommendation to the Director. The Director shall adopt, reject or modify the recommendation based on a review of the record and shall issue a final determination. Written notice of the Director's final determination shall be given to the claimant.

(g) If the claimant fails to file a timely written protest, the tentative determination shall become final without further notice the day after the last day for protest.

(h) The Director may issue to a claimant a letter of credit if the director determines that a claimant may be able to use the credit in the foreseeable future or may issue a refund certificate, in lieu of a letter of credit, on application by a claimant who cannot use, sell or assign a letter of credit. Refund certificates shall be numbered serially as issued and shall be paid in the order of issuance from funds appropriated for that purpose.

~~**Sec. 34-92. Fines.**~~

Sec. 34-92. Bulk sales or transfers.

(a) *Seller's/transferor's notice requirement.*

(1) If a taxpayer or tax collector conducts a business or activity that requires filing a tax return or remittance return with the Department on any periodic basis and the taxpayer or tax collector:

a. Sells or transfers the business or activity that required the person to pay or remit a tax to the County;

b. Sells or transfers a major part of the assets of the business or activity; or

c. Sells or transfers, other than in the ordinary and usual course of business, a major part of any one or more of the following assets:

1. The stock of goods or inventory of the taxpayer or tax collector;

2. Furniture or fixtures;

3. Machinery or equipment; or

4. Real property, the taxpayer or tax collector shall file with the Department written notice of the intended sales or transfer.

(2) The taxpayer's or tax collector's written notice shall be filed with the department at least 45 days prior to the date of sale or transfer on a form provided by the Department. The written notice shall set forth:

a. The name of the seller or transferor;

b. The name of the purchaser or transferee;

c. A description of the property or business or activity to be sold;

d. The purchase or transfer price;

e. The date of sale or transfer;

f. Any other information the Department may reasonably require.

(3) Within 30 days after sale or transfer, the seller or transferor shall file any tax returns or remittance returns and pay or remit to the Department any taxes, interest or penalties due or accrued, and not paid or remitted, through the date of the sale or transfer.

(b) *Purchaser's/transferee's notice requirement.*

(1) At least 45 days prior to the date of sale or transfer, the purchaser or transferee shall file with the Department written notice of the intended sale or transfer on the form provided for in Subsection (a)(2) of this section.

(2) The purchaser or transferee may give written notice in conjunction with the seller's or transferor's written notice.

(3) If the purchaser or transferee fails to file notice as required above, the purchaser or transferee shall be jointly and severally liable with the seller or transferor for the amount of taxes, interest or penalties owed by the seller or transferor to the County, but not exceeding the fair market value of the property acquired by the purchaser or transferee.

(c) *Department's response to notice.*

(1) If a timely written notice as required by this section is filed, the Department shall:

a. Perform an audit of the seller's or transferor's books and records or otherwise determine all taxes, interest or penalties due or accrued through the date of sale or transfer; and

b. At least 15 days prior to the date of sale or transfer, give written notice in the manner provided by Section 34-67 to both the seller (transferor) and the purchaser (transferee) of the amount to be withheld from the purchase or transfer price to cover all unpaid or unremitted taxes, interest or penalties due or accrued and not paid or remitted, through the date of sale or transfer.

(2) Upon receiving timely written notice from the Department of the amount to be withheld, the purchaser or transferee shall withhold this amount from the purchase or transfer price or, if payment of money or property is not involved, the purchaser or transferee shall withhold the performance that constitutes consideration for the sale or transfer, until the seller or transferor produces:

a. A receipt from the Department showing that all taxes, interest and penalties have been paid or remitted; or

b. A certificate from the Department showing no tax, interest or penalties are due.

(3) If the department fails to provide timely written notice to the purchaser or transferee as provided by Subsection (c) (1) b of this section, the purchaser or transferee shall be relieved of any duty to withhold from the purchase or transfer price and shall have no liability for taxes, interest or penalties due from the seller or transferor through the date of sale or transfer.

(4) If the Department provides timely written notice to the purchaser or transferee of the amount to be withheld from the purchase or transfer price and that amount is withheld, the purchaser's or transferee's liability for any taxes, interest and penalties through the date of sale or transfer shall be limited to the amount withheld.

(5) If the purchaser or transferee fails to withhold from the purchase or transfer price the amount requested by the Department, the purchaser or transferee shall be jointly and severally liable with the seller or transferor for all taxes, interest and penalties owed by the

seller or transferor to the County, but not exceeding the lesser of the fair market value of the property acquired or the amount requested by the Department.

(6) The purchaser or transferee shall pay to the Department upon the Department's written demand any amount withheld under this section.

(d) *Seller's/transferor's continuing liability.* Nothing in this section shall be construed to relieve the seller or transferor of liability for outstanding taxes, interest or penalties, except that any payments received from the purchaser or transferee pursuant to this section shall reduce the seller's or transferor's liability to the County.

~~**Sec. 34-93. License suspension and revocation.**~~

Sec. 34-93. Voluntary Disclosure Program.

The director shall issue written guidelines setting forth the terms and conditions for participation in the Department's Voluntary Disclosure Program which permits unregistered tax collectors and taxpayers required to remit tax directly to the Department, to whom the Department has not issued a notice of tax audit or tax investigation, to self-assess and pay their outstanding tax liabilities and interest in exchange for the waiver of all penalties for tax liabilities arising during the four-year period immediately prior to the date on which a tax collector or taxpayer applies to participate in the program.

~~**Sec. 34-94. Right to protest tax determination and assessment.**~~

Sec. 34-94. Confidentiality.

(a) All information that the Department receives from returns or reports, from any investigation, or from any hearing conducted under this article or under any County tax ordinance, shall be confidential and shall be used for official purposes only. Any person who divulges confidential information in any manner and for any purpose, except in accordance with a proper judicial order, or as otherwise provided by law, shall be subject to a term of incarceration not to exceed six months or a fine not to exceed $500.00 or both.

(b) Nothing in this section shall prevent the Director from publishing or making available to the public the names and addresses of persons filing returns or reports under this article, or under any tax ordinance, or from publishing or making available reasonable statistics concerning the operation of a tax by grouping the contents of returns so that the information in any individual return is not disclosed.

(c) Nothing in this chapter shall prevent the Director from furnishing to the United States Government, to the government of any state, to any Federal or State officer or agency or to any municipality, for exclusively official purposes, information received by the Department in administering this article or any County tax ordinance, if the other government or governmental officer or agency agrees to furnish tax information requested by the Department.

(d) Furnishing information to a seller or purchaser under Section 34-77 is an official purpose within the meaning of this section. Furnishing returns, reports or information to the County Auditor, or authorized agent is an official purpose within the meaning of this section.

~~**Sec. 34-95. Hearing procedures.**~~

Sec. 34-95. Department Tip Line.

(a) Tip Line Program.

The Director of Revenue shall establish a Tip Line Reward Program enabling any person, as described in this Article, to report to the Department any Home Rule Tax Ordinance violation and receive a reward from the total amount of the proceeds collected by the Department after final adjudication of the reported violation. Such violations shall be reported in accordance with rules promulgated by the Director of Revenue.

(b) Conviction and reward.

Any person who reports a violation that leads to a conviction and collection of the outstanding tax liability, fees or penalties, shall be entitled to a reward, in accordance with rules promulgated by the Director of Revenue, not exceeding $1,000.00.

(c) Ineligible Persons.

Employees of Cook County, independently elected officials, their family members and any person who shares such an employee's home or domicile of record, shall not be eligible for any reward authorized by this section.

~~**Sec. 34-66. Filing and publication of rules and regulations.**~~

Sec 34-97. Filing and publication of rules and regulations.

(a) Any rules or regulation promulgated under this article or under any tax ordinance shall be filed in the Department's principal office and shall be available for public inspection. Copies shall be made available upon request and payment of a reasonable fee determined by the Department, to cover to cost of providing the copy.

(b) The Department may publish any rule or regulation in book or pamphlet form and may make a reasonable charge to cover the cost of publication of the book or pamphlet.

~~**Sec. 34-69. Alternative methods of transmitting payment.**~~

Sec 34-96. Alternative methods of transmitting payment.

The Director may authorize by rule that taxpayers or tax collectors pay or remit any tax by electronic or other means. ~~but only~~:

~~(1) For payments or remittances greater than $20,000.00; or~~

~~(2) For taxpayers or tax collectors whose average monthly tax liability to the Department under any tax ordinance was $20,000.00 or more during the preceding 12 calendar months. If payment or remittance is made by electronic transfer, it is considered to be received on the date the transfer is credited to the County's account.~~

***Referred to the Committee on Construction on 2/1/11.**

Commissioner Steele, seconded by Commissioner Garcia, moved approval of the Proposed Ordinance Amendment (Communication No. 310969). Commissioner Beavers called for a roll call, the vote of yeas and nays being as follows:

Roll Call on Motion to Approve a Proposed Amendment to the Uniform Penalties, Interest, and Procedures Ordinance (Communication No. 310969)

Yeas: **Chairman Daley and Commissioners Gainer, Garcia, Gorman, Goslin, Murphy, Schneider, Silvestri, Vice Chairman Sims, Steele, Suffredin, and Tobolski (12)**

Nays: **Commissioners Beavers and Collins (2)**

Absent: **Commissioners Butler, Fritchey and Reyes (3)**

The motion carried and the Proposed Amendment to the Uniform Penalties, Interest, and Procedures Ordinance (Communication No. 310969) was approved and adopted.

Chairman Daley then called the next item on the agenda, Communication No. 310970, for consideration.

310970 **AMENDMENT TO THE COOK COUNTY TOBACCO TAX ORDINANCE** (PROPOSED ORDINANCE AMENDMENT). Submitting a Proposed Ordinance Amendment sponsored by Toni Preckwinkle, President, Jerry Butler, John P. Daley, Jesus G. Garcia, Joan Patricia Murphy, Edwin Reyes, Deborah Sims, Robert B. Steele, Larry Suffredin and Jeffrey R. Tobolski, County Commissioners.

PROPOSED ORDINANCE AMENDMENT

COOK COUNTY TOBACCO TAX ORDINANCE

WHEREAS, the County of Cook is a home rule unit of local government pursuant to Article VII, Section 6(a) of the 1970 Illinois Constitution; and

WHEREAS, pursuant to its home rule powers, the Cook County Board of Commissioners adopted the "Tobacco Tax Ordinance" on June 1, 1980, and subsequent amendments, to provide a tax on the retail sale of cigarettes: and

WHEREAS, in the interest of fair and equitable enforcement the Cook County Department of Revenue (Department) seeks to clarify significant enforcement language definitions, and the application of the tax and tax collector duties by amending Sections 74-431 and 74-433, respectively; and

WHEREAS, in the interest of fair and equitable enforcement the Department seeks to clarify illegal sales, possession, and use penalties, and the books or records to be maintained by taxpayers, by amending Sections 74-435 and 74-438, respectively; and

WHEREAS, the Department seeks to clarify its authority to perform on premises inspections and increase the penalty for those who prevent or hinder such inspections by amending Section 74-439, and

WHEREAS, the Department seeks to clarify it's authority to confiscate or seize illegal cigarettes, by amending Section 74-441.

NOW, THEREFORE, BE IT ORDAINED, by the Cook County Board of Commissioners that Cook Count Code of Ordinances, Article XI, Chapter 74, Sections 74-430 – 74-449, Tobacco Tax is hereby amended as follows:

ARTICLE XI. TOBACCO TAX

Sec. 74-430. Short title; definitions.

Sec. 74-431. Definitions.

For the purpose of this Article, whenever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed to them in this section.

Altered or Mutilated tax stamp means any tax stamp on which the identity information is illegible or incomplete.

Chewing tobacco means any leaf tobacco that is not intended to be smoked.

Cigar means any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco which is a cigarette as defined in this article).

Cigarette means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether such tobacco is flavored, adulterated or mixed with any other ingredient, or not, and the wrapper of which is made of paper or any other substance or material except tobacco.

Concealment means cigarettes or cigarette tax stamps, in violation of this article, deliberately hidden to prevent or evade discovery and offered for sale by or in the possession of a wholesale or retail tobacco dealer.

Conspicuous means easily or clearly visible

Counterfeit Cigarettes means any cigarette or pack of cigarettes bearing a false, forged, artificial or imitation manufacturing label.

County means the County of Cook

Department means the Department of Revenue within the Bureau of Finance of the County of Cook.

Director means the Director of the Department of Revenue.

Improperly stamped pack means, any packs of cigarettes on which is affixed an altered/mutilated; used or reused; or counterfeit tax stamp

Loose cigarettes means cigarettes that are not contained within a sealed container, pack, or package as provided by the manufacturer or as a result of any wholesale or retail tobacco dealer or person breaking or otherwise opening any cigarette package to sell or distribute individual cigarettes or a number of unpackaged cigarettes that is smaller than the minimum package size of 20 cigarettes or any quantity of cigarettes that is smaller than the smallest package distributed by the manufacturer for individual consumer use.

Manufacturer means any person who makes or fabricates cigarettes and/or tobacco products and sells them.

Package means the original packet, box, tin or container whatsoever used to contain and to convey cigarettes tobacco products to the consumer.

Person means any individual, corporation, Limited Liability Corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity.

Pipe tobacco includes any tobacco which, because of its appearance, type, packaging or labeling is suitable for use and likely to be offered to, or

purchased by, consumers as tobacco to be smoked in a pipe.

Premises means, but is not limited to, buildings, vehicles or any place where cigarette inventory is possessed, stored or sold.

Purchaser means consumer or end-user.

Retail tobacco dealer means any person who engages in the business of selling cigarettes or other tobacco products in the County of Cook to a purchaser for use or consumption and not for resale in any form.

Roll-your-own tobacco includes any tobacco which, because of its appearance, type, packaging or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

Sale, resale, selling means any transfer of ownership or possession, or both, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever for a valuable consideration.

Smokeless tobacco includes any snuff, chewing tobacco, or other tobacco products not intended to be smoked.

Smoking Tobacco includes granulated, plug cut, crimp cut, ready rubbed and other kinds and forms of tobacco prepared in such manner as to be suitable for smoking in a pipe or cigarette.

Snuff means any finely cut, ground or powered tobacco that is not intended to be smoked.

Stamp means paper or other material with an imprint or decalcomania device thereon, of such size, design, color and denominations as may be prescribed and procured by the Department which, when affixed to a package of cigarettes, shall evidence payment of the tax thereon, as provided by this article.

Tobacco products includes, but is not limited to, any cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff or snuff flour; Cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings, and sweeping of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both chewing and smoking; but does not include cigarettes or tobacco purchased for the manufacture of cigarettes by cigarette wholesale tobacco dealers and manufacturers as defined in this article.

Unit means any division of quantity that may be used as a standard to measure the quantity sold based on length, width, weight such as pounds, ounces and/or grams or volume or some other similar unit of measure, including but not limited to per item.

Unstamped pack means any pack of cigarettes on which a Cook County tax stamp is not affixed.

Use means any exercise of a right or power, actual or constructive, and shall include but is not limited to the receipt, storage, or any keeping or retention for any length of time, but shall not include possession for sale by a retail or wholesale tobacco dealer as defined in this article.

Used or reused tax stamp means, any tax stamp previously affixed to a tobacco product, removed and subsequently affixed to any tobacco product purchased, offered for sale or sold by any person, wholesale or retail tobacco dealer; or any removed tax stamp purchased, offered for sale, sold by, or in the possession of a wholesale or retail tobacco dealer.

Wholesale tobacco dealer means any person who engages in the business of selling or supplying cigarettes and/or tobacco products, who brings into the County cigarettes, to any person for resale in or outside the County of Cook. For the purposes of this article, wholesale tobacco dealers also include cigarette distributors who are licensed with the State of Illinois (35 ILCS 143/10-20). (Ord. No. 09-O-15, 3-4-2009.)

