

REPORT OF THE COMMITTEE ON LAW ENFORCEMENT

January 15, 2013

The Honorable,
The Board of Commissioners of Cook County

ATTENDANCE

Present: Chairman Reyes, Vice Chairman Silvestri, Commissioners Fritchey, Gorman and Tobolski (5)

Absent: Commissioners Butler and Goslin (2)

Also Present: Commissioner Beavers; Art Jackson – Police Sergeant, Management Services, Cook County Sheriff's Police

Ladies and Gentlemen:

Your Committee on Law Enforcement of the Board of Commissioners of Cook County met pursuant to notice on Tuesday, January 15, 2013 at the hour of 12:45 P.M. in the Board Room, Room 569, County Building, 118 North Clark Street, Chicago, Illinois.

Your Committee has considered the following items and, upon adoption of this report, the recommendations are as follows:

317538 An Amendment to Chapter 58 Offenses and Miscellaneous Provisions, Article III Offenses Involving Public Safety, Sections 58-110 through 58-121 of the (Proposed Ordinance Amendment). Submitting a Proposed Ordinance Amendment sponsored by Toni Preckwinkle, President and Peter N. Silvestri, County Commissioner; Co-sponsored by Gregg Goslin and Larry Suffredin, County Commissioners.

PROPOSED ORDINANCE AMENDMENT

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 58 Offenses and Miscellaneous Provisions, Article III Offenses Involving Public Safety, Sections 58-110 through 58-121 of the Cook County Code are hereby amended as follows:

ARTICLE III. OFFENSES INVOLVING PUBLIC SAFETY

DIVISION 2. – FIREWORKS

Sec. 58-110. Short title.

This division shall be known and maybe cited as the Cook County Fireworks Ordinance.

Sec. 58-111. 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:

Commissioner of Building and Zoning means the Commissioner of Building and Zoning for Cook County, Illinois.

County means the County of Cook, Illinois.

Fireworks means and includes any explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect of a temporary exhibitional nature by combustion, explosion, deflagration or detonation, and shall include the following:

- (1) Firecrackers, torpedoes, skyrockets, Roman candles, bombs or other devices of similar construction;
- (2) Any fireworks containing any explosive compound;
- (3) Any tablets or other devices containing any explosive substance, or containing combustible substances producing visual effects.

The term "fireworks" shall not include the following:

- (i) Auto flares;
- (ii) Snake or glow worm pellets;
- (iii) Smoke devices;
- (iv) Trick noisemakers known as "party poppers, "booby traps", "snappers," "trick matches, "cigarette loads", and "auto burglar alarms";
- (v) Sparklers. The term "sparklers" means a wire or stick coated with pyrotechnic composition, which may not exceed 100 grams per item, that produces a shower of sparks upon ignition. The term "sparklers" shall not include other sparkling devices including but not limited to items commonly known as "fountains", "spinners", "wheels", or similar devices, the sale and use of which is expressly prohibited;
- (vi) Toy pistols, toy canes, toy guns, or other devices in which paper or plastic caps containing 0.25 grains or less of explosive compound are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for the explosion;

- (vii) Toy pistol paper or plastic caps which contain less than 0.25 grains of explosive mixture.

Sheriff means the Sheriff of Cook County or Sheriff's agents.

~~Sec. 58-112. Penalty.~~

~~Any person who violates any provision of this division shall be subject to a fine of not more than \$1,000.00. Each day that a violation of this division continues shall be considered a separate and distinct offense.~~

~~Sec. 58-113. Parental liability.~~

~~A parent, foster, or family-operated group home, parent or legal guardian of a minor who consents to the use of fireworks by the minor who is under the age of 18 years of age is liable for damages caused by the minor's use of the fireworks, and in addition shall be subject to the penalty provided in Section 58-112.~~

~~Sec. 58-114. Seizure of fireworks.~~

~~The Sheriff shall seize, take, remove or cause to be removed at the expense of the owner all stocks of fireworks offered or exposed for sale, manufactured, stored, possessed or held in violation of this division.~~

~~Sec. 58-115. Jurisdiction.~~

~~As provided in Article VII, Section 6(c), of the State of Illinois Constitution of 1970, if this division conflicts with an ordinance of a municipality, the municipal ordinance shall prevail within its jurisdiction. If a municipal ordinance regulates conduct which is prohibited under this division and provides remedies, this division shall not apply within that municipal jurisdiction with respect to such conduct. In all other circumstances, this division shall be enforceable within the municipal jurisdiction to the extent permitted under the Illinois Constitution.~~

~~Sec. 58-116. Compliance.~~

~~No person shall possess, store, offer for sale, expose for sale, manufacture, sell at retail, use or explode any fireworks except as provided herein.~~

Sec. 58-112. Jurisdiction.

As provided in Article VII, Section 6(c), of the State of Illinois Constitution of 1970, if this division conflicts with an ordinance of a municipality, the municipal ordinance shall prevail within its jurisdiction. If a municipal ordinance regulates conduct which is prohibited under this division and provides remedies, this division shall not apply within that municipal jurisdiction with respect to such conduct. In all other circumstances, this division shall be enforceable within the municipal jurisdiction to the extent permitted under the Illinois Constitution.

Sec. 58-113. Compliance and Penalty

(a) No person shall possess, store, offer for sale, expose for sale, manufacture, sell at retail, use or explode any fireworks except as provided in Sec. 58-117 of this Article.

(b) Any person or entity who is violation of subsection (a) of this Section shall be fined \$250.00. Each day that a violation of this division continues shall be separate and distinct offense.

(c) Any person or entity who is in violation of Section 58-117 of this Article will be fined \$1,000.00. Each day that a violation of this division continues shall be separate and distinct offense.

(d) Any person or entity who is in violation of Section 58-118, Section 58-119, Section 58-120 of this Article will be fined \$500.00. Each day that a violation of this division continues shall be separate and distinct offense.

(e) Administrative Adjudication. Violations of Article III, Division 2 shall be adjudicated pursuant to Chapter 2 Administration Article IX, Administrative Hearings of this Code.

(f) In addition to the above penalties, the Sheriff shall seize, take, remove or cause to be removed at the expense of the owner all stocks of fireworks offered or exposed for sale, manufactured, stored, possessed or held in violation of this division.

Sec. 58-114-116 Reserved.

Sec. 58-117. Fireworks display permit.

(a) Application. The applicant for a fireworks display permit shall submit an application to the Commissioner of Building and Zoning at least 15 days in advance of the date of the proposed fireworks display.

(b) *Persons or entities who may apply.* Only persons or entities which operate fairs, amusement parks, outdoor recreational facilities, governmental entities or persons or entities authorized to use governmental property for a fireworks display may apply for a firework display permit.

(c) *Contents.* The application shall state the date or dates of the fireworks display, the location of the fireworks display and provide information about the method of explosion, number, type and size of the fireworks to be displayed as reasonably requested by the Commissioner of Building and Zoning to determine the fire safety precautions minimally necessary to protect the public and the safety measures to be issued to protect the public. The applicant shall state the name of the fireworks display operator.

(d) *Insurance.* Every permittee shall have and maintain adequate liability insurance with minimum limits of \$1,000,000.00 bodily injury and property damage, combined single limit, naming the County, its officers, employees and agents as additional insureds. Said insurance shall indemnify and defend the County, its officers, employees and agents against all claims, liability, loss, damages or expenses, whether caused by or contributed to by the negligence of the County, its officers, employees or agents. Said insurance shall provide that the County receive written notice 30 days prior to any cancellation, non renewal or material change in the policy. Proof of said insurance shall be submitted to the Commissioner of Building and Zoning.

(e) *Issuance.* The Commissioner of Building and Zoning shall approve and issue a fireworks display permit to a person or entity if the applicant meets the conditions of this Ordinance for a permit and the Commissioner of Building and Zoning determines that the location and character of the proposed display is not in violation of any Federal, State, or County law or ordinance or rule or regulation and is not a hazard to property and will not endanger any person and the operator of the fireworks display is properly licensed competent to handle the display, based upon the operator's experience and reputation for safety. ~~The Commissioner of Building and Zoning in issuing or denying a fireworks display permit may also take into account other factors, including but not limited to the operator's experience and reputation for safety.~~

Sec. 58-118. Smoking by operators at fireworks display prohibited.

No person in charge of or working in connection with any public display of fireworks shall smoke at any time during which such public display is going on or in the vicinity of materials to be used for such display.