~~**Sec. 74-432. Cigarette tax imposed; tax stamp purchases; tax collection; un-mutilated or un-altered tax stamps; the unlawful sale of cigarettes, and tip line.**~~

Sec. 74-432 Registration of wholesale and retail tobacco dealers

Wholesale and retail tobacco dealers as defined in this article, ~~Any person commencing business as a wholesale or retail tobacco dealer within Cook County after the adoption of this article, as amended~~ shall register with the Department in accordance with policies or procedures prescribed by the Department ~~within 20 days after the effective date of this article or commencement of business.~~

~~**Sec. 74-432. Cigarette tax imposed; tax stamp purchases; tax collection; un-mutilated or un-altered tax stamps; the unlawful sale of cigarettes, and tip line.**~~

~~(a) *Cigarette tax imposed.* A tax at the rate of 100 mils or $0.10 per cigarette is hereby imposed upon all cigarettes possessed for sale and upon the use of all cigarettes within the County of Cook, the ultimate incidence of and liability for payment of said tax to be borne by the consumer of said cigarettes. The tax imposed hereby at the rate of 100 mils or $0.10 per cigarette shall become in force and effect on March 1, 2006. The tax herein levied shall be in addition to any and all other taxes.~~

~~(b) *Tax stamp purchases.* The tax imposed in this section shall be paid by purchase of tax stamps from the Department, except as otherwise provided in Section 74-441(a) and (b) of this article. The Department shall only~~

~~sell Cook County cigarette tax stamps to cigarette distributors who are licensed with the State of Illinois. It shall be the duty of every wholesale tobacco dealer, before delivering or causing to be delivered any cigarettes to a retail tobacco dealer in the County of Cook to purchase from the Department a tax stamp for each package of cigarettes and to cancel said stamps prior to the delivery of such cigarettes to any retail tobacco dealer in the County of Cook. Said stamps shall be affixed and cancelled in the manner prescribed by rules and regulations of the Department. Any stamp which is defective or unused may be returned to the Department by a wholesale tobacco dealer, who shall thereafter be credited or reimbursed with the amount paid to the Department for such stamps.~~

~~(c) *Tax collection.* Any wholesale tobacco dealer who shall pay the tax levied by this article to the Department shall collect the tax from any retail tobacco dealer to whom the sale of said cigarettes is made, and any retail tobacco dealer shall, in turn, then collect the tax from the purchaser of said cigarettes. The tax shall be paid to the person required to collect it as trustee for and on account of the County of Cook.~~

~~(d) *Unmutilated or unaltered tax stamps.* It shall be unlawful for any retail tobacco dealer to purchase cigarettes from any person unless each package bears an unmutilated tax stamp affixed thereto and cancelled thereon in the manner required by this article and the rules and regulations of the Department. Possession by a retail tobacco dealer of cigarettes having no stamp affixed and cancelled shall give rise to the prima facie presumption that such cigarettes are possessed by him in violation of the provisions of this article.~~

~~(e) *The unlawful sale of cigarettes.* It shall be unlawful for any wholesale tobacco dealer to sell cigarettes to any person, other than to another registered Cook County wholesale tobacco dealer, unless each package bears an unmutilated Cook County tax stamp affixed, or where the selling wholesale tobacco dealer, or its agent, delivers the unstamped cigarettes to a location outside Cook County.~~

~~(f) *The unlawful sale of cigarettes.* It shall be unlawful for any wholesale or retail tobacco dealer or person to break or otherwise open any cigarette package to sell or distribute individual cigarettes or a number of unpackaged cigarettes that is smaller than the minimum package size of 20 cigarettes or any quantity of cigarettes that is smaller than the smallest package distributed by the manufacturer for individual consumer use.~~

~~(g) *Tip line.* The Director shall establish a system for receiving citizen reports of "possession for sale of cigarettes without tax stamps." Such system may include but not be limited to a telephone and/or text number tip line, and a website with an email address. The Director shall promulgate rules and regulations to assure a citizen's anonymity. Any citizen who furnishes information, on forms prescribed by the Department, information that leads to a finding and the collection of a tax liability and / or violation for the possession of cigarettes without tax stamps, the Director or his designee may provide for the citizen to receive a reward of up to but in no event higher than $1,000.00 for each such~~

~~finding and tax or violation collection. No Cook County employee shall be eligible for any reward authorized by this section.~~

~~**Sec 74-433. Internet mail order and outside of county purchases**~~ **moved to Sec 74-436.**

Sec. 74-433. Tax imposed.

(a) Tax rate. A tax at the rate of 100 mils or $0.10 per cigarette is hereby imposed upon all cigarettes possessed for sale and upon the use of all cigarettes within the County of Cook, the ultimate incidence of and liability for payment of said tax to be borne by the consumer of said cigarettes. The tax imposed hereby at the rate of 100 mils or $0.10 per cigarette shall become in force and effect on March 1, 2006. The tax herein levied shall be in addition to any and all other taxes.

(b) *Tax stamp purchases.* The tax imposed in this section shall be paid by purchase of tax stamps from the Department, except as otherwise provided in Section 74-443(a) and (b) of this Article. The Department shall only sell Cook County cigarette tax stamps to cigarette distributors who are licensed with the State of Illinois. It shall be the duty of every wholesale tobacco dealer, before delivering or causing to be delivered any cigarettes to a retail tobacco dealer in the County of Cook to purchase from the Department a tax stamp for each package of cigarettes and to cancel said stamps prior to the delivery of such cigarettes to any retail tobacco dealer in the County of Cook. Said stamps shall be affixed and cancelled in the manner prescribed by rules and regulations of the Department.

(c) *Tax collection.* Any wholesale tobacco dealer who shall pay the tax levied by this Article to the Department shall collect the tax from any retail tobacco dealer to whom the sale of said cigarettes is made, and any retail tobacco dealer shall, in turn, and then collect the tax from the purchaser of said cigarettes. The tax shall be paid to the person required to collect it as trustee for and on account of the County of Cook.

(d) Tax included in sales price. It shall be deemed a violation of this article for a retail tobacco dealer to fail to include the tax imposed in this article in the sale price of cigarettes to otherwise absorb such tax. The tax levied in this article shall be in addition to any and all other taxes.

(e) Tax debt owed to County. The tax required in this article to be collected by any wholesale or retail tobacco dealer pursuant to this article shall constitute a debt owed by such wholesale or retail tobacco dealer to the County.

~~**Sec. 74-434. Failure to file a return and/or pay tax**~~ **moved to Sec 74-443.**

Sec, 74-434. Tax free sales.

Wholesale tobacco dealers doing business in Cook County shall not pay

or collect a tax with respect to cigarettes and/or tobacco products which are otherwise subject to the tax when the cigarettes and/or tobacco products are being sold to the following:

(a) Another wholesale tobacco dealer holding a valid Cook County tobacco wholesalers registration certificate; and

(b) A wholesale tobacco dealer or a retail tobacco dealer in the event, the selling wholesale tobacco dealer, or its agent, delivers the cigarettes or other tobacco products to a location outside of Cook County.

~~**Sec. 74-435. Rulemaking**~~ **moved to Sec 74-447.**

Sec 74-435. Sales, possession, use or hindrance violations and penalties.

A. It shall be a violation of this Article to engage in the sale, possession, or use of any cigarettes and/or other tobacco products subject to any tax provided by this Article upon which said tax has not been paid or the stamps affixed and cancelled as herein required, including, as described in this Article:

1. Counterfeit cigarettes

2. Counterfeit tax stamps

3. Improperly stamped packs

4. Unstamped packs

B. It shall be a violation of this Article for any wholesale or retail tobacco dealer to engage in any of the following:

1. Utilization of used or reused tax stamps by possessing or offering for sale or resale packs of cigarettes affixed with a used or reused tax stamp.

2. Concealment, as described in this article.

3. Sell or distribute loose cigarettes.

4. Sell cigarettes to any person, other than to another registered Cook County wholesale tobacco dealer, unless each package bears an un-mutilated Cook County tax stamp affixed, or where the selling wholesale tobacco dealer, or its agent, delivers the unstamped cigarettes to a location outside Cook County.

5. Hinder or prevent an authorized Department representative from performing an inspection or audit.

C. Prima Facie Presumption. The sale, resale or possession by a wholesale or retail tobacco dealer of altered/mutilated, counterfeit, used or reused tax stamps; or packs of counterfeit, improperly stamped, unstamped cigarettes or loose cigarettes shall give rise to the prima facie presumption that the wholesale or retail tobacco dealer is in violation of the provisions of this Article.

~~**Sec 74-445. Unstamped or Improperly Stamped Cigarette Penalty.**~~

D. Cigarette pack, tax stamp, loose cigarettes and hindrance violation penalties.

Violation Type	***Penalties***
Concealment	*Amount*
1st Offense	$2,000.00
2nd and each subsequent offense, an additional	$4,000.00
Counterfeit Packs of Cigarettes	*Amount*
40 or less	$2,000.00
41 or more	$50.00 per pack
2nd and each subsequent offense, an additional	$4,000.00
Counterfeit tax stamps	*Amount*
40 or less	$2,000.00
41 or more	$50.00 per stamp
2nd and each subsequent offense, an additional	$4,000.00
Improperly Stamped Packs	*Amount*
40 or less	$2,000.00
41 or more	$50.00 per pack
2nd and each subsequent offense, an additional	$2000.00
Loose Cigarettes	*Amount*
40 or less	$1,000.00
40 or more	$25.00 per cigarette
2nd and each subsequent offense, an additional	$2,000.00
Sales to Unregistered Wholesalers	*Amount*
1st offense	$2,000.00
2nd and each subsequent offense, an additional	$4,000.00
Unstamped Packs	*Amount*

40 Packs or less	$1,000.00
41 Packs or more	$25.00 per Pack
2nd and each subsequent offense, an additional	$2,000.00

Violation Type	***Penalties***
Utilization of Used or Reused Tax Stamps	*Amount*
40 or Less Packs or Stamps	$2,000.00
41 or more Packs or Stamps	$50.00 per Pack or Stamp
2nd and each subsequent offense, an additional	$4,000.00
Hinder Inspection or audit	*Amount*
1st Offense	$1,000.00
2nd and each subsequent offense, an additional	$2,000.00

~~**Sec 74-445. Unstamped or Improperly Stamped Cigarette Penalty**~~ Additional.

~~*Number of Cigarette Packages Confiscated*~~	~~*Penalty Amount*~~
~~1 to 40~~	~~$1,000.00~~
~~41 or more~~	~~$25.00 per package~~

~~**Sec 74-436. Cigarette tax stamps, agents; used and unused stamps**~~ **moved to Sec 74-445.**

Sec. 74-436. Other Violation Penalties.

a. Any person determined to have violated this Article, as amended, excluding the violations described in Sec 74-435(Sales, possession, use or hindrance violations and penalties), shall be subject to a fine in the amount of $1,000.00 for the first offense, and a fine of $2,000.00 for the second and each subsequent offense. Separate and distinct offense shall be regarded as committed each day upon which said person shall continue any such violation, or permit any such violation to exist after notification thereof. It shall be deemed a violation of this Article for any person to knowingly furnish false or inaccurate information to the Department.

b. Criminal penalties. Every person who shall falsely make, alter, forge or counterfeit any tax stamp, or who, with intent to defraud the County, shall affix or cause to be affixed any counterfeit or altered stamp to any package of cigarettes, knowing said stamp to be counterfeit or altered, shall be guilty of a Class B misdemeanor, in addition to any other criminal penalties which may be applicable under Illinois or Federal law.

c. Criminal prosecution. Criminal prosecution pursuant to this Article shall in no way bar the right of the County to institute civil proceedings to recover delinquent taxes, interest and penalty due and owing as well as costs incurred for such proceeding.

~~Sec 74-437. Registration of wholesale and retail tobacco dealers~~ moved to Sec 74-432.

Sec 74-437. Internet, mail order and outside-of-county purchases.

With respect to cigarettes or tobacco products purchased over the internet, by mail order or outside the County, if the tax on cigarettes and other tobacco products which is imposed pursuant to this article, as amended, has not been paid by a wholesaler or retailer prior to use or possession of the cigarette or tobacco product by a person within the County of Cook, such person shall be obligated to make payment of the tax directly to the Department. Within 30 days of purchase, such person shall file a return with the Department of Revenue and pay the tax, **penalties and interest** due under this article, as amended.
(Ord. No. 09-O-15, 3-4-2009.)

~~**Sec 74-438. Tax free sales**~~ **moved to Sec 74-434.**

Sec 74-438. Mutilation of tax stamps.

It is unlawful for any person to mutilate a tax stamp herein required on any package of cigarettes before it is sold by a retail tobacco dealer.

Sec. 74-439. Books and records to be kept.

(a) *Wholesale tobacco dealer Records of deliveries.* At the time of delivering cigarettes to any person doing business in the County of Cook, it shall be the duty of every wholesale tobacco dealer to make a true triplicate invoice, numbered serially, showing the date of delivery, the number of packages, the number of cigarettes contained therein in each shipment of cigarettes delivered, and the name of the purchaser to whom delivery is made. The wholesaler shall issue one copy of the invoice to the purchaser, and shall retain one legible copy of the same for the use and inspection of the Department for the period of time as provided for in the Cook County Uniform Penalties, Interest and Procedure Ordinance [Section 34-60 et seq.].

(b) *Wholesaler and Retailer inventory purchases; sales; reconciliations.* It shall be the duty of every wholesale and retail tobacco dealer to make or maintain cigarette inventory:

(1) Purchase order documents, serially numbered, indicating the date; name, address of the person or business from whom the

cigarettes, were purchased; brand name, type and total number of packages to be purchased. in sequential date order.

(2) Delivery or receipt documents, serially numbered indicating the date; name, address of the person or business to whom the cigarettes were delivered; brand name, type and total number of packs delivered, in sequential date order.

(3) Wholesale tobacco dealer sales documents, serially numbered indicating the date; name, address of the person or business to whom the cigarettes were sold brand name, type and total number of packs delivered, in sequential date order.

(4) Retail tobacco dealer sales documents, indicating in sequential date order, brand name, type and total number of packs sold, each day.

(5) Retail tobacco dealer cigarette inventory reconciliation, indicating daily, weekly or monthly beginning inventory, purchases; sales and ending inventory, in sequential date order.

(6) Retail tobacco dealer monthly wholesaler list, indicating the name and address of each wholesaler from whom cigarette inventory was purchased; brand name; type and total number of packs purchased from each wholesaler.

(c) *Taxable and nontaxable transaction books and records.* It shall be the duty of all wholesale tobacco dealers, retail dealers and persons required by this article to collect and/or to pay the taxes herein imposed to keep and maintain all books, papers and records related to all transactions taxable and nontaxable under this article and to make such records available to the Director or a duly authorized representative who has been appointed, by the Director, on request for inspection, audit and/or copying during regular business hours. The Department shall promulgate rules and regulations specifying the records that shall be kept by wholesale tobacco dealers, retail dealers and persons required by this article to collect and or/pay the taxes herein imposed, and may prescribe any forms appropriate in furtherance of this article. Books, papers and records which relate to a return filed or required to be filed with the Department shall be kept for the period as provided for in the Cook County Uniform Penalties, Interest and Procedures Ordinance [Section 34-60 et seq.]. The burden shall be on the tax collector and tax payer to keep records which verify the basis for any and all transactions which are claimed to be exempt from taxation pursuant to Section 74-438 of this article.

Sec. 74-440. Inspections; audits.

Books and records kept in compliance with Sec. 437 of this Ordinance shall be made available to the Department upon request for inspection, audit

and/or copying during regular business hours. Representatives of the Department shall be permitted to inspect or audit cigarette inventory in or upon any premises. An audit or inspection may include the physical examination of the cigarettes, packaging or the cigarette tax stamps. It shall be unlawful for any person to prevent, or hinder a duly authorized Department representative from performing the enforcement duties provided in this article.

~~**Sec 74-441. Posting of signs**~~ **moved to Sec 74-442.**

Sec. 74-441. Confiscate; Seize; redemption penalty.

(a) *Confiscation; seizure.* Whenever the Department or any of its duly authorized representatives shall discover any cigarettes and/or other tobacco products subject to any tax provided by this article upon which said tax has not been paid or the stamps affixed and cancelled as herein required, they are hereby authorized and empowered forthwith to confiscate; seize and take possession of such cigarettes and/or other tobacco products together with any vending machine; receptacle; container; vessel or holder in which they are held for sale except for money contained in such vending machine or receptacle, shall thereupon be deemed to be forfeited to the County of Cook.

(b)~~(c)~~ *Cigarette redemption penalty.* The Department shall either destroy the cigarettes seized or may permit the Wholesale Tobacco Dealer from whom the said cigarettes were seized, to redeem the cigarettes and/or any vending machine or receptacle seized therewith, by the payment of a Redemption Penalty equal to 100 percent of the tax due, and including the cost incurred in such proceeding. Such seizure, destruction, and sale, or redemption shall not be deemed to relieve any person from fine or imprisonment provided herein for violation of any provision of this article.

~~**Sec 74-442. Counterfeit or altered tax stamps**~~ **moved to Sec 74-431.**

Sec.74-442. Posting of signs.

Every retail tobacco dealer shall ~~may be required to~~ post a sign ~~that has been prescribed and~~ issued by the Department, indicating the offer to sale, the sale or purchase of unstamped packs or loose cigarettes is unlawful ~~or stating that it is against the law to sell or purchase unstamped packages of cigarettes. The Director will provide the wording and specifications for this sign~~. The sign shall be posted in a conspicuous location, to anyone purchasing cigarettes, at the retailer's place of business ~~in a conspicuous location, so that it can be seen by anyone purchasing cigarettes~~.
(Ord. No. 09-O-15, 3-4-2009.)

~~**Sec 74-443. Single state and county altered tax stamps**~~ **moved to Sec 74-435.**

Sec. 74-443. Wholesale tobacco dealer Quarterly returns.