Sec. 58-119. Disposal of unfired fireworks.

Unfired fireworks and trash remaining after a public display of fireworks for which a permit is issued shall be immediately disposed of in an approved, safe manner.

Sec. 58-120. Advertising restrictions.

No person shall advertise fireworks in ~~unincorporated~~ Cook County on any sign or billboard located in ~~unincorporated~~ Cook County, or by hand bill or circular distributed in ~~unincorporated~~ Cook County. This section does not prohibit sending direct solicitations or advertisements solely to persons possessing a public display permit under Section 58-117.

Sec. 58-121. - Unlawful fireworks in motor vehicles, impoundment.

Enforcement of this section will be made in accordance with Sections 58-164 and 58-165 of the County Code.

~~(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:~~

~~Owner of record of a vehicle means the record title holder.~~

~~(b) — Owner liability; exceptions. The owner of record of any motor vehicle that contains fireworks shall be liable to the County for an administrative penalty of \$500.00 plus any towing and storage fees applicable under this division. Any such vehicle shall be subject to seizure and impoundment pursuant to this division. This subsection shall not apply if:~~

~~(1) — The vehicle used in the violation was stolen at the time and the theft was reported to the appropriate police authorities within 24 hours after the theft was discovered or reasonably should have been discovered;~~

~~(2) — The vehicle is operating as a common carrier and the violation occurs without the knowledge of the person in control of the vehicle; or~~

~~(3) — The owner proves that the presence of the fireworks was permissible pursuant to Section 58-117~~

~~(c) — Seizure and impoundment. Whenever the Sheriff or his agent has probable cause to believe that a vehicle is subject to a seizure and impoundment pursuant to this division, the Sheriff shall provide for the towing of the vehicle to a facility controlled by the County or its agents. Before or at the time the vehicle is towed, the Sheriff shall notify any person identifying himself/herself as the owner of the vehicle or any person who is found to be in control of the vehicle at the time of the alleged violation of the fact of the seizure and of the alleged violation and of the vehicle owner's right to request a vehicle impoundment hearing to be conducted under this section.~~

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~~(d) — *Vehicle impoundment hearing.* Whenever the owner of record of a vehicle seized pursuant to this division makes a request in person and in writing for a vehicle impoundment hearing within 12 hours after the seizure, a hearing officer of the County shall conduct the vehicle impoundment hearing within 24 hours after the seizure excluding Sundays and legal holidays. All interested persons shall be given a reasonable opportunity to be heard at the vehicle impoundment hearing. The formal and technical rules of evidence shall not apply in the conduct of the hearing. Evidence, including hearsay, may be admitted only if it is a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. If, after the hearing, the hearing officer determines that there is probable cause to believe that the vehicle is subject to seizure and impoundment under Subsection (a), the hearing officer shall order the continued impoundment of the vehicle as provided in this division unless the owner of the vehicle posts with the County a cash bond in the amount of \$500.00 plus any applicable towing and storage fees.~~

~~(e) — *Notification of impoundment; hearing scheduled; failure of owner to appear; determination; penalty.* Within ten days after a vehicle is seized and impounded pursuant to this division, the County shall notify by certified mail, return receipt requested, the owner of record of the date, time and location of a hearing that will be conducted pursuant to this division. The hearing shall be scheduled and held, unless continued by order of the hearing officer, no later than 30 days after the vehicle was seized. The hearing shall be conducted by a hearing officer of the County. All interested persons shall be given a reasonable opportunity to be heard at the hearing. If, after the hearing, the hearing officer determines by a preponderance of evidence that the vehicle contained fireworks and that one of the exceptions described in Subsections (b)(1) — (b)(3) of this section applies, the hearing officer shall enter an order finding the owner of record of the vehicle civilly liable to the County for an administrative penalty in the amount of \$500.00. If the owner of record fails to appear at the hearing, the hearing officer shall enter a default order in favor of the County requiring the payment to the County of an administrative penalty in the amount of \$500.00. If the hearing officer finds that no such violation occurred, the hearing officer shall order the immediate return of the owner's vehicle or cash bond.~~