A sworn quarterly cigarette and/or other tobacco products Revenue Information return shall be filed by each wholesale tobacco dealer with the Department, on forms prescribed by the Department. The return shall be filed on or before the last day of the first month following the preceding quarter. Every wholesale tobacco dealer required to file a tax return under this section, who does not file such tax return by its due date, or alternatively does not provide all required information on such tax return, shall be subject to the penalties that are provided for in Sec. 74-446 of this Article in addition to all other penalties and interest that may be due as provided in the Uniform Penalties, Interest and Procedures Ordinance [Section 34-60 et seq.]. Quarterly returns, books and records, papers and original source documents that provide support for the information that is included in the return filed, with the Department, shall be kept for the period as provided in the Cook County Uniform Penalties, Interest and Procedures Ordinance [Section 34-60 et seq.].

~~**Sec 74-444. Mutilation of tax stamps**~~ **moved to Sec 74-446.**

Sec. 74-444. Failure to file a return and/or pay tax.

In case of failure to file a tax return and pay this tax when due the Department may assess penalties and interest as provided for in this article and/or the Cook County Uniform Penalties, Interest and Procedures Ordinance (Section 34-60 et seq.)

~~**Sec 74-444. Mutilation of tax stamps.**~~

~~**Sec. 74-448. Penalties.**~~

~~Any person determined to have violated this article, as amended, may be subject to a fine of $1,000.00 for the first offense, and a fine of $2,000.00 for the second and each subsequent offense. A separate and distinct offense shall be regarded as committed each day upon which said person shall continue any such violation, or permit any such violation to exist after notification thereof. The tax required in this article to be collected by any wholesale or retail tobacco dealer pursuant to this article shall constitute a debt owed by such wholesale or retail tobacco dealer to the County.~~

~~**Sec 74-436. Cigarette tax stamps ; agents; used and unused stamps.**~~

Sec. 74-445. Authority to sale stamp; agents; credits/refunds.

(a) *Cigarette tax stamps.* The Department shall contract for and furnish tax stamps of such denominations and quantities as may be necessary for the payment of the tax imposed on cigarettes by this article, and may, from time to time, provide for the issuance and exclusive use of stamps of a new design and forbid the use of stamps of any other design.

(b) *Agents.* The Department may appoint wholesale tobacco dealers of cigarettes and any other person within or without the County as agents to affix

stamps to be used in paying the tax hereby imposed on cigarettes and said agent is hereby authorized to appoint other persons in his employ who are to affix said stamps to any cigarettes under his control in the manner prescribed by the rules and regulations promulgated by the Department. Whenever the Department shall sell, consign or deliver to any such agent any such stamps, such agent shall be entitled to receive compensation for his services and expenses in affixing such stamps, and to retain use of the monies to be paid by him for such stamps as a commission. The Department is hereby authorized to prescribe a schedule of commissions not exceeding five percent allowable to such agent for affixing such stamps. Such schedule shall be uniform for each type and denomination of stamp used and may be on a graduated scale with respect to the number of stamps purchased. The Department may, in its discretion, permit an agent to pay for such stamps within 30 days after the date of sale, consignment, or delivery of such stamps to such agent, provided a bond or bank letter of credit satisfactory to the Department and approved as to form and legality by the State's Attorney shall be submitted by said agent to the Department, in an amount equal to the value of such stamps. The Department, with approval from the State's Attorney, shall issue regulations pursuant to Section 74-435 regarding the use of such bonds or bank letters of credit.

(c) *Credits or Refunds.* The Department may redeem unused tax stamps lawfully on the possession of any person. Any person seeking credit and/or a refund for unused tax stamps, tax stamps affixed to packages of cigarettes returned to a manufacturer, or for the replacement of tax stamps, must file a claim in writing on forms prescribed by the Department. This form must be filed with the department no later than 12 months after the month in which the tax remittance or tax payment was made to the Department. The United States post mark date or date of physical/actual receipt is used, by the Department, to determine if a credit or refund is filed timely. No person shall sell or offer for sale any stamp issued under this article, except by written permission of the Department. The Department may prescribe rules and regulations concerning refunds, sales of stamps and redemption under the provisions of this article.

~~**Sec 74-446. Transmittal of excess tax collections**~~ **moved to Sec 74-448.**

Sec 74-446. Single state and county stamp and monthly tax return.

(a) *Single state and county stamp.* Notwithstanding the provisions of Subsections 74-432(b) and (d), and Subsection 74-436(a) of this article, the Department may provide by regulation that the tax imposed by this article shall, in the alternative, be collected by means of the issuance and sale of a single tax stamp to be prepared jointly with the Department of Revenue of the State of Illinois (and/or the City Comptroller of the City of Chicago) evidencing the payment of the tax imposed by this article. Toward that end, the Department may make such arrangements and agreements with the Department of Revenue of the State of Illinois (and/or the City Comptroller of the City of Chicago) as may be required with respect to the method of acquiring, affixing, canceling and the manner of sharing the cost of such joint single tax stamps, and may establish procedures for payment of that portion of the tax revenue collected by the

Department of Revenue of the State of Illinois (and/or the City Comptroller of the City of Chicago) due and payable to the County of Cook, in furtherance of the purposes of this article. In the event such alternative method as herein provided is utilized, no other method of collecting said tax may be used within the relevant jurisdiction; however, all other applicable provisions of this article shall nevertheless remain in full force and effect.

(b) *Monthly tax return.* Notwithstanding the provisions of Subsections 74-433(b) ~~74-432(b)~~ and (d), Subsection 74-445(a) ~~74-436(a)~~ and subsection (a) of this section, the Department may provide by regulation that the tax imposed on cigarettes by this article, in the alternative, shall be collected by means of the filing of a sworn tax return to be prepared and filed by every wholesale tobacco dealer who sells cigarettes for consumption in the County of Cook. Said return shall be filed on a monthly basis and shall contain the same information required by Subsection 74-445(b) ~~74-436(b)~~ of this article. Said return shall be filed with the Department on or before the fifteenth day of each month stating such other and further information as may be required by the Department, and said return shall be accompanied by a certified check in the amount of the tax due and payable upon such taxable sales made by said wholesale tobacco dealer in the County of Cook during the preceding month. In the event such alternative method is utilized, no other method of collecting said tax may be used; however, all other applicable provisions of this article shall remain in full force and effect with the exception of the necessity of filing a quarterly tax return as provided in Subsection 74-439(b) of this article, which shall not be required.

~~**Sec 74-447. Deposit of tax proceeds**~~ **moved to Sec 74-449**.

Sec 74-447. Rulemaking.

(a) The Department shall prescribe reasonable rules, definitions, and regulations necessary to carry out the duties imposed upon it by this article. Such rules, definitions, and regulations shall include, but not be limited to, reasonable procedures consistent with existing practices of wholesale tobacco and retail tobacco dealers for collection and remittance of the tax herein levied.

(b) The Department may appoint wholesale tobacco dealers and any other person within or without the County of Cook as agents for the tax herein levied. The Department is hereby authorized to grant a commission not exceeding .0045 or .45% per cigarette tax stamp sold by the County of Cook to such agent for services rendered in connection with the tax herein levied in [Section 74-432], provided said tax is remitted, in full, by the due date.

(c) Within 30 days after the effective date of this article every wholesale tobacco dealer doing business in the County of Cook shall file with the Department, on forms prescribed by it, a sworn inventory of cigarettes in their possession or control on March 1, 2006. With said inventory, the wholesale tobacco dealer shall pay to the Cook County Collector the taxes due, including any additional taxes due as a result of this article, as amended, with respect to all stamped cigarettes which were in such wholesale tobacco dealer's possession on

March 1, 2006.

(d) Within 30 days after the effective date of this article every retail tobacco dealer doing business in the County of Cook shall file with the Department, on forms prescribed by it, a sworn inventory of cigarettes in their possession or control on March 1, 2006. With said inventory, the retail tobacco dealer shall pay to the Cook County Collector the taxes due, including any additional taxes due as a result of this article, as amended, with respect to all cigarettes which were in such retail tobacco dealer's possession on March 1, 2006.

(e) Within 30 days after the effective date of this article every retail tobacco dealer doing business in the County of Cook shall file with the Department, on forms prescribed by it, a sworn inventory of tobacco products in their possession or control on June 1, 2006. With said inventory, the retail tobacco dealer shall pay to the Cook County Collector the taxes due, including any additional taxes due as a result of this article, as amended, with respect to all tobacco products which were in such retail tobacco dealer's possession on June 1, 2006.

~~**Sec 74-448. Penalties**~~ **moved to 74-444.**

Sec 74-448. Transmittal of excess tax collections.

In the event a person collects an amount in excess of the tax imposed by this article, as amended, which amount is purported to be a collection thereof, and said person fails to return the said excess amount to the purchaser who paid the tax, the said person who collected the tax shall account for and pay over all such excess amounts to the Department along with the tax properly collected.

Sec 74-449. Deposit of tax proceeds.

All proceeds resulting from the imposition of the tax under this article, including penalties, shall be paid to the Department. The Department shall direct every dollar collected from the 2006 increase in the rate of the Home Rule Tobacco Tax to be deposited into the funds of the Cook County Bureau of Health.

***Referred to the Committee on Finance on 2/1/11.**

Commissioner Steele, seconded by Commissioner Garcia, moved approval of the Proposed Ordinance Amendment (Communication No. 310970). Commissioner Beavers called for a roll call, the vote of yeas and nays being as follows:

Roll Call on Motion to Approve a Proposed Amendment to the Tobacco Tax Ordinance (Communication No. 310970)

Yeas: **Chairman Daley and Commissioners Gainer, Garcia, Gorman, Goslin, Murphy, Reyes, Silvestri, Vice Chairman Sims, Steele, Suffredin, and Tobolski (12)**

Nays: **Commissioners Beavers and Collins (2)**

Absent: **Commissioners Butler, Fritchey and Reyes (3)**

The motion carried and the Proposed Amendment to the Tobacco Tax Ordinance (Communication No. 310970) was approved and adopted.

Chairman Daley then called the next item on the agenda, Communication No. 310971, for consideration.

310971 **AMENDMENT TO THE COOK COUNTY USE TAX ORDINANCE** (PROPOSED ORDINANCE AMENDMENT). Submitting a Proposed Ordinance Amendment sponsored by Toni Preckwinkle, President, Jerry Butler, John P. Daley, Jesus G. Garcia, Joan Patricia Murphy, Edwin Reyes, Deborah Sims, Robert B. Steele, Larry Suffredin and Jeffrey R. Tobolski, County Commissioners.

PROPOSED ORDINANCE AMENDMENT

COOK COUNTY USE TAX

WHEREAS, the County of Cook is a home rule unit of local government pursuant to Article VII, Section 6(a) of the 1970 Illinois Constitution; and

WHEREAS, pursuant to its home rule powers, the Cook County Board of Commissioners adopted Home Rule Use Tax Ordinance on December 1, 1995; and

WHEREAS, the Use Tax Ordinance provides for a tax on tangible personal property purchased at retail and titled or registered, with a State of Illinois government agency, at location inside Cook County; and

WHEREAS, the Cook County Department of Revenue (Department) in the interest of fair and equitable enforcement seeks to clarify significant definitions; the application of the tax; by amending Sections 74-271 and 74-272 respectively; and

WHEREAS, the Department seeks to increase the total amount of tax monies collected each month by eliminating the two-percent tax collector discount, by amending Section 74-272; and

WHEREAS, the Department in the interest of fair and equitable enforcement seeks to clarify tax books and records; registration bond; return and remittances

criteria, by amending Sections 74-275, 74-276, 74-277, respectively; and

WHEREAS, the Department seeks to identify purchasers or users of aircraft and watercraft registered or titled with an agency of the Illinois, by way of Sections 74-281 and 74-282 respectively.

NOW, THEREFORE, BE IT ORDAINED, by the Cook County Board of Commissioners that Cook County Code of Ordinances, Chapter 74 Article VII Use Tax, Sections 74-270 – 74-283 is hereby amended as follows:

Sec. 74-270. Short title.

This article shall be known and may be cited as the Cook County Home Rule County Use Tax Ordinance.

Sec. 74-271. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Aircraft means a device that is used or intended to be used for flight in the air.

Aircraft Hangar means a shelter for housing or repairing aircraft

Aircraft Hangar operator means any person who is the owner, operator or manager of an aircraft hangar located in the County.

County means Cook County Illinois

Contrivance

Department means the Department of Revenue.

Director means the director of the Department of Revenue or duly authorized representative

Dock means a waterfront, pier, harbor, port, that serve as a landing area for watercraft.

Docking facility means, a place for securing or storing watercraft or a place where watercraft can be moored or secured from drifting away.

Lessor means any person engaged in the business of leasing, to others, tangible personal property. Lessors of Tangible Personal Property are the users of such property.

Moor means, to fasten with or as fastened with cables, lines, anchors or otherwise.

Motor vehicle means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails, including but not limited to aircraft, watercraft, cars, trucks or other similar vehicles; the term motor vehicle does not include vehicles moved solely by human power, motorized wheelchairs, low-speed electric bicycles, and low-speed gas bicycles.

Motor vehicle dealer means any person who, in the ordinary course of business, is engaged in the business of selling new or used motor vehicles to consumers or other end users.

Person. means any individual, corporation, limited liability corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity.

Pole trailer means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

Purchase at retail means the acquisition, through a sale at retail, of ownership of or title to tangible personal property which is titled or registered with an agency of the State of Illinois.

Purchaser means any person who, through a sale at retail, acquires the ownership of or title to tangible personal property which is titled or registered with an agency of the State of Illinois.

Recreational vehicle means every camping trailer, motor home, mini-motor home, travel trailer, truck camper or van camper used primarily for recreational purposes and not used commercially nor owned by a commercial business.

Retailer means every person engaged in the business of making sales at retail of tangible personal property which is titled or registered with an agency of the state. A person who is engaged in the business of leasing or renting motor vehicles to others and who in connection with such business sells any used motor vehicle to a purchaser for such purchaser's use and not for the purpose of resale, is a retailer engaged in the business of selling tangible personal property at retail under this article to the extent of the value of the vehicle sold. For the purpose of this section, the term "motor vehicle" shall have the meaning provided by 625 ILCS 5/1-146 (motor vehicle defined).

Retailer maintaining a place of business in the County or any like term

means and includes any retailer:

(1) Having or maintaining within the County, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business or any agent or other representative operating within the County under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located in the County permanently or temporarily;

DELETED *(deleted from State of Illinois Use Tax statue)*

~~(2) Engaging in soliciting orders within the County from persons by means of catalogues, advertising or other types of solicitation, whether such orders are received or accepted within or outside the County;~~

(2) Making or effectuating sales for delivery into the County; or

(3) Owning or possessing real or personal property located or used in the County for the purpose of or incidental to the making of sales at retail as defined in this article.

(4) Any retailer engaged in the business of making, outside Cook County, sales of tangible personal property titled or registered with the State of Illinois at a location inside Cook County, who has obtained a valid Cook County Use Tax certificate of registration.

Sale at retail means any transfer for valuable consideration of the ownership of or title to tangible personal property which is to be titled or registered to a person at a location in the County with an agency of the State, for use in the County, where such transfer is not for the purpose of resale in any form as tangible personal property. Transactions whereby the possession of property is transferred but the seller retains title as security for payment of the selling price with transfer of title effected upon full payment of the selling price shall be deemed to be sales at retail. Sale at retail shall be construed to include any transfer of the ownership of or title to tangible personal property which is titled or registered with an agency of the state, to a purchaser for use by any other person, to whom such purchaser may transfer, whether made for or without valuable consideration, for resale in any form as tangible personal property as defined in this article, unless made in compliance with Section 74-276. Sale at retail includes any transfer of, ownership of or title to tangible personal property as defined in this article, for use in the County incidental to a sale of service. The isolated or occasional sale at retail by a person who does not hold himself out as being engaged in or who does not habitually engage in selling titled or registered tangible personal property at retail, is not a sale at retail.

Selling price means the consideration received for a motor vehicle valued

in money, whether received in money or otherwise, including cash, credits, service, or property; but not including the value of or credit given for traded-in tangible personal property where the item that is traded-in is of like kind and character as that which is being sold, and selling price shall be determined without any deduction on account of the cost of the property sold, the cost of materials used, labor or service cost or any similar expense.

Tangible personal property means tangible personal property which is titled or registered, with an agency of the State of Illinois, to a person at a location within the corporate limits of the County.

Tax or *use tax* means the tax imposed by this article, unless the context requires construction otherwise.

Tax collector means a retailer maintaining a place of business within the County.

Trailer means Recreational Trailers; TA Trailers; and Flat Weight (625 ILCS 5/1-209) titled or registered with the State of Illinois at a location inside Cook County.

Use means the exercise by any person of any right to or power over tangible personal property incident to the ownership of that property. The term "use" does not mean the interim holding of tangible personal property by a retailer before the retailer sells such tangible personal property or the incidental use of such property in the regular course of such business for sales demonstration purposes.

Use in Cook County means tangible personal property titled or registered, at a location in Cook County, with an agency of the State of Illinois.

User means any person whose name is on the tangible personal property title or registration.

Watercraft means every description of watercraft used or capable of being used as a means of transportation on water, except a seaplane on the water, inner-tube, air mattress or similar device, and boats used for concession rides in artificial bodies of water designed and used exclusively for such concessions.

Watercraft dock operator means, any person who owns, operates or manages a dock located in the County

~~**Sec 74-272. Tax imposed.**~~

Sec. 74-272. Tax imposed, tax rate; collection; purchaser; and tax collector.

(a) *Tax imposed o user.* The tax imposed by this article and the obligation to pay the same is upon the user, as described in this Article.

(b) ~~(a)~~ Tax Rate. Except as provide in Section 74-273, a tax is imposed at the rate of three-quarters of one percent on the selling price of tangible personal property, purchased through a sale at retail, which is titled or registered with an agency of the State of Illinois at location inside Cook County.

(c) Collection; remittance; sales receipt. The tax imposed by this article shall be collected from the purchaser by the tax collector as defined by Section 74-271, and remitted to the Department as provided in this article. The tax imposed by this article shall, when collected, be stated as a distinct item separate and apart from the selling price of tangible personal property; and, the tax collector when collecting the tax shall give to the purchaser a receipt for such tax in the manner and form prescribed by the Department. Such receipt shall be sufficient to relieve the purchaser from further liability for the tax to which such receipt may refer.

(d) Tax paid by Purchaser. Except as provided in Section 74-277, the purchaser shall pay the tax imposed by this article to the tax collector.

(e) Tax Collector liable. The tax collector shall be liable to the County for the amount of tax that it is required to collect; and, shall collect the tax from purchasers by adding the tax to the selling price of tangible personal property, when sold for use in the County, in the manner prescribed by this article and the Department. If any retailer in collecting the amount which purports to constitute use taxes measured by receipts from sales which are subject to tax under this article, collects more from the purchaser than the actual use tax liability on the transaction, the purchaser shall have a legal right to claim a refund of such amount from such retailer. However, if such amount is not refunded to the purchaser for any reason, the retailer is liable to pay such amount to the Department.

~~**Sec. 74-272. Tax imposed.**~~

~~(a) Except as provided in Section 74-273, every user of tangible personal property which is purchased at retail on or after December 1, 1995, from a retailer and which is titled or registered at a location within the corporate limits of the County with an agency of the State government, shall be liable for a tax on the privilege of using such property in the County at the rate of three-quarter percent of such property's selling price (as the term "selling price" is defined by 35 ILCS 105/2 (use defined). The tax imposed by this article and the obligation to pay the same is upon the user. The tax imposed by this article shall be collected from the purchaser by the tax collector as defined by Section 74-271, and remitted to the Department as provided in this article. The tax collector shall be liable to the County for the amount of tax that it is required to collect. Retailers shall collect the tax from the users by adding the tax to the selling price of tangible personal property when sold for use in the County, in the manner prescribed by this article and the Department. The tax imposed by this article shall, when collected, be stated as a distinct item separate and apart from the selling price of tangible personal property. The tax hereby imposed and not paid~~

~~to a retailer pursuant to this section shall be paid to the Department directly by any person using such property within the County pursuant to Section 74-277. If any retailer, in collecting the amount which purports to constitute use taxes measured by receipts from sales which are subject to tax under this article, collects more from the purchaser than the actual use tax liability on the transaction, the purchaser shall have a legal right to claim a refund of such amount from such retailer. However, if such amount is not refunded to the purchaser for any reason, the retailer is liable to pay such amount to the Department.~~

~~(b) Every retailer maintaining a place of business in the County and making sales of tangible personal property for use in the County shall, when collecting the tax as provided in Section 74-272 from the purchaser, give to the purchaser a receipt for such tax in the manner and form prescribed by the Department. Such receipt shall be sufficient to relieve the purchaser from further liability for the tax to which such receipt may refer.~~

~~**Sec 74-273. Transactions not subject to tax**~~ moved to Sec 74-274.

Sec 74-273. Purchaser paying tax directly to department.

(a) When tangible personal property is purchased from a retailer for use in the County by a purchaser or user subject to the tax imposed by this article, and who did not pay the tax imposed by this article to the retailer, and who did not file returns with the Department as a retailer under Section 74-275, such purchaser or user shall, by the last day of calendar month in which such purchase was made, file and return with the Department and pay the tax due under this article.

(b) When tangible personal property is purchased by a lessor, which is subject to a lease for one year or longer, executed or in effect at the time of purchase, to an interstate carrier for hire, where such lessor did not pay the tax imposed by this article to the retailer at the time of purchase, such lessor shall, by the last day of the calendar month in which such property reverts to the use of such lessor, file a return with the Department and pay the tax imposed by this article upon the fair market value of such property on the date of reversion. Leaser

(c) When a purchaser or user pays the tax imposed by this article directly to the Department, the Department shall issue an appropriate receipt to such purchaser or user showing that the tax has been paid to the Department. Such receipt shall be sufficient to relieve the purchaser or user from further liability for the tax to which the receipt may refer.

(d) A purchaser or user who is liable to pay use tax directly to the Department only occasionally and not on a frequent recurring basis, and who is not required to file returns with the Department as a retailer under Section 74-275 concerning the filing of regular monthly tax returns and all provisions concerning the requirements of registrants to post bond or other security with the Department

shall apply to such purchasers or users; except that such a purchaser or user shall not be entitled to the two percent discount provided in Section 74-275 on any remittance, when such purchaser or user could have paid the tax to the retail seller of the property who was a registered tax collector for the County, instead of remitting the use tax directly to the Department.

~~**Sec. 74-273. Transactions not subject to tax.**~~

~~Notwithstanding any other provisions of this article, uses of tangible personal property, as defined in Section 74-271, which are exempt under the applicable provisions of 55 ILCS 5/5-1008 (home rule county use tax) and the Use Tax Act (35 ILCS 105/1 et seq.) shall not be subject to the tax imposed by this article.~~

~~**Sec. 74-274. Retailer registration; security**~~ **moved to Sec 74-276.**

Sec 74-274. Transactions not subject to tax.

Notwithstanding any other provisions of this article, uses of tangible personal property, as defined in Section 74-271, which are exempt under the applicable provisions of 55 ILCS 5/5-1008 (home rule county use tax) and the Use Tax Act (35 ILCS 105/1 et seq.) shall not be subject to the tax imposed by this article.

~~**Sec. 74-274. Retailer registration; security.**~~

~~(a) Every retailer maintaining a place of business in the County shall apply for registration as a tax collector with the Department no later than 30 days after commencing such business or 30 days after the effective date of the ordinance from which this article is derived, whichever occurs later. Application for registration shall be made to the Department by use of the form furnished by the Department for such purpose and shall contain such information as the Department may reasonably require.~~

~~(b) The Department may require an applicant for registration to furnish, within 30 days after commencing to engage in the business of selling tangible personal property at retail, a bond from a surety company authorized to do business in the State, or a bond secured by an assignment of a bank account or certificate of deposit, conditioned upon the applicant paying to the County all moneys becoming due under this article. The Department shall fix the amount of any such security in each case, taking into consideration the amount of money expected to become due from the applicant under this article. The amount of any security required by the Department shall be as such as, in the Department's opinion, will protect the County against failure to pay the amount which may become due from the applicant under this article. The amount of any security required by the Department shall not exceed three times the amount of the applicant's average monthly tax collection and remittance liability or $50,000.00, whichever amount is lower. A retailer that fails to furnish security required by the Department in accordance with this section shall not be permitted to register as a~~

~~tax collector.~~

~~(c) A tax collector which has, as verified by the Department, faithfully and continuously complied with the conditions of its bond or other security under the provisions of this article for a period of three consecutive years, shall be entitled to a release of the bond or other security and shall be exempt from all requirements of furnishing a bond or other security as a condition precedent to registration under this article. Such exemption shall continue until such time as the Department shall determine that the tax collector is delinquent in the filing of any return or is delinquent or deficient in the paying of any tax under this article.~~

~~(d) With respect to security other than bonds (upon which the Department may sue in the event of a forfeiture), if a tax collector fails to pay, when due, any amount whose payment such security guarantees, the Department shall, after such liability is admitted by the tax collector or established by the Department through issuance of a final assessment that has become final under the law, convert or cause to be converted the security which the tax collector has furnished, into money for the County after first giving the tax collector ten days' written notice by registered or certified mail, to pay the liability or forfeit such security to the Department. If the security consists of a bank certificate of deposit, the Department shall convert the security into money by demanding and collecting the amount of such bank certificate of deposit from the bank which issued the certificate. If the Department realizes more than the amount of such liability from the security, plus the expenses incurred by the Department in converting the security into money, the Department shall pay such excess to the tax collector who furnished such security, and the balances thereby received on behalf of the County shall be paid into the corporate fund of the County.~~

~~(e) A retailer maintaining a place of business in the County who fails to register as required in this article shall be guilty of violating this article and shall be fined $1,000.00 for each offense. Each sale at retail conducted by an unregistered retailer shall constitute a separate offense.~~

~~Sec 74-275. Filing of returns~~ moved to Sec 74-277.

Sec. 74-275. Books and records to be kept.

It shall be the duty of all retailers, tax collectors and persons required by this article to collect and/or to pay the taxes imposed in this article to keep and maintain all books, papers and records related to all transactions taxable or non-taxable under this article and to make such records available to the Director on request for inspection, audit and/or copying during regular business hours. Books, papers and records which relate to a return filed or required to be filed with the Department shall be kept for a period as provided for in Chapter 34, Article III, Uniform Penalties, Interest and Procedures Ordinance.

~~Sec 74-275. Filing of returns.~~

~~(a) Except as provided in this section, every retailer required to collect the tax imposed by this article shall, on or before the fifth day of each calendar month, file a return for the preceding calendar month with the Department. Except as otherwise provided in this article, taxes reported as collected and payable to the County shall be remitted to the County at the time a return is filed. Such returns shall be in a form determined by the Department and should state such reasonable information as the Department may require. Where the same person has more than one business registered with the Department under separate registrations under this article, such person shall be required to file separate returns for each such registered business.~~

~~(b) Notwithstanding any other provision of this article concerning the time within which a retailer may file the retailer's return, in the case of a retailer who ceases to engage in a kind of business which makes the retailer responsible for filing returns under this article, such retailer shall file a final return under this article with the Department not later than one calendar month after making the last sale at retail. All taxes due to be paid to the County shall be remitted to the County at the time the final return is filed with the Department.~~

~~(c) Except as provided in this section, the retailer filing the return shall pay the Department the amount of tax imposed by this article, less a discount of two percent of the tax collected, which is allowed to reimburse the seller for the expenses incurred in collecting the tax, keeping records, preparing and filing returns, remitting the tax and supplying data to the Department. However, the discount herein provided shall not be allowed for any taxes not paid when due. All such discounts shall be credited against the tax collector's liabilities under this article. Refunds to purchasers made by the retailer during any return period shall be allowed as a credit on the next period return filed, but only if the retailer included the receipts from such sale in a return filed and remitted the tax imposed by this article with respect to such receipts.~~

~~(d) The Director may require any tax collector to prepare and file an annual information return on the form prescribed by the Department, within 15 days after the tax collector files its annual income tax return with the State for such fiscal year. Such annual return to the Department shall include a statement of receipts as shown on the retailer's State income tax return. If the total receipts of the business as reported in the State income tax return do not agree with the receipts reported to the Department for the same period, the retailer shall attach to its annual return a schedule showing a reconciliation of the two amounts and state reasons for the differences. The retailer's annual return to the Department shall also disclose such additional reasonable information as the Department shall require to enable the Department to determine the accuracy of any periodic return filed by such retailer as provided by this section.~~

~~(e) Where the tax collector is a corporation, all returns filed on behalf of such corporation shall be signed by the president, vice president, secretary or treasurer or by the properly accredited agent of such corporation, the chief executive officer or the highest ranking manager of such corporation. All returns required to be filed by this section shall be signed by, and the accuracy of the~~

~~return certified by the president, vice president, secretary, treasurer, chief executive officer, owner of the highest ranking manager of the tax collector. Failure to file a return as herein required shall be in violation of this article and shall subject the tax collector to a fine of $1,000.00 for each violation. Any person, who files a return with false or misleading information or signs or certifies such return, shall be guilty of violating this article and shall be subject to a fine of $1,000.00 for each such violation. The return form prescribed by the Department shall include a statement that any person signing such return may be subject to the penalties provided in this article.~~

~~(f) Any retailer filing a return under this section shall also report, for the purpose of paying taxes due thereon, the total tax, if any, imposed upon it for the use of tangible personal property purchased by it for its own use, where such tax was not otherwise collected by the selling retailer. Such filing retailer shall remit the tax to the Department when filing such return.~~

~~Sec 74-276. Resellers of tangible personal property~~ moved to Section 74-278.

Sec. 74-276. Retailer registration; surety and cash bonds.

(a) *Retailer Registration.* Every retailer maintaining a place of business in the County shall register with the Department, to obtain a certificate of Use Tax registration, in accordance with policies and procedures prescribed by the Department. It shall be a violation for any retailer maintaining a place of business in the County to engage in the business of selling tangible personal property titled or registered, at an address or location in Cook County, with the State of Illinois without a Use Tax certificate of registration.

(b) *Surety; Cash Bonds.* To protect the County against the failure to pay an amount which may become due, retailers maintaining a place of business in the County shall provide to the Department a Surety or Cash Bond in the amount of $5000.00 for each location in the County at which the retailer intends to act as a motor vehicle dealer. Such surety and cash bonds shall be for the term of registration, including its renewal and shall become due or owed to the beneficiary in accordance with rules promulgated by the Department. The Department shall be the surety or cash bond beneficiary. The Surety Bond shall be obtained from a surety bonding or insurance company authorized to do business in the state of Illinois, and shall expire not sooner than December 31 of the year for which the registration was issued or renewed.

~~Sec. 74-276. Resellers of tangible personal property.~~

~~(a) If a purchaser is not registered with the Department as a tax collector, but claims to be a reseller of tangible personal property in such a way that the purchaser's use is not taxable under this article, such purchaser shall apply to the Department for a County resale number. Such applicant shall state facts which demonstrate to the Department why the applicant is not liable for tax under this article and shall furnish such additional information as the Department~~

~~may reasonably require.~~

~~(b) Upon approval of the application, the Department shall assign a resale number to the applicant and shall certify such number to the applicant. The Department may cancel any such number which is obtained through misrepresentation, or which is used to make a use tax-free purchase when the purchaser in fact is not a purchaser for resale, or where the purchaser has discontinued making resales of property. Except as provided in this section, no use shall be made tax-free on grounds of the retailer's sale being a sale for resale unless the purchaser has an active County registration number or County resale number from the Department, and furnishes that number to the retailer in connection with certifying to the retailer that any use by such purchaser is nontaxable because of the retailer's sale being a sale for resale.~~

~~Sec 74-277. Purchaser paying the tax directly to the Department~~ moved to Section 74-273.

Sec. 74-277. Filing of returns and remittances.

(a) *Monthly Returns; remittances; due date.* Except as provided in this section, ~~every retailer required to collect the tax imposed by this article shall, on or before the fifth day of each calendar month file a return for the preceding month with the Department~~ a tax collector, as described in this article, shall file a return and remit payment on or before the twentieth day of each calendar month following the month for which the tax is due. ~~Except as otherwise provided in this article taxes reported as collected and payable to the County shall be remitted to the County at the time a return is filed~~; A tax collector shall file a monthly return even when no tax is due.

(b) *Final monthly return; remittance* ~~Notwithstanding any other provision of this article concerning the time within which a retailer may file the retailer's return, in the case of a retailer~~ Any tax collector who ceases to engage in ~~a~~ the business of making retail sales of tangible person property which is titled or registered, with an agency of the State of Illinois, at a location in the County ~~in a kind of business which makes the retailer responsible for filing returns under this article, such retailer~~ shall file a final return under this article with the Department not later than one calendar month after making the last sale at retail. All taxes due to be paid to the County shall be remitted to the County at the time the final return is filed with the Department.

(c) *Tax collector Annual Return.* Tax collectors shall file an annual information return, on forms and including such information as prescribed by the Department, on the last day of the month following the year for which the return is due. ~~Such annual return shall include a statement of beginning inventory, purchases, sales, ending inventory, and receipts as shown on the retailer's State income tax return. The tax collector's annual return to the Department shall also disclose such additional reasonable information as the Department shall require to enable the Department to determine the accuracy of any periodic return filed by such tax collector as provided by this section.~~

(d) Any retailer filing an information return under this section shall also report, for the purpose of paying taxes due thereon, the total tax, if any, imposed upon it for the use of tangible personal property purchased by it for its own use, where such tax was not otherwise collected by the selling retailer. Such filing retailer shall remit the tax to the Department when filing such return.