~~(f) — *Administrative penalty constitutes debt owing to County.* If an administrative penalty is imposed pursuant to this division, such penalty shall constitute a debt due and owing to the County. If a cash bond has been posted pursuant to this division, the bond shall be applied to the penalty. If a vehicle has been impounded when such a penalty is imposed, the County may seek to obtain judgment against the vehicle or enforce such judgment against the vehicle as provided by law. Except as provided otherwise in this division, a vehicle shall continue to be impounded until:~~

~~(1) — The penalty, plus any applicable towing and storage fees, is paid to the County, in which case possession of the vehicle shall be given to the person who is legally entitled to possess the vehicle; or~~

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~~(2) The vehicle is sold or otherwise disposed of to satisfy a judgment or enforce a lien as provided by law. If the administrative penalty and applicable fees are not paid within 30 days after an administrative penalty is imposed under Subsection (e) of this section against an owner of record who defaults by failing to appear at the hearing, the vehicle shall be deemed unclaimed and shall be disposed of in the manner provided for by law for the disposition of unclaimed vehicles. In all other cases, if the administrative penalty and applicable fees are not paid within 30 days after the expiration of time at which administrative review of the hearing officer's determination may be sought, or within 30 days after an action seeking administrative review has been resolved in favor of the County, whichever is applicable, the vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles.~~

~~Except as otherwise specifically provided by law, no owner, lien holder or other person shall be legally entitled to take possession of a vehicle impounded under this section until the civil penalty and fees applicable under this division have been paid. However, whenever a person with a lien of record against an impounded vehicle has commenced foreclosure proceedings, possession of the vehicle shall be given to that person if the person agrees in writing to refund to the County the amount of the net proceeds of any foreclosure sale, less any amounts required to pay all lien holders of record, up to \$500.00 plus the applicable fees.~~

Effective Date: This Ordinance Amendment shall be in effect thirty (30) days from adoption.

***Referred to the Committee on Law Enforcement on 04-03-12.**

Vice Chairman Silvestri, seconded by Commissioner Fritchey, moved to Accept the Substitute Proposed Ordinance Amendment to Communication No. 317538. The motion carried, and the Amendment to Communication No. 317538 was Substituted as follows:

SUBSTITUTE PROPOSED ORDINANCE AMENDMENT FOR COMMUNICATION NO. 317538

Sponsored by:

THE HONORABLE TONI PRECKWINKLE, PRESIDENT and PETER N. SILVESTRI AND
EDWIN REYES, COUNTY COMMISSIONERS

Co-sponsored by:

THE HONORABLE GREGG GOSLIN and LARRY SUFFREDIN, COUNTY COMMISSIONERS

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 58 Offenses and Miscellaneous Provisions, Article III. Offenses Involving Public Safety, Sections 58-110 through 58-121 of the Cook County Code are hereby amended as follows:

ARTICLE III. OFFENSES INVOLVING PUBLIC SAFETY
DIVISION 2. - FIREWORKS

Sec. 58-110. Short title.

This division shall be known and may be cited as the Cook County Fireworks Ordinance.

Sec. 58-111. Definitions.

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Commissioner of Building and Zoning means the Commissioner of Building and Zoning for Cook County, Illinois.

County means the County of Cook, Illinois.

Fireworks means and includes any explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect of a temporary exhibitional nature by combustion, explosion, deflagration or detonation, and shall include the following:

- (1) Firecrackers, torpedoes, skyrockets, Roman candles, bombs or other devices of similar construction;
- (2) Any fireworks containing any explosive compound;
- (3) Any tablets or other devices containing any explosive substance, or containing combustible substances producing visual effects.

The term "fireworks" shall not include the following:

- (i) Auto flares;
- (ii) Snake or glow worm pellets;
- (iii) Smoke devices;
- (iv) Trick noisemakers known as "party poppers," "booby traps," "snappers," "trick matches," "cigarette loads," and "auto burglar alarms";
- (v) Sparklers. The term "sparklers" means a wire or stick coated with pyrotechnic composition, which may not exceed 100 grams per item, that produces a shower of sparks upon ignition. The term "sparklers" shall not include other sparkling devices including but not limited to items commonly known as "fountains", "spinners", "wheels", or similar devices, the sale and use of which is expressly prohibited;

- (vi) Toy pistols, toy canes, toy guns, or other devices in which paper or plastic caps containing 0.25 grains or less of explosive compound are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for the explosion;
- (vii) Toy pistol paper or plastic caps which contain less than 0.25 grains of explosive mixture.