~~**Sec. 74-277. Purchaser paying tax directly to department.**~~

~~(a) When tangible personal property is purchased from a retailer for use in the County by a purchaser or user subject to the tax imposed by this article, and who did not pay the tax imposed by this article to the retailer, and who did not file returns with the Department as a retailer under Section 74-275, such purchaser or user shall, by the last day of calendar month in which such purchase was made, file and return with the Department and pay the tax due under this article.~~

~~(b) When tangible personal property is purchased by a lessor, which is subject to a lease for one year or longer, executed or in effect at the time of purchase, to an interstate carrier for hire, where such lessor did not pay the tax imposed by this article to the retailer at the time of purchase, such lessor shall, by the last day of the calendar month in which such property reverts to the use of such lessor, file a return with the Department and pay the tax imposed by this article upon the fair market value of such property on the date of reversion.~~

~~(c) When a purchaser or user pays the tax imposed by this article directly to the Department, the Department shall issue an appropriate receipt to such purchaser or user showing that the tax has been paid to the Department. Such receipt shall be sufficient to relieve the purchaser or user from further liability for the tax to which the receipt may refer.~~

~~(d) A purchaser or user who is liable to pay use tax directly to the Department only occasionally and not on a frequent recurring basis, and who is not required to file returns with the Department as a retailer under Section 74-275 concerning the filing of regular monthly tax returns and all provisions concerning the requirements of registrants to post bond or other security with the Department shall apply to such purchasers or users; except that such a purchaser or user shall not be entitled to the two percent discount provided in Section 74-275 on any remittance, when such purchaser or user could have paid the tax to the retail seller of the property who was a registered tax collector for the County, instead of remitting the use tax directly to the Department.~~

~~**Sec. 74-278. Interest and Penalties.**~~

Sec. 74-278. Resellers of tangible personal property.

(a) If a purchaser is not registered with the Department as a tax collector, but claims to be a reseller of tangible personal property in such a way

that the purchaser's use is not taxable under this article, such purchaser shall apply to the Department for a County resale number. Such applicant shall state facts which demonstrate to the Department why the applicant is not liable for tax under this article and shall furnish such additional information as the Department may reasonably require.

(b) Upon approval of the application, the Department shall assign a resale number to the applicant and shall certify such number to the applicant. The Department may cancel any such number which is obtained through misrepresentation, or which is used to make a use tax-free purchase when the purchaser in fact is not a purchaser for resale, or where the purchaser has discontinued the reselling of property. Except as provided in this section, no use shall be made tax-free on grounds of the retailer's sale being a sale for resale unless the purchaser has an active County registration number or County resale number from the Department, and furnishes that number to the retailer in connection with certifying to the retailer that any use by such purchaser is nontaxable because of the retailer's sale being a sale for resale.

~~Sec. 74-278. Interest and penalties~~ ***(deleted since this language is included in the current and amended Sec 34-60 Uniform Penalties, Interest and Procedures Ordinance).***

~~(a) In case any person engaged in the business of selling tangible personal property at retail subject to or required to collect the tax imposed by this article fails to file a return, the Department shall determine the amount of tax due from such person according to the Department's best judgment and information, which amount so fixed by the Department shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax due, as shown in such determination. Proof of such determination by the Department may be made at any hearing before an administrative law officer or administrative law judge appointed by the Director of Administrative Hearings, or in any legal proceeding, by a reproduced copy of the Department's record relating thereto, in the name of the Department under certificate of the Director. Such reproduced copy shall, without further proof, be admitted into evidence before the Department or in any legal proceeding and shall be prima facie proof of the correctness of the amount of tax due as shown therein.~~

~~(b) In case of failure to pay the tax or any portion thereof or any penalty or interest when due, the Department may request that suit be brought against the tax collector or return filer, or the purchaser or user to recover the amount of such tax or portion thereof, or penalty or interest, or if the tax collector or purchaser or user has died or has become incompetent, may file a claim therefore against such person's estate. The collection of tax, penalty or interest by any means provided for in this article shall not be a bar to collection by any other means.~~

~~(c) Any tax amount which is not paid or remitted when due, shall bear interest at the rate provided in Chapter 34, Article III of this Code.~~

Sec 74-279. Duty of department to collect.

It shall be the duty of the Department to collect and receive the tax imposed by this article. The Department shall keep an accurate and separate account of all such tax payments received by it showing the name and address of the person remitting the tax and the date of each payment. The Director is hereby empowered to adopt, promulgate and enforce, rules and regulations not inconsistent with this article, relating to the administration and enforcement of the provisions of this article, including provisions for examination, reexamination, correction and amendment of all returns filed or required to be filed pursuant to this article or request the Department of Administrative Hearing to conduct hearings, to aid in establishing liability for payment of taxes due under this article. The Director or any person designated by the Director, including but not limited to the County Auditor, is hereby authorized to examine the books, papers and records of any tax collector during regular business hours, in order to verify the accuracy of any return made, or if no return was made, to ascertain the tax imposed by this article.

~~**Sec. 74-280. Books and records to be kept.**~~

Sec. 74-280. Tax Additional.

The tax imposed in this article is in addition to all other taxes imposed by the County, the State or any municipal corporation or political subdivision thereof.

~~**Sec. 74-280. Books and records to be kept**~~ moved to Sec 74-275.

~~It shall be the duty of all retailers, tax collectors and persons required by this article to collect and/or to pay the taxes imposed in this article to keep and maintain all books, papers and records related to all transactions taxable under this article and to make such records available to the Director on request for inspection, audit and/or copying during regular business hours. Books, papers and records which relate to a return filed or required to be filed with the Department shall be kept for a period of not less than three years after the date such return was filed or was due to be filed. The burden shall be on the tax collector and taxpayer to keep records which verify the basis for any and all transactions which are claimed to be exempt from taxation pursuant to Section 74-273 or for which the tax collector was otherwise excused from collecting the tax.~~

~~**Sec. 74-281. Tax additional.**~~

Sec. 74-281. Aircraft Hangar and Watercraft Dock Operators.

(a) *Aircraft Hangar and Watercraft Dock operator registration.* To enforce the collection of Use Tax on aircraft and watercraft titled or registered at a location in Cook County with an agency of the State of Illinois, every aircraft hangar and watercraft dock operator, as described in this article, shall register with the Department within 30 days of the effective date of this ordinance.

(b) *Docking facility information returns.* Aircraft hangar and watercraft dock operators shall file an annual information return on forms, including such information as prescribed by the Department, on the last day of the month following the year for which the return is due.

Sec 74-282. Violations; penalty.

Any person determined to have violated this article, as amended, shall be subject to a fine of $1,000.00 for the first offense, and a fine of $2,000.00 for the second and each subsequent offense. Separate and distinct offense shall be regarded as committed each day upon which said person shall continue any such violation, or permit any such violation to exist after notification thereof. It shall be deemed a violation of this article for any person to knowingly furnish false or inaccurate information to the Department. Criminal prosecution pursuant to this article shall in no way bar the right of the County to institute civil proceedings to recover delinquent taxes, interest and penalty due and owing as well as costs incurred for such proceeding.

Sec. 74-283. Application of Uniform Penalties, Interest and Procedures Ordinance.

Whenever not inconsistent with the provisions of this Article or whenever this chapter is silent, the provisions of the uniform penalties, interest and procedures ordinance, Chapter 34, Article III, Uniform Penalties, Interest and Procedures, of this Code shall apply and supplement this Article.

***Referred to the Committee on Finance on 2/1/11.**

Commissioner Steele, seconded by Commissioner Garcia, moved approval of the Proposed Ordinance Amendment (Communication No. 310971). Commissioner Steele called for a roll call, the vote of yeas and nays being as follows:

Roll Call on Motion to Approve a Proposed Amendment to the Home Rule County Use Tax Ordinance (Communication No. 310971)

Yeas: **Chairman Daley and Commissioners Gainer, Garcia, Gorman, Goslin, Murphy, Schneider, Silvestri, Vice Chairman Sims, Steele, Suffredin, and Tobolski (12)**

Nays: **Commissioners Beavers and Collins (2)**

Absent: **Commissioners Butler, Fritchey and Reyes (3)**

The motion carried and the Proposed Amendment to the Home Rule County Use Tax Ordinance (Communication No. 310971) was approved and adopted.

Chairman Daley then called the next item on the agenda, Communication No. 310972, for consideration.

310972 **AMENDMENT TO THE COOK COUNTY LAW LIBRARY FILING FEE ORDINANCE** (PROPOSED ORDINANCE AMENDMENT). Submitting a Proposed Ordinance Amendment sponsored by Toni Preckwinkle, President, Jerry Butler, John P. Daley, Jesus G. Garcia, Joan Patricia Murphy, Edwin Reyes, Deborah Sims, Robert B. Steele, Larry Suffredin and Jeffrey R. Tobolski, County Commissioners.

PROPOSED ORDINANCE AMENDMENT

LAW LIBRARY FILING FEE ORDINANCE

WHEREAS, 55 ILCS 5/5-39001 authorizes the clerk of all civil trial courts at the county seat of government to collect a filing fee to defray the cost of operating and maintaining a county law library; and

WHEREAS, P.A. 96-0227, effective August 11, 2009, authorizes counties in Illinois to increase the County Law Library Filing Fee to defray the cost of operating and maintaining law libraries to a maximum of $21 in 2011; and

WHEREAS, P.A. 96-0227 was supported by many other counties around the state including: DeKalb, DuPage, Kane, Kendall, Lake, Madison, McHenry, McLean, St. Clair, Tazewell, Will and Winnebago Counties; and

WHEREAS, prior to P.A. 96-0227, the General Assembly only increased the maximum filing fee by three dollars, during the previous 20 years, which is less than half of the CPI increase during that same time-period; and

WHEREAS, the current $18 dollars is inadequate in defraying the expenses the Cook County Law Library; and

WHEREAS, unlike many businesses, the Library's revenues and expenses fluctuate independent of the Library's influences, cases filed in the courts, patron traffic, inflationary increases on books and online legal publications all influence the revenues and expenses of the Library; and

WHEREAS, a misperception exists that all relevant legal information is freely available online to the average citizen, when, the average citizen does not have subscriptions to online legal publications; and

WHEREAS, county law libraries provide the general public with access to justice, which includes both pint and electronic legal information and research assistance that they would not be able to access anywhere else; and

WHEREAS, Cook County's Law Library is a National Hub Law Library which provides citizens with access to over a quarter of a million print titles and several online legal databases and with seven branch libraries, it is the only law library in the area that is freely available to all people without restriction; and

WHEREAS, Other counties law library filing fees are much higher than Cook's, for example: Los Angeles' filing fee, a similarly sized county, is $24, Sacramento, CA ($50), San Francisco, CA ($42), San Diego, CA ($38), Alameda, CA ($37), El Paso, TX ($35) King, WA ($20) and Wayne, MI ($20); and

WHEREAS, it is critical that the Library maintain a collection and professional staff which can meet the needs of the Law Library's patrons including attorneys, state and federal judges, law clerks, law librarians, self-represented litigants, administrative law judges, public librarians, paralegal students and the general public seeking legal information.

NOW, THEREFORE, BE IT ORDAINED, by the Cook County Board of Commissioners that Chapter 32 Fees, Section 32-1 of the Cook County Code is hereby amended as follows:

Sec. 32-1. Fee schedule.

The fees or charges provided for or required by the below listed sections shall be as shown below:

Code Section	*Description*	*Fees, Rates, Charges (in dollars)*
CHAPTER 50, LIBRARIES		
50-31(b)	County Law Library fee	~~18.00~~ 21.00

Effective Date:This Ordinance Amendment shall be effective one month after adoption.

***Referred to the Committee on Finance on 2/1/11.**

Commissioner Steele, seconded by Commissioner Garcia, moved approval of the Proposed Ordinance Amendment (Communication No. 310972). Commissioner Beavers called for a, the vote of yeas and nays being as follows:

Roll Call on Motion to Approve a Proposed Amendment to the Law Library Filing Fee Ordinance (Communication No. 310972)

Yeas: **Commissioner Beavers, Chairman Daley, Commissioners Gainer, Garcia, Gorman, Goslin, Murphy, Schneider, Silvestri, Vice Chairman Sims, Steele, Suffredin, and Tobolski (13)**

Nays: **Commissioner Collins (1)**

Absent: **Commissioners Butler, Fritchey and Reyes (3)**

The motion carried and the Proposed Amendment to the Law Library Filing Fee Ordinance (Communication No. 310972) was approved and adopted.

Chairman Daley then called the next item on the agenda, Communication No. 310973, for consideration.

310973 **PROPOSED ORDINANCE REGARDING ADMINISTRATIVE PROCESSING FEES FOR MBE/WBE CERTIFICATION** (PROPOSED ORDINANCE). Submitting a Proposed Ordinance sponsored by Toni Preckwinkle, President, Jerry Butler, John P. Daley, Jesus G. Garcia, Joan Patricia Murphy, Edwin Reyes, Peter N. Silvestri, Deborah Sims, Robert B. Steele, Larry Suffredin and Jeffrey R. Tobolski, County Commissioners.

PROPOSED ORDINANCE

ADMINISTRATIVE PROCESSING FEES FOR MBE/WBE CERTIFICATION

WHEREAS, Cook County (the "County") is committed to a policy of preventing discrimination in the award of or participation in Cook County contracts and eliminating arbitrary barriers to full participation in such contracts by all persons, regardless of race, sex or ethnicity. The County has therefore adopted a Minority and Women Business Enterprise ("M/WBE") Ordinance to ensure that minority and women owned businesses are provided full and equal opportunity to participate in County contracts.

WHEREAS, the Office of Contract Compliance is the steward of the County's directory of Minority Business Enterprises and Women Business Enterprises and manages the application process along with the data, ensuring that participating businesses are legitimately minority-or female owned, in accordance with the M/WBE Ordinance.

WHEREAS, the Cook County Board of Commissioners desires to establish fair and reasonable fees to administer the program to off set the cost of processing the certification applications, conducting site visits to verify the information on the application is accurate and maintaining the database.

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 34 Finance, Article IV, Division 6, Subdivision I, Section 34-283 of the Cook County Code is hereby created as follows:

Sec. 34-283. Processing Fees

(a) In the event an individual or entity desires to obtain M/WBE certification the Office of Contract Compliance may collect a $200.00 fee for processing the application for such certification.

(b) In the event an individual or entity desires to recertify their M/WBE certification, the Office of Contract Compliance may collect a $100.00 fee for such recertification.

(c) The Office of Contract Compliance may collect a $50.00 fee for processing any "no change" affidavits in connection with certified M/WBE businesses.

All monies generated from these administrative fees shall be transacted through the Bureau of Finance.

All fees included in this Section 34-283 may be adjusted upon approval of the Bureau of Finance.

BE IT FURTHER ORDAINED, by the Cook County Board of Commissioners, that Chapter 32 Fees, Section 32-1 of the Cook County Code is hereby amended as follows:

Sec. 32-1 Fee schedule.

The fees or charges provided for or required by the below listed sections shall be as shown below:

Code Section	*Description*	*Fees, Rates, Charges*
(in dollars)		
CHAPTER 34		
34-283(a)	M/WBE Certification Fee	$200.00
34-283(b)	M/WBE Recertification Fee	$100.00
34-283(c)	"No Change" Affidavit Procession Fee	$ 50.00

Effective Date: This Ordinance shall be effective upon its passage by the Cook County Board of Commissioners.

***Referred to the Committee on Finance on 2/1/11.**

Commissioner Steele, seconded by Commissioner Garcia, moved approval of the Proposed Ordinance Amendment (Communication No. 310973). Commissioner Steele called for a roll call, the vote of yeas and nays being as follows:

Roll Call on Motion to Approve a Proposed Amendment to the Minority and Women Business Enterprise Ordinance (Communication No. 310973)

Yeas: **Chairman Daley and Commissioners Gainer, Garcia, Gorman, Goslin, Murphy, Schneider, Silvestri, Vice Chairman Sims, Steele, Suffredin, and Tobolski (12)**

Nays: **Commissioners Beavers and Collins (2)**

Absent: **Commissioners Butler, Fritchey and Reyes (3)**

The motion carried and the Proposed Amendment to the Minority and Women Business Enterprise Ordinance (Communication No. 310973) was approved and adopted.

Chairman Daley then called the next item on the agenda, Communication No. 310974, for consideration.

310974 **AN ORDINANCE REGARDING GEOGRAPHIC INFORMATION SYSTEMS DATA AND MAP PRODUCTION FEE** (PROPOSED ORDINANCE). Submitting a Proposed Ordinance sponsored by Toni Preckwinkle, President, Jerry Butler, John P. Daley, Jesus G. Garcia, Joan Patricia Murphy, Edwin Reyes, Deborah Sims, Robert B. Steele, Larry Suffredin and Jeffrey R. Tobolski, County Commissioners.

PROPOSED ORDINANCE

ORDINANCE REGARDING GEOGRAPHIC INFORMATION SYSTEMS DATA AND MAP PRODUCTION FEE

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 2, Article IV, Division 3, Subdivision II, Section 2-220 of the Cook County Code of Ordinances is hereby created as follows:

Section 2-220. GIS Data and Map Production Fee.

(a) *Definitions:* The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this subsection except where the context clearly indicates a different meaning:

Commercial User means any person seeking County GIS Data for the purpose of furthering a commercial enterprise.

County means Cook County.

Geographic Information System means the organized collection of computer hardware, software, and geographic data designed to efficiently capture, store, update, manipulate, analyze, and display all forms of geographically referenced information operated and maintained by the County.

GIS Data means all forms of digital geographically referenced digital information or data, legally disclosable and generated by the County's Geographic Information System, including, but not limited to, the types of data set forth in Section 32-1 of the Cook County Code of Ordinances.

Map means a product that is a visual depiction, image, or picture of data, whether digital or hardcopy.

Noncommercial User means any of the following: a not-for-profit organization established under the laws of Illinois or another state; an organization exempt under Section 501(c) 3 of the Internal Revenue Code; a municipality, county or unit of local government of the State of Illinois, the State of Illinois and its departments or agencies; or an educational institution such as a college, university, or public or private secondary or college preparatory school.

Primary Custodian means a County agency or department that creates, develops or owns GIS Data.

(b) *Internet Access.* All standard hardcopy countywide Maps will be placed on the County's website in a .PDF format and available for download free of charge.

(c) *Fees.* GIS Data shall be provided at no charge to Noncommercial Users. The Bureau of Technology shall charge fees to any Commercial User for GIS Data as set forth in Section 32-1 of this Code.

(d) *Annual Increases in Fees.* The charges set forth in the GIS fee schedule shall be increased on an annual basis for any GIS Data provided after January 1, 2011. The amount of such increase shall be the percentage increase in the Consumer Price Index for Urban Consumers (utilizing the index which includes Cook County) from January 1, 2011, to January 1 of the calendar year in which such GIS Data is being provided. The amount of such increase will be calculated by the Department of Finance.

(e) *Deposit of Fees.* All fees from sales of GIS Data shall be deposited in the GIS special use fund described in Section 2-214 of the Cook County Code of Ordinances.

(f) *Authorized Uses of GIS Data.* Commercial Users are authorized to utilize the GIS Data in furtherance of its commercial enterprise by incorporating the GIS Data with other data compiled or provided by the Commercial User in programs, packages or data created by the Commercial User and providing access to and use of such programs, packages or data to others (including Internet access) in the conduct of the Commercial User's business. All other uses of GIS Data are prohibited.

Noncommercial Users may use GIS Data only for charitable, educational or research purposes and not for the purpose of furthering a commercial enterprise. Noncommercial Users may permit access to and use of the data only by individuals employed or otherwise authorized by the Noncommercial User to perform such research or accomplish such purpose on behalf of the Noncommercial User. All uses of the data not specifically permitted by this subsection are prohibited to Noncommercial Users.

Except for the authorized uses of GIS Data set forth above in this subsection, commercial and Noncommercial Users are prohibited from duplicating, copying or publishing (including publishing on the internet) all or a substantial portion of any GIS Data, or transferring, distributing or providing all or a substantial portion of any GIS Data to any other person or entity.

(g) *No Representations or Warranties.* The provision of GIS Data by the County shall not constitute a representation or warranty by the County, its commissioners, employees, independently elected officials and any officer or agent affiliated with the County (collectively, "County and Agents") that any GIS Data is

accurate, complete or suitable for the purposes of the user and the County and Agents expressly disclaims any and all liability arising from the inaccuracy, incompleteness or unsuitability of any GIS Data, which is provided on an "as is" basis.

(h) *Transaction Database.* The Bureau of Technology shall develop an online interactive database through which all requests and payments for GIS Data disseminated by the Bureau of Technology may be accomplished. The Bureau of Technology is authorized to develop appropriate forms and promulgate reasonable rules, regulations and policies to effectuate the provisions of this ordinance.

(i) *Primary Custodians not Restricted.* This Ordinance shall not be construed to restrict or abridge the rights of any Primary Custodian to sell, lease, or otherwise disseminate data such Primary Custodian produces regardless of whether such data is ultimately synthesized to form a part of GIS Data.

BE IT FURTHER ORDAINED, by the Cook County Board of Commissioners, that Chapter 32 Fees, Section 32-1 of the Cook County Code is hereby amended as follows:

Sec. 32-1 Fee schedule.

The fees or charges provided for or required by the below listed sections shall be as shown below:

Code	*Description*	*Fees, Rates, Charges (in dollars)*
2-220(c)	Parcel:	
2-220(c)	Individual Parcel (less than 100), per parcel	1.00
2-220(c)	Township	5,000.00
2-220(c)	Countywide	55,000.00
2-220(c)	Imagery:	
2-220(c)	2008 USGS Ortho (SID)	500.00
2-220(c)	2008 USGS Ortho (TIF)	1,500.00
2-220(c)	2008 Oblique (ECW) ((ECW(ECW)	2,000.00
2-220(c)	2008 Oblique (JPEG)	2,000.00
2-220(c)	2006-8 Street (JPEG)	2,000.00
2-220(c)	2009 Ortho (SID) entire county	1,000.00
2-220(c)	2009 Ortho (SID) per township	100.00
2-220(c)	2009 Ortho (TIF) entire county	3,000.00
2-220(c)	2009 Ortho (TIF) per tile	25.00
2-220(c)	Cadastral Tax: Right-of-Way, Condominium, and Lot	2,500.00
2-220(c)	Tax District: Municipality, School, Park, Library and TIF	500.00
2-220(c)	Planimetry: Major Road, Street Midline, Railroad, Railroad Station, Stream, Lake and Intersections	3,000.00

2-220(c)	Cook County Political: Congressional, State Senate, State Representative, County Commissioner, Municipal Ward, Board of Review, Judicial, Mayoral Conference	300.00
2-220(c)	Cultural: Public School, Private School, Hospital and Cemetery	250.00
2-220(c)	Public Survey: Section, Survey Township, Political and County	100.00
2-220(c)	Census: Block, Block Group and Tract	250.00
2-220(c)	Terrain: One-foot contour	3,000.00
2-220(c)	Miscellany:	
2-220(c)	Election Precinct	100.00
2-220(c)	Zip Code	100.00
2-220(c)	Address Point	1,000.00
2-220(c)	Custom Mapping: Per hour labor fee (in 15 minute and a 15% administrative fee.	47.00
2-220(c)	Highway System Map, 7/10 inch = one mile, 1:90,000, Color	20.00
2-220(c)	Countywide Commissioner District Map, 7/10 inch one mile, 1:90,000, 30"x36", color	20.00
2-220(c)	Township Maps, 4 inches = one mile, 1:15,840, approximate size 30"x30", color	20.00
2-220(c)	Municipal Map, 7/10 inch=one mile, 1:90,000, 30"x36", Color	25.00
2-220(c)	Cook County Atlas (with highway jurisdiction), Approximate size 2 1/2 inches= one mile, dimensions: 3/8"x11"x17", Color	75.00

Effective Date: This Ordinance is effective upon passage.

***Referred to the Committee on Finance on 2/1/11.**

Commissioner Steele, seconded by Commissioner Garcia, moved approval of the Proposed Ordinance (Communication No. 310974). Commissioner Steele called for a roll call, the vote of yeas and nays being as follows:

Roll Call on Motion to Approve a Proposed Ordinance establishing a Geographic Information System Data and Map Production Fee (Communication No. 310974)

Yeas: **Commissioner Beavers, Chairman Daley, Commissioners Gainer, Garcia, Gorman, Goslin, Murphy, Schneider, Silvestri, Vice Chairman Sims, Steele, Suffredin, and Tobolski (13)**

Nays: **Commissioner Collins (1)**

Absent: **Commissioners Butler, Fritchey and Reyes (3)**

The motion carried and the Proposed Ordinance to establish a Geographic Information System Data and Map Production Fee (Communication No. 310974) was approved and adopted.

Chairman Daley then called the next item on the agenda, Communication No. 310975, for consideration.

310975 **RESTATEMENT OF AN ORDINANCE AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR A LINE OF CREDIT AND RELATED DOCUMENTS AND THE ISSUANCE OF ONE OR MORE PROMISSORY NOTES IN CONNECTION THEREWITH** (PROPOSED ORDINANCE). Submitting a Proposed Ordinance sponsored by Toni Preckwinkle, President, Jerry Butler, John P. Daley, Jesus G. Garcia, Joan Patricia Murphy, Edwin Reyes, Deborah Sims, Robert B. Steele, Larry Suffredin and Jeffrey R. Tobolski, County Commissioners.

PROPOSED ORDINANCE

RESTATEMENT OF AN ORDINANCE AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR A LINE OF CREDIT AND RELATED DOCUMENTS

WHEREAS, Section 6(a) of Article VII of the 1970 Constitution of the State of Illinois provides that "a County which has a Chief Executive Officer elected by the electors of the County ... (is) a Home Rule Unit" and The County of Cook, Illinois (the "County"), has a Chief Executive Officer elected by the electors of the County and is therefore a Home Rule Unit and may, under the power granted by said Section 6(a) of Article VII of the Constitution of 1970, as supplemented by the Local Government Debt Reform Act, as amended, the ("Act"), exercise any power and perform any function pertaining to its government and affairs, including, but not limited to, the power to tax and to incur debt; and

WHEREAS, pursuant to the provisions of the Act, the County has the power to incur debt payable from any lawful source and maturing within 40 years from the time it is incurred without prior referendum approval; and

WHEREAS, the Board of Commissioners of the County (the "Board") has not adopted any ordinance, resolution, order or motion or provided any County Code provisions which restrict or limit the exercise of the home rule powers of the County in the issuance of general obligation full faith and credit notes without referendum for corporate purposes or which provides any special rules or procedures for the exercise of such power; and

WHEREAS, pursuant to Ordinance 06-O-31 adopted on the 12th day of July, 2006 (*the "Prior Authorizing Ordinance"*) and pursuant to Ordinance 08-O-13 adopted on the 6th day of February, 2008 (the "*Prior Authorizing Ordinance as Amended"*), hereinafter referred to collectively as the "Prior Authorizing Ordinances" the Board heretofore determined it to be advisable, necessary and in the best interests of the County that the County authorize the execution and

delivery of an agreement for a line of credit; and

WHEREAS, pursuant to the Prior Authorizing Ordinances, the Board authorized the issuance of one or more promissory notes to evidence the obligation to repay the principal of and interest on amounts drawn down by the County under such Agreement; and

WHEREAS, the Prior Authorizing Ordinances provided for the execution of one or more Note Orders (as hereinafter defined) setting forth certain details of any such agreement and note, all within certain limitations (being, collectively, the *"Prior Parameters"*) and as set forth in the Prior Authorizing Ordinance; and

WHEREAS, to date no such agreement has been executed and no note has been issued pursuant to the Prior Authorizing Ordinances; and

WHEREAS, the Board now expressly determines that it is advisable and necessary that an agreement be executed and that one or more such notes be issued; and

WHEREAS, to such end it is hereby deemed advisable and necessary that the Board now specify, determine, amend and restate the Prior Parameters and amend and restate the Prior Authorizing Ordinances; and

WHEREAS, to such end it is hereby deemed advisable and necessary that the Board now adopts this Ordinance.

NOW, THEREFORE, BE IT ORDAINED, by the Board of Commissioners of The County of Cook, Illinois, as follows:

ARTICLE I. DEFINITIONS AND INTERPRETATIONS.

Section 1.1. Definitions:

A. The following words and terms are defined in the preambles hereto:

Act

Board

County

Prior Authorizing Ordinance

Prior Parameters

B. The following words and terms used in this Ordinance shall have the following meanings unless the context or use indicates another or different meaning:

Advance for Value means a receipt of funds by the County under the Agreement and relative to the Note which is a loan advance on and partial purchase price consideration for the Note, to be evidenced as provided in the Note form.

Agreement means that certain written agreement providing for the creation of a line of credit for the County and the issuance of one or more Notes to evidence the obligation of the County to repay amounts due and owing thereunder.

Chief Financial Officer means the Chief Financial Officer of the County.

Code means the Internal Revenue Code of 1986, as amended.

Designated Officer means the President, Chief Financial Officer or any other office or employee of the County so designated by a written instrument signed by the President or the Chief Financial Officer.

Face Amount means the authorized maximum amount of the Note, as stated on its face.

Fixed Rate Note means a Note bearing interest at a fixed rate percent per annum.

Floating Rate Note means a Note bearing interest at a rate percent per annum which is subject to change from time to time, payable from time to time, and subject to various options for payment by the owners thereof, as more fully provided for in the Agreement.

Maturity Date means the date on which the principal of the Note is due and owing under the Agreement.

Note Order means the 2011 Note Order and Notification of Sale to be executed by the Chief Financial Officer and setting forth certain details of the Agreement and the Note as hereinafter provided.

Note Register means the books of the County kept by the Note Registrar to evidence the registration and transfer of the Note.

Note Registrar means the institution or person so designated and defined in the Note Order, or successors or assigns.

Ordinance means this Ordinance as originally introduced and adopted and as the same may from time to time be amended or supplemented in accordance with the terms hereof.

Paying Agent means the institution, having fiduciary power, or person so designated and defined in the

Note Order, or successors or assigns.

Purchase Price means the price paid to the County by the Purchaser for the Note.

Purchaser means the purchaser of the Note as so identified in the Note Order.

Regular Record Date means the fifteenth day before any interest payment date on the Note or such other date as may be provided in the Note Order.

Taxable means, with reference to the Note, the status of interest paid and received thereon as includable in the gross income of the owners thereof under the Code for federal income tax purposes.

Tax Exempt means, with respect to the Note, the status of interest paid and received thereon as excludable from the gross income of the owners thereof under the Code for federal income tax purposes, except to the extent that such interest is taken into account in computing an adjustment used in determining the alternative minimum tax for certain corporations.

Section 1.2. Severability of Invalid Provisions: If any section, paragraph, clause or provision of this

Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

Section 1.3. Short Title: This Ordinance may hereafter be cited by the County or hereinafter referred to as the " ~~2010~~ 2011 Line of Credit Ordinance."

ARTICLE II. DETERMINATIONS OF THE COUNTY.

Section 2.1. Findings: The Board hereby finds and determines that (A) the Prior Authorizing Ordinances shall be amended and restated as set forth in this Ordinance; (B) all of the recitals contained in the preambles to this Ordinance are full, true and correct and hereby incorporates them into this Ordinance by this reference; (C) this Ordinance is adopted pursuant to Section 6 of Article VII of the Illinois Constitution of 1970; (D) it is necessary and in the best interests of the County that the County adopt this Ordinance; (E) it is necessary and in the best interests of the County that the Agreement be executed so as to provide for the timely defraying of necessary expenses incurred by the County for its corporate purposes; and (F) the execution of the Agreement, the borrowing of money for the purposes authorized therein and the issuance of the Note is for a proper public purpose and is in the public interest.

Section 2.2. Execution of the Agreement Authorized: The County is hereby authorized to enter into the Agreement with the Purchaser in such form as shall be approved by the Chief Financial Officer, and by majority poll, not subject to

ratification or cancellation by the Board or its members, of all members of the Board, which form shall be as is deemed usual and customary in the municipal bond market and may include, without limitation, terms providing for posted security for one or more Notes, assignment of taxes, drawdown conditions, repayment provisions, and provisions for default, provided, however, that in the event of any conflict between the terms and provisions of this Ordinance and the Agreement, the terms and provisions of this Ordinance shall in all events control. The Chief Financial Officer be, and hereby is, authorized, empowered and directed to execute, and her execution thereof shall constitute conclusive evidence of the approval of any and all terms contained in the Agreement by the Board, and the County Clerk be, and hereby is, authorized, empowered and directed to attest the Agreement in the name, for and on behalf of the County, and thereupon to cause the Agreement to be delivered to the counterparty thereto. The Agreement (as executed) is entered into to provide for the loan of the proceeds of the Note to the County and the use of such proceeds as aforesaid and to pay the costs of issuing the Note, in the manner and with the effect therein provided. From and after the execution and delivery of the Agreement, the officers, employees and agents of the County are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Agreement as executed; and the Agreement shall constitute, and hereby is made, a part of this Ordinance, and a copy of the Agreement shall be placed in the official records of the County, and shall be available for public inspection at the office of the County Clerk.

Section 2.3. Note Authorized: For the purposes aforesaid, the Note is hereby authorized to be issued as a drawdown note in the aggregate principal amount of not to exceed $100,000,000.

Section 2.4. Note Details: The Note shall be issued in the principal amount of not to exceed $100,000,000 and shall bear such title and series designation as the Chief Financial Officer shall determine in the Note Order. The Note may be a Fixed Rate Note or a Floating Rate Note as provided in the Note Order. The Note shall be dated as of the first Advance for Value on the Note or as otherwise provided in the Agreement (any such date being the "Dated Date"), and the amount of the Note issued, being the sum of the amounts as shown as Advances for Value on the Note, not in excess of the Face Amount, less in each case principal payments made from time to time thereon, shall be the "Outstanding Principal Amount" of the Note. The Outstanding Principal Amount of the Note from time to time outstanding shall bear interest at not to exceed a rate percent per annum which is ten percent (10.00%), with interest payable on such date or dates as provided in the Agreement, upon any prepayment and on the Maturity Date. The Maturity Date shall be not later than November 30, 2014.