Sheriff means the Sheriff of Cook County or Sheriff's agents.

~~Sec. 58-112. Penalty.~~

~~Any person who violates any provision of this division shall be subject to a fine of not more than \$1,000.00. Each day that a violation of this division continues shall be considered a separate and distinct offense.~~

~~Sec. 58-113. Parental liability.~~

~~A parent, foster, or family-operated group home, parent or legal guardian of a minor who consents to the use of fireworks by the minor who is under the age of 18 years of age is liable for damages caused by the minor's use of the fireworks, and in addition shall be subject to the penalty provided in Section 58-112.~~

~~Sec. 58-114. Seizure of fireworks.~~

~~The Sheriff shall seize, take, remove or cause to be removed at the expense of the owner all stocks of fireworks offered or exposed for sale, manufactured, stored, possessed or held in violation of this division.~~

~~Sec. 58-115. Jurisdiction.~~

~~As provided in Article VII, Section 6(c), of the State of Illinois Constitution of 1970, if this division conflicts with an ordinance of a municipality, the municipal ordinance shall prevail within its jurisdiction. If a municipal ordinance regulates conduct which is prohibited under this division and provides remedies, this division shall not apply within that municipal jurisdiction with respect to such conduct. In all other circumstances, this division shall be enforceable within the municipal jurisdiction to the extent permitted under the Illinois Constitution.~~

~~Sec. 58-116. Compliance.~~

~~No person shall possess, store, offer for sale, expose for sale, manufacture, sell at retail, use or explode any fireworks except as provided herein.~~

Sec. 58-112. Jurisdiction.

As provided in Article VII, Section 6(c), of the State of Illinois Constitution of 1970, if this division conflicts with an ordinance of a municipality, the municipal ordinance shall prevail within its jurisdiction. If a municipal ordinance regulates conduct which is prohibited under this division and provides remedies, this division shall not apply within that municipal jurisdiction with respect to such conduct. In all other circumstances, this division shall be enforceable within the municipal jurisdiction to the extent permitted under the Illinois Constitution.

Sec. 58-113. Compliance and Penalty

(a) No person shall possess, store, offer for sale, expose for sale, manufacture, sell at retail, dispose of, advertise for, or use or explode any fireworks except as provided in Sec. 58-117 of this Article.

(b) Any person or entity who is violation of subsection (a) of this Section shall be fined \$250.00. Each day that a violation of this division continues shall be separate and distinct offense.

(c) Any person or entity who is in violation of Section 58-117 of this Article will be fined \$1,000.00. Each day that a violation of this division continues shall be separate and distinct offense.

~~(d) Any person or entity who is in violation of Section 58-118, Section 58-119, Section 58-120 of this Article will be fined \$500.00. Each day that a violation of this division continues shall be separate and distinct offense.~~

(e) Administrative Adjudication. Violations of Article III, Division 2 shall be adjudicated pursuant to Chapter 2 Administration Article IX, Administrative Hearings of this Code.

(f) In addition to the above penalties, the Sheriff may seize, take, remove or cause to be removed at the expense of the owner all stocks of fireworks offered or exposed for sale, manufactured, stored, possessed or held in violation of this division.

Sec. 58-114-116 Reserved.

Sec. 58-117. Fireworks display permit.

(a) *Application.* The applicant for a fireworks display permit shall submit an application to the Commissioner of Building and Zoning at least 15 days in advance of the date of the proposed fireworks display.

(b) *Persons or entities who may apply.* Only persons or entities which operate fairs, amusement parks, outdoor recreational facilities, governmental entities or persons or entities authorized to use governmental property for a fireworks display may apply for a firework display permit.

(c) *Contents.* The application shall state the date or dates of the fireworks display, the location of the fireworks display and provide information about the method of explosion, number, type and size of the fireworks to be displayed as reasonably requested by the Commissioner of Building and Zoning to determine the fire safety precautions minimally necessary to protect the public and the safety measures to be issued to protect the public. The applicant shall state the name of the fireworks display operator and warrant that any unused fireworks and remaining trash will be immediately disposed of in an approved, safe manner as prescribed by the Commissioner of Building and Zoning.