The Note shall bear interest on the Outstanding Principal Amount from time to time at the rate provided, in each case from the time advanced until duly paid or provided for, such interest being computed upon the basis of a 360-day year of twelve 30-day months.

Subject to the provisions of the Agreement, the interest on and all payments of principal of the Note shall be payable in lawful money of the United States of America, or by electronic funds transfer of lawful money of the United States of America, upon presentation at the office of the Note Registrar, provided, however, that so long as a financial institution is the registered owner of the Note, then such payments shall be made by check or draft of the Note Registrar to the person in whose name the Note is registered as evidenced by the Note Register at the close of business on the applicable Regular Record Date, which check or draft shall be payable in lawful money of the United States of America and mailed to the address or transferred to such account of such registered owner as it appears on the Note Register or at such other address or account as may be furnished in writing to the Note Registrar, and provided, further, that the final installment of principal of and interest on the Note shall be paid upon surrender in lawful money of the United States of America, at the principal office maintained for the purpose by the Paying Agent or its proper agent.

If so provided in the Note Order, the Note may be redeemable or prepayable prior to maturity at the option of the County, in whole or in part on any date, upon such terms and at such times and at a redemption or prepayment price of par plus accrued interest to the date of redemption or prepayment, as determined by the Chief Financial Officer at the time of the sale thereof.

The Note shall have be substantially in the form attached to the Agreement and as approved by the Chief Financial Officer, his execution thereof to constitute approval of all terms set forth therein by the Board, and shall have impressed or imprinted thereon the corporate seal or facsimile thereof of the County and shall be signed by the manual or duly authorized facsimile signatures of the Chief Financial Officer and County Clerk, as they shall determine, and in case any officer whose signature shall appear on the Note shall cease to be such officer before the delivery of the Note, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery.

The execution by the County of the fully registered Note shall constitute full and due authorization of the Note, and the Note Registrar shall thereby be authorized to authenticate, date and deliver the Note. The person in whose name the Note shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of the principal of or interest on the Note shall be made only to or upon the order of the registered owner thereof or the owner's legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon the Note to the extent of the sum or sums so paid.

The Note shall have thereon a certificate of authentication duly executed by the Note Registrar as authenticating agent of the County and showing the date of authentication. The Note shall not be valid or obligatory for any purpose or be entitled to any security or benefit under this Ordinance unless and until such certificate of authentication shall have been duly executed by the Note

Registrar by manual signature, and such certificate of authentication upon the Note shall be conclusive evidence that the Note as been authenticated and delivered under this Ordinance. The certificate of authentication on the Note shall be deemed to have been executed by the Note Registrar if signed by an authorized officer of the Note Registrar.

Section 2.5. Sale and Delivery of Note: The Chief Financial Officer is hereby authorized to sell all or any portion of the Note to the Purchaser from time to time as the Chief Financial Officer shall determine that the proceeds of such sales are needed and on such terms as he may deem to be in the best interests of the County. Nothing contained in this Ordinance shall limit the sale of the Note or any portion thereof or any maturity or maturities thereof at a price or prices in excess of the principal amount thereof. Subsequent to the sale of the Note or subsequent to the sale of any portion thereof, the Chief Financial Officer shall file in the office of the County Clerk a Note Order directed to the Board identifying (i) the terms of the sale, (ii) the amount, if any, of the Note being sold as a Floating Rate Note, (iii) the Dated Date, (iv) the aggregate principal amount of the Note sold, (v) the repayment schedule for the principal of and interest on the Note, (vi) the optional redemption provisions, if any, applicable to the Note, (vii) whether the Note is Tax Exempt or Taxable and (viii) any other matter authorized by this Ordinance to be determined by the Chief Financial Officer at the time of sale of the Note, and thereafter the Note as so sold shall be duly prepared and executed in the form and manner provided herein and delivered to the Purchaser in accordance with the terms of sale.

Any Designated Officer and such other officers of the County as may be necessary are hereby authorized to execute such other documents, as may be necessary to implement the Agreement and the transactions contemplated thereby and to effect the issuance and delivery of the Note, and execution thereof by such officers is hereby deemed conclusive evidence of approval thereof with such changes, additions, insertions, omissions or deletions as such officers may determine, with no further official action of or direction by the Board.

Section 2.6. Use of Proceeds: The proceeds of the Note shall be used to provide funds for the payment of necessary expenses incurred for the general corporate purposes of the County and to that end shall be set aside in the Working Cash Fund (the "Working Cash Fund") and shall be used to pay the general corporate expenses of the County in accordance with customary disbursement procedures of the County. Alternatively, the Chief Financial Officer may allocate the proceeds of the Note to one or more other funds or accounts of the County now in existence. The County by its Board reserves the right, as it becomes necessary from time to time, to change the purposes of expenditure of the Working Cash Fund or its accounts, to change priorities, to revise cost allocations between expenditures and to substitute projects, in order to meet current needs of the County; subject, however, to the provisions of the tax covenants of the County relating to the Tax Exempt status of interest on the Note if it is issued as Tax Exempt.

Section 2.7. General Tax Covenants: In the event that the Note is issued as

Tax Exempt, the provisions of this Section shall apply. The County covenants that it will take no action with respect to the proceeds of the Note which would result in making the interest payable on the Note subject to federal income taxes by reason of the Note being classified as an "arbitrage bond" within the meaning of Section 148 of the Code or rulings or regulations promulgated thereunder.

The County also agrees and covenants with the purchaser and registered owner of the Note from time to time outstanding that, to the extent possible under Illinois law, it will comply with whatever federal tax law is adopted in the future which applies to the Note and affects the status of the interest on the Note as Tax Exempt, if the Note is issued as Tax Exempt; that without limiting the generality of the foregoing, the County agrees: (a) through its officers, to make such further specific covenants, representations and assurances as may be necessary or advisable; (b) to comply with all representations, covenants and assurances contained in a certification regarding tax exemption to be prepared by counsel approving the Note; (c) to consult with such counsel and to comply with such advice as may be given; (d) to pay to the United States, as necessary, such sums of money representing required rebates of excess arbitrage profits relating to the Note; (e) to file such forms, statements and supporting documents as may be required and in a timely manner; and (f) if deemed necessary or advisable by its officers, to employ and pay fiscal agents, financial advisors, attorneys and other persons to assist the County in such compliance; and that the County acknowledges that, in the event of an examination by the Internal Revenue Service of the exemption from Federal income taxation for interest paid on the Note, under present rules, the County is treated as the "taxpayer" in such examination.

Section 2.8. Registered Form: The County agrees that it will not take any action to permit the Note, if it is issued as Tax Exempt, to be issued in, or converted into, bearer or coupon form.

ARTICLE III. MISCELLANEOUS.

Section 3.1. Ratification of Acts: All acts of the Board, the Designated Officers and the officers and employees of the County that are in conformity with the intent and purposes of this Ordinance, whether heretofore or hereafter taken or done, be, and the same are hereby, in all respects, ratified, confirmed and approved.

Section 3.2. Superseder: All ordinances, resolutions, motions, orders or parts thereof in conflict with this Ordinance including, specifically, the Prior Authorizing Ordinances, are, to the extent of such conflict, hereby superseded. The Prior Authorizing Ordinances are hereby amended and restated as hereinabove set forth.

Section 3.3. Effective Date: This Ordinance shall be immediately operative, effective and valid upon its passage and approval.

***Referred to the Committee on Finance on 2/1/11.**

Commissioner Steele, seconded by Commissioner Schneider, moved approval of the Proposed Ordinance restating a previous ordinance establishing a line of credit and related documents (Communication No. 310975). Prior to a vote on the main motion, Commissioner Steele, seconded by Commissioner Gainer, moved to amend the main motion by approval of Substitute Amendment A to Communication No. 310975. The motion carried, and Communication No. 310975 was amended, as follows:

SUBSTITUTE AMENDMENT A TO COMMUNICATION NUMBER 310975
(Changes are in **bold and double underlined and ~~strikethrough~~**)

Sponsored by:
THE HONORABLE LARRY SUFFREDIN, JOHN P. DALEY, JESUS GARCIA, ELIZABETH DOODY GORMAN, GREGG GOSLIN, JOAN P. MURPHY, TIMOTHY O. SCHNEIDER, PETER N. SILVESTRI, DEBORAH SIMS, ROBERT STEELE, and JEFFREY TOBOLSKI, COUNTY COMMISSIONERS

ARTICLE II. DETERMINATIONS OF THE COUNTY

Section 2.2 Execution of the Agreement Authorized: The County is hereby authorized to enter into the Agreement with the Purchaser in such form as shall be approved by the Chief Financial Officer, and by majority **vote at a County Board meeting or by**, ~~**poll not subject to ratification or cancellation by the Board or its members, of all members of the Board,**~~ which form shall be as is deemed usual and customary in the municipal bond market and may include, without limitation, terms providing for posted security for one or more Notes, assignment of taxes, drawdown conditions, repayment provisions, and provisions for default, provided, however, that in the event of any conflict between the terms and provisions of this Ordinance and the Agreement, the terms and provisions of this Ordinance shall in all events control. The Chief Financial Officer be, and hereby is, authorized, empowered and directed to execute, and her execution thereof shall constitute conclusive evidence of the approval of any and all terms contained in the Agreement by the Board, and the County Clerk be, and hereby is, authorized, empowered and directed to attest the Agreement in the name, for and on behalf of the County, and thereupon to cause the Agreement to be delivered to the counterparty thereto. The Agreement (as executed) is entered into to provide for the loan of the proceeds of the Note to the County and the use of such proceeds as aforesaid and to pay the costs of issuing the Note, in the manner and with the effect therein provided. From and after the execution and delivery of the Agreement, the officers, employees and agents of the County are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Agreement as executed; and the Agreement shall constitute, and hereby is made, a part of this Ordinance, and a copy of the Agreement shall be placed in the official records of the County, and shall be available for public inspection at the office of the County Clerk.

Section 2.3. Note Authorized: For the purposes aforesaid, the Note is hereby authorized to be issued as a drawdown note in the aggregate principal amount of not to exceed **$~~1~~2,000,000,000.**

Section 2.4. Note Details: The Note shall be issued in the principal amount of not to exceed **$~~1~~2,000,000,000** and shall bear such title and series designation as the Chief Financial Officer

Note or as otherwise provided in the Agreement (any such date being the "Dated Date"), and the amount of the Note issued, being the sum of the amounts as shown as Advances for Value on the Note, not in excess of the Face Amount, less in each case principal payments made from time to time thereon, shall be the "Outstanding Principal Amount" of the Note. The Outstanding Principal Amount of the Note from time to time outstanding shall bear interest at not to exceed a rate percent per annum which is ten percent (10.00%), with interest payable on such date or dates as provided in the Agreement, upon any prepayment and on the Maturity Date. The Maturity Date shall be not later than November 30, 2014.

Commissioner Steele, seconded by Commissioner Gainer, moved approval of the Proposed Ordinance (Communication No. 310975), as amended. Commissioner Steele called for a roll call, the vote of yeas and nays being as follows:

Roll Call on Motion to Approve a Proposed Ordinance restating a previous ordinance regarding a line of credit and promissory notes, as amended (Communication No. 310975)

Yeas: **Commissioner Beavers, Chairman Daley, Commissioners Collins, Gainer, Garcia, Gorman, Goslin, Murphy, Schneider, Silvestri, Vice Chairman Sims, Steele, Suffredin, and Tobolski (14)**

Nays: **None (0)**

Absent: **Commissioners Butler, Fritchey and Reyes (3)**

The motion carried and the Proposed Ordinance restating a previous ordinance authorizing the execution of an agreement for a line of credit and related documents, and the issuance of one or more promissory notes in conjunction therewith (Communication No. 310976) as amended, was approved and adopted.

Chairman Daley then called the next item on the agenda, Communication No. 310976, for consideration.

310976 **AMENDMENT TO THE ORDINANCE REGARDING ESTABLISHMENT OF THE OFFICE OF THE MEDICAL EXAMINER** (PROPOSED ORDINANCE AMENDMENT). Submitting a Proposed Ordinance Amendment sponsored by Toni Preckwinkle, President, Jerry Butler, John P. Daley, Jesus G. Garcia, Joan Patricia Murphy, Edwin Reyes, Deborah Sims, Robert B. Steele and Larry Suffredin, County Commissioners.

PROPOSED ORDINANCE AMENDMENT

AMENDMENT TO THE ORDINANCE ESTABLISHING THE OFFICE OF THE MEDICAL EXAMINER

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 38 Health and Human Services, Section 38-1 and Article VI., Sections 38-110 through 38-140 of the Cook County Code are hereby amended as follows:

Sec. 38-1. Ordinances not affected by Code.

(a) Nothing in this Code or the ordinance adopting this Code repeals any ordinance or resolution compiled in or amending the following provisions of the County's 1980 Code:

~~Sections 5-120—5-151~~;
Section 13-185.1;
Chapter 21;
Chapter 22;
Chapter 23;
Sections 24-50—24-54.

(b) The Ordinances or Resolutions referenced in this subsection, include, but are not limited to the following:

Res. adopted 5-15-1911;
Res. adopted 12-10-1945;
Res. adopted 7-8-1947;
Res. adopted 11-2-1949;
Ord. adopted 11-5-1957;
Res. adopted 5-16-1960;
Res. adopted 11-29-1963;
Res. adopted 6-6-1966;
Res. adopted 5-16-1967;
Res. adopted 6-30-1967;
Res. adopted 3-5-1968;
Res. adopted 6-3-1968;
Res. adopted 12-20-1968;
Res. adopted 10-20-1969;
Ord. adopted 7-27-1976;
Ord. adopted 11-7-1977;
Res. adopted 1-7-1980;
Res. adopted 7-7-1980;
Res. adopted 9-8-1981;
Ord. No. 82-O-25, adopted 9-20-1982;
Ord. No. 83-O-32, adopted 8-1-1983;
Ord. No. 86-O-45, adopted 11-3-1986;
Ord. No. 87-O-39, adopted 9-8-1987;
Ord. No. 88-O-28, adopted 5-2-1988;
Ord. No. 91-O-46, adopted 9-16-1991;
Ord. No. 91-O-52, adopted 10-7-1991;
Ord. No. 91-O-60, adopted 10-21-1991;
Ord. No. 92-O-45, adopted 9-1-1992;

Ord. No. 97-O-28, adopted 11-18-1997;
Ord. No. 02-O-06, adopted 12-18-2001.

ARTICLE VI. MEDICAL EXAMINER.

Sec. 38-110. Office of coroner eliminated.

The office of Coroner of Cook County is hereby eliminated.

Sec. 38-111. Office created.

There is hereby created the Office of the Medical Examiner.

Sec. 38-112. Qualifications and appointment.

(a) The Medical Examiner must be a physician licensed by the State of Illinois to practice medicine in all its branches and must hold a certificate from the American Board of Pathology in both Forensic Pathology and Anatomic Pathology.

(b) The Medical Examiner shall be appointed by the President of the Cook County Board of Commissioners with the advice and consent of the Board of Commissioners for a term of office which shall continue until the Medical Examiner resigns or is removed for cause following notice and an opportunity to be heard.

Sec. 38-113. Duties.

The Medical Examiner has and shall exercise the powers, duties, responsibilities, functions and authority provided by ordinance for those purposes and functions.
Any abuse by the Medical Examiner of the authority contained in this ordinance shall be deemed cause for removal.

Sec. 38-114. Academic appointments.

Upon the approval of the President of the Cook County Board of Commissioners, the Medical Examiner and various personnel of his/her staff may accept academic appointments consistent with their primary responsibilities to the office of the Medical Examiner.

Sec. 38-115. Employees.

All employees of the Office of the Medical Examiner shall be County employees and subject to the rules and regulations established by the Board of Commissioners.

Sec. 38-116. Yearly budget.

The Medical Examiner of Cook County shall submit to the President of the Cook County Board of Commissioners a yearly budget requesting funds to operate and

maintain the Office of the Medical Examiner.

Sec. 38-117. Cooperative agreements.

The Medical Examiner shall have the authority to negotiate cooperative agreements with other agencies having laboratory facilities subject to the approval of the Board of Commissioners of Cook County.

Sec. 38-118. Deaths subject to investigation.

The Medical Examiner shall investigate any human death that falls within any of the following categories:

(a) Criminal violence.

(b) Suicide.

(c) Accident.

(d) Suddenly when in apparent good health.

(e) Unattended by a practicing, licensed physician.

(f) Suspicious or unusual circumstances.

(g) Criminal abortion.

(h) Poisoning or attributable to an adverse reaction to drugs and/or alcohol.

(i) Diseases constituting a threat to public health.

(j) Disease, injury or toxic agent resulting from employment.

(k) During medical diagnostic or therapeutic procedures.

(l) In any prison or penal institution.

(m) When involuntarily confined in jail, prison, hospitals or other institutions or in Police custody.

(n) When any human body is to be cremated, dissected or buried at sea.

(o) Unclaimed bodies.

(p) When a dead body is brought into a new medico-legal jurisdiction without proper medical certification.

Sec. 38-119. Establishing manner and cause of death.

Where a death has occurred under any of the circumstances enumerated in Sec. 38-118, then an investigation, including autopsy if necessary, shall be conducted sufficient to establish manner and cause of death, and the Medical Examiner shall recover and retain any and all evidence for use in the investigation. He/she shall also have the authority to retain such parts of the body as he/she deems necessary in the public interest.

Sec. 38-120. Death certificate.

The Medical Examiner, upon completion of his/her investigation and examination, shall cause a death certificate to be issued specifically setting forth the cause, circumstances and manner of death, if determinable, or if undeterminable, so state.

Sec. 38-121. Death from criminal conduct – procedure.

(a) If it is the Medical Examiner's opinion that any death may have resulted from the criminal conduct of persons other than the deceased, he/she shall immediately notify the Office of the State's Attorney.

(b) The Medical Examiner shall notify the proper governmental agency where, in his/her opinion, a death resulted from an industrial hazard, from an infectious disease process, poison or toxin potentially hazardous to the general public, from a traffic hazard or from a common public practice which carries hazards to life or health.

Sec. 38-122. Death subject to investigation, duty to notify.

(a) Any person, including but not limited to any law enforcement officer, physician, nurse, ambulance attendant, hospital director or administrator, or funeral director who ~~shall~~ may become aware of a death subject to investigation under Sec. 38-118 ~~shall~~ may immediately report such death to the Office of the Medical Examiner or to any law enforcement officer; any such report to a law enforcement officer shall be immediately transmitted to the Medical Examiner.

(b) Upon receipt of such report, the Medical Examiner or his/her appointed representative shall go to the location of the body and take charge of same, and shall begin his/her investigation with an examination of the scene.

(c) No person shall disturb the scene of such death, nor shall any person handle, move, disturb, undress, embalm, or remove the body from the position in which it is found, until authorized by the Medical Examiner or his/her appointed representative, except for the purpose of preserving such body from damage or destruction, or in such cases as may be authorized by the Medical Examiner. Whenever the Medical Examiner shall lawfully assume jurisdiction of a body, it shall not be removed or released from his/her jurisdiction except upon his/her direction and consent.

Sec. 38-123. Order to disinter.

The Medical Examiner may petition the Circuit Court for an order to disinter for the purpose of investigation or autopsy or both.

Sec. 38-124. Permission required for removal.

No dead human body whose death may be subject to investigation under Sec. 38-118, or the personal property of such a deceased person, shall be handled, removed, disturbed, embalmed or removed from the place of death by any person except with the permission of the Medical Examiner, unless the same shall be necessary to protect life, safety, or health.

Sec. 38-125. Decedent's Personal Property.

(a) The Medical Examiner shall cause an inventory to be taken whenever any valuable personal property, money or papers are found upon or near a dead human body whose death may be subject to investigation under Sec. 38-118.

(b) The Medical Examiner or his/her properly authorized subordinate shall take charge of the same and deliver the same to those entitled to its care and possession, or otherwise properly dispose of the same; but if not claimed, the Medical Examiner after retention of said personal property for one year and after giving ten days' notice of the time and place of sale, shall sell such property, and after deducting Medical Examiner's expenses, deposit the proceeds thereof, and the money and papers so found, with the County Treasurer, taking his/her receipt therefore, there to remain subject to the order of the legal representatives of the deceased, if claimed within five years thereafter, or if not claimed within that time, to ~~vest in the county~~ be used to offset the costs for indigent burials.

Sec. 38-126. Procedures and powers in investigation into cause of death.

(a) The Medical Examiner shall have the power to establish and supervise the procedures to be utilized in the conduct of investigations necessary to establish the cause and manner of death. The Medical Examiner, at his/her option, shall have the power to call and conduct public hearings in cases of public interest.

(b) The Medical Examiner shall have the power to issue subpoenas requiring persons to give information under oath and to produce books, records, papers or such other documents or objects the Medical Examiner shall deem necessary to establish the cause or manner of death. The Medical Examiner or a hearing officer acting in his/her behalf shall have the power to administer the necessary oath or affirmation to such witness. Any witness appearing at an investigation or public hearing shall have the right to be represented by counsel.

Sec. 38-127. Decedent under spiritual treatment

The Medical Examiner shall not be precluded, in making his/her investigation,

from consulting with the decedent's next of kin, personal representative, friends, or the person designated in writing by the decedent, where the decedent was under treatment by prayer or spiritual means alone in accordance with the tenets and practices of a well-recognized church or religious denomination, nor shall this ordinance be construed to require an autopsy solely by reason of the fact that the decedent was under treatment by prayer or spiritual means alone.

Sec. 38-128. Permit required for disposition of body; fee.

No person shall cause the remains of any dead human body within Cook County to be cremated, dissected or buried at sea without first obtaining a permit from the Medical Examiner. The cost of the permit shall be ~~$10~~ $50. ~~when obtained at the Office of the Medical Examiner and $25 if delivered by the Office of the Medical Examiner to the funeral homes.~~

Sec. 38-129. Permit to cremate.

Where the remains of any dead human body are to be cremated, dissected or buried at sea, thus becoming unavailable for later examination; it shall be the duty of the funeral director or person having custody of the dead human body to obtain from the Medical Examiner a permit. The Medical Examiner's Permit shall be presented to the local registrar in applying for the permit for disposition of a dead human body provided for in Section ~~11 of the "Vital Statistics Act" approved August 8, 1961~~ 410 ILCS 535/21 of the "Vital Records Act," as heretofore or hereafter amended, and the local registrar shall attach the Medical Examiner's permit to cremate to the permit for disposition of a dead human body which is issued. No crematory shall cremate a dead human body unless a permit for disposition of a dead human body with an attached Medical Examiner's Permit has been furnished to authorize the cremation.

Sec. 38-130. Release of the body.

Upon completion of the Medical Examiner's investigation and examination, the Medical Examiner shall release the body of the decedent to the decedent's next of kin, personal representative, friends, or to the person designated in writing by the decedent or to the funeral director selected by such persons, as the case may be, for proper disposition and none of the duties or powers of the Medical Examiner enumerated in this ordinance shall be construed to interfere with or control the right of such persons to the custody and proper disposition of the decedent upon completion of the Medical Examiner's investigation. If there are no such persons, The Medical Examiner shall cause the proper disposition of the decedent, if sufficient, if not, by an appropriate government agency. The Medical Examiner shall have the power to dispose of any body in accordance with ~~"An Act to promote medical, surgical, anatomical, biological, and mortuary sciences in the state of Illinois" approved June 26, 1885, as amended~~ the "Cadaver Act," 410 ILCS 510 *et seq.*

Sec. 38-131. Records to be kept.

(a) The Medical Examiner shall keep full and complete records properly indexed, giving the name, if known, of every person whose death is investigated, the

place where and the date when the body was found and the date of death, if known. In case the name of the decedent is not known, the Medical Examiner shall prepare a description person and enter the same upon his/her records, together with all facts and circumstances of the death which may be known, and which may later lead to the identification of the dead person.

(b) It shall be the duty of the Medical Examiner to keep on file in his/her office full and complete records of all deaths coming under his/her jurisdiction, together with his/her conclusions therein.

(c) Upon completion of investigation and any related criminal proceeding, the official report of the Medical Examiner's investigation shall be made available for inspection to any person with substantial or important interest upon written request. A copy of the official report may be obtained upon payment of the duplication fee. This shall not foreclose access to other records where appropriate.

Sec. 38-132. Advisory committee.

There shall be created a Medical Examiner's Advisory Committee appointed by the President of the Cook County Board of Commissioners with the advice and consent of the Board of Commissioners. Member shall include but not limited to persons representing the medical profession, funeral directors, State's Attorney, police and the public. The members of this committee shall serve without pay, but shall be reimbursed for reasonable expenses incurred in the performance of their duties. Such expenses shall be paid from the Medical Examiner's budget.

Sec. 38-133. Death caused by wrongful act; liability for expenses incurred.

Any person, individual, partnership, corporation, firm, company, trust, estate, political subdivision, state agency, or any other legal entity who causes the death of a decedent by a wrongful act, carelessness, or negligence which shall be subject to a Medical Examiner's investigation shall be liable to pay any and all expenses incurred by such investigation and the associated burial expenses. The same shall be recoverable by the county.

Sec. 38-134. Transportation costs.

All transportation costs of the body incident to the Medical Examiner's investigation shall be recoverable from the estate of the deceased.

Sec. 38-135. ~~Duplication fee~~ Fees.

~~(a) The Medical Examiner shall charge seventy-five cents ($0.75) per page duplication fee.~~

~~(b) The Medical Examiner shall charge autopsy protocols $10.00 plus $1.00 per page for all pages contained in the protocol file.~~

The Medical Examiner shall charge the following fees with the amounts as set in Section 32-1 of this Code.

(1) *Autopsy report*.

(2) *Toxicology report.*

(3) *Miscellaneous Reports*, including artist's drawings, but not including police reports.

(4) Permit to cremate a dead human body obtained from the Office of the Medical Examiner, by facsimile or electronic filing.

(5) *Return fee.* The Return Fee is charged to funeral homes that pick up bodies from the Medical Examiner's Office and then request to return them to the Office after determining that the family has no funds for burial. This cost would include the cost of the burial shell and the burial cost.

(6) *Death certificate amendment fee.* Fee is charged if the amendment is made later than 1 year of the person's death (due to a return by Funeral Home). The Office of the Medical Examiner is charged by the Illinois Department of Vital Records for amendments made to a death certificate after 1 year of the death.

(7) *Storage fee.* This fee covers the bodies returned (by the Funeral Homes) to the Office of the Medical Examiner for storage while families secure funds for burial services. This "storage fee" would replace the "return fee" if a funeral home returns a body and picks it up again within 10 days. If the body is not picked up within 10 days, the body will be held and buried by the County according to the standard operating procedures of the Medical Examiner. This "storage fee" discourages the use of the Office of the Medical Examiner as a storage location by funeral homes and also encourages the funeral directors to verify that families have funds for burial prior to removing a body from the Office of the Medical Examiner.

(8) Photographs, radiographs, and histology slides.

Sec. 38-136. Debt due County.

All fees and expense reimbursements shall constitute a debt due the County of Cook and be paid to the Medical Examiner who shall deposit the same with the County Treasurer on the last day of every month.

Sec. 38-137. Impersonation unlawful.

It shall be unlawful for any individual to impersonate the Medical Examiner and/or any Medical Examiner investigator.

Sec. 38-138. Penalty for violation.

Sec. 38-138. Penalty for violation.

Any person who knowingly violates any provision of this ordinance shall be fined not more than $1,000 and imprisoned not more than six months.

Sec. 38-139. Annual report.

The Medical Examiner shall prepare and submit to the Cook County Board of Commissioners an annual report of the activities of his/her office.

Sec. 38-140. Medical Examiner Fees Fund.

Beginning on or before March 1, 2011, the Comptroller shall create a special revenue fund to be entitled the, "Medical Examiner Fees Fund." The revenue collected by the Office of the Medical Examiner from all of the various fees of the Office of the Medical Examiner shall be placed in such special fund for the Office of the Medical Examiner to be held by the Treasurer of the County. Such revenues collected and placed in such special fund shall only be disbursed by appropriation of the County Board and shall be used solely for the purchase of electronic and forensic identification equipment or other related supplies and the operating expenses of the Medical Examiner's Office.

BE IT FURTHER ORDAINED, by the Cook County Board of Commissioners, that Chapter 32 Fees, Sec. 32-1 of the Cook County Code is hereby amended as follows:

Sec. 32-1. Fee schedule.

The fees or charges provided for or required by the below listed sections shall be as shown below:

Code Section	*Description*	*Fees, Rates Charges (in dollars)*
CHAPTER 38, HEALTH AND HUMAN SERVICES		
38-135(a)(1)	Autopsy report	~~30.00~~ 50.00
38-135(a)(2)	Toxicology report	~~15.00~~ 25.00
38-135(a)(3)	Miscellaneous Reports, including artist's drawings, but not including police reports	~~15.00~~ 25.00
38-135(a)(4)	Permit to cremate a dead human body	~~10.00~~ 50.00
38-135(a)(5)	Return fee	300.00
38-135(a)(6)	Death certificate amendment fee	15.00
38-135(a)(7)	Storage fee	50.00/day (not to exceed $500.00)
38-135(a)(8)	Photographs, radiographs, histology slides	actual cost or $3.00 whichever is more

Effective date: This Ordinance Amendment shall be in effect immediately upon adoption.

***Referred to the Committee on Finance on 2/1/11.**

Commissioner Steele, seconded by Commissioner Sims, moved approval of the Proposed Ordinance Amendment (Communication No. 310976). Commissioner Steele called for a roll call, the vote of yeas and nays being as follows:

Roll Call on Motion to Approve a Proposed Amendment to the Cook County Medical Examiner Ordinance (Communication No. 310976)

Yeas: **Commissioner Beavers, Chairman Daley, Commissioners Collins, Gainer, Garcia, Gorman, Goslin, Murphy, Schneider, Silvestri, Vice Chairman Sims, Steele, Suffredin, and Tobolski (14)**

Nays: **None (0)**

Absent: **Commissioners Butler, Fritchey and Reyes (3)**

The motion carried and the Proposed Amendment to the ordinance establishing the Office of the Medical Examiner (Communication No. 310976) was approved and adopted.

COMMISSIONER GARCIA, SECONDED BY COMMISSIONER STEELE, MOVED TO ADJOURN. THE MOTION CARRIED AND THE MEETING WAS ADJOURNED.

YOUR COMMITTEE RECOMMENDS THE FOLLOWING ACTION WITH REGARD TO THE MATTERS NAMED HEREIN:

Communication Number 310964	Approved As Amended
Communication Number 310965	Approved As Amended
Communication Number 310966	Approved As Amended
Communication Number 310967	Approved
Communication Number 310968	Approved
Communication Number 310969	Approved
Communication Number 310970	Approved
Communication Number 310971	Approved
Communication Number 310972	Approved
Communication Number 310973	Approved
Communication Number 310974	Approved
Communication Number 310975	Approved As Amended
Communication Number 310976	Approved

Respectfully submitted,
Committee on Finance Committee

John P. Daley, Chairman

Attest:

Matthew B. DeLeon, Secretary

The transcript for this meeting is available in the Office of the Secretary to the Board, 118 North Clark Street, Room 567, Chicago, IL 60602.

Illinois Retail Merchants Association

ATTACHMENT A

19 South LaSalle Street, 300
Chicago, Illinois 60603
TEL (312) 726-4600 FAX (312) 726-9570

February 14, 2011

The Honorable John P. Daley
Commissioner
Cook County Board
118 N. Clark Street Room 567
Chicago, IL 60602

Dear Commissioner Daley:

At its last meeting of the Committee on Finance, the County Board considered a package of ordinances submitted by the Department of Revenue regarding changes to certain home rule taxes. The members of IRMA ask that you consider a pressing concern they have about the protection of their proprietary business information and the unprecedented action the County is proposing to take regarding retail gas and alcohol dealers.

According to the new language proposed in Sections 74-354 and 74-356 of the *Cook County Alcoholic Beverages Tax*, and Sections 74-474 through 74-476 of the *Cook County Gas Tax*, retailers in Cook County would have to do the following: register with the county, file monthly reports stating inventory, purchases and sales, and maintain books and records for review upon inspection by county investigators. Keep in mind the retailer has no relationship to the County because we pay the liquor and gasoline taxes to our distributor. Currently, retailers are only required to register and submit information to the Illinois Department of Revenue (IDOR) which licenses them. If Cook County officials have a concern about whether tax is being collected or whether liquor or gas is being purchased from licensed distributors, then they can review the taxes paid on items purchased from the distributor and encourage IDOR to take disciplinary action for noncompliance if warranted.

The amount of sales a retailer makes and the number of items they purchase on a monthly basis affects business decisions. The process of making these decisions, and the information companies use to make them, is proprietary. The ability to control the flow of that information is essential to the continued growth of business in Cook County. We strongly oppose any attempt by the county to expand its police power by mandating that retailers submit this information monthly.

The proposed changes to the *Cook County Code of Ordinances* are unprecedented. They would make Cook County the only local jurisdiction in this state to add such a significant and sensitive operational burden to its businesses. At a time when the county should be trying to attract retailers, these ordinances are giving them more reasons to locate elsewhere. We encourage you to vote "NO" on unnecessary burdens to the retail community.

Sincerely,

Tanya Triche
Senior Counsel