(d) *Insurance.* Every permittee shall have and maintain adequate liability insurance with minimum limits of \$1,000,000.00 bodily injury and property damage, combined single limit, naming the County, its officers, employees and agents as additional insureds. Said insurance shall indemnify and defend the County, its officers, employees and agents against all claims, liability, loss, damages or expenses, whether caused by or contributed to by the negligence of the County, its officers, employees or agents. Said insurance shall provide that the County receive written notice 30 days prior to any cancellation, nonrenewal or material change in the policy. Proof of said insurance shall be submitted to the Commissioner of Building and Zoning.

(e) *Issuance.* The Commissioner of Building and Zoning shall approve and issue a fireworks display permit to a person or entity if the applicant meets the conditions of this Ordinance for a permit and the Commissioner of Building and Zoning determines that the location and character of the proposed display is not in violation of any Federal, State, or County law or ordinance or rule or regulation and is not a hazard to property and will not endanger any person and the operator of the fireworks display is properly licensed competent to handle the display, based upon the operator's experience and reputation for safety. ~~The Commissioner of Building and Zoning in issuing or denying a fireworks display permit may also take into account other factors, including but not limited to the operator's experience and reputation for safety.~~

~~Sec. 58-118. Smoking by operators at fireworks display prohibited.~~

~~No person in charge of or working in connection with any public display of fireworks shall smoke at any time during which such public display is going on or in the vicinity of materials to be used for such display.~~

~~Sec. 58-119. Disposal of unfired fireworks.~~

~~Unfired fireworks and trash remaining after a public display of fireworks for which a permit is issued shall be immediately disposed of in an approved, safe manner.~~

~~Sec. 58-120. Advertising restrictions.~~

~~No person shall advertise fireworks in unincorporated Cook County on any sign or billboard located in unincorporated Cook County, or by handbill or circular distributed in unincorporated Cook County. This section does not prohibit sending direct solicitations or advertisements solely to persons possessing a public display permit under Section 58-117.~~

~~Sec. 58-121. Unlawful fireworks in motor vehicles, impoundment.~~

(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:~~

~~*Owner of record of a vehicle* means the record title holder.~~

(b) ~~*Owner liability; exceptions.* The owner of record of any motor vehicle that contains fireworks shall be liable to the County for an administrative penalty of \$500.00 plus any towing and storage fees applicable under this division. Any such vehicle shall be subject to seizure and impoundment pursuant to this division. This subsection shall not apply if:~~

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- (1) — The vehicle used in the violation was stolen at the time and the theft was reported to the appropriate police authorities within 24 hours after the theft was discovered or reasonably should have been discovered;
- (2) — The vehicle is operating as a common carrier and the violation occurs without the knowledge of the person in control of the vehicle; or
- (3) — The owner proves that the presence of the fireworks was permissible pursuant to Section 58-117.

~~(c) — *Seizure and impoundment.* Whenever the Sheriff or his agent has probable cause to believe that a vehicle is subject to a seizure and impoundment pursuant to this division section, the Sheriff shall provide for the towing of the vehicle to a facility controlled by the County or its agents. Before or at the time the vehicle is towed, the Sheriff shall notify any person identifying himself/herself as the owner of the vehicle or any person who is found to be in control of the vehicle at the time of the alleged violation of the fact of the seizure and of the alleged violation and of the vehicle owner's right to request a vehicle impoundment hearing to be conducted under this section. The Sheriff may issue rules and regulations related to this section for enforcement notification procedures and proper forms necessary for administration of this section.~~

~~(d) — *Vehicle impoundment hearing.* Whenever the owner of record of a vehicle seized pursuant to this division section makes a request in person and in writing for a vehicle impoundment hearing within 12 ~~48~~ hours after the seizure, a hearing officer of the County shall conduct the vehicle impoundment hearing within 24 ~~48~~ hours after the seizure request excluding Saturdays, Sundays and legal holidays. All interested persons shall be given a reasonable opportunity to be heard at the vehicle impoundment hearing. The formal and technical rules of evidence shall not apply in the conduct of the hearing. Evidence, including hearsay, may be admitted only if it is a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. If, after the hearing, the hearing officer determines that there is probable cause to believe that the vehicle is subject to seizure and impoundment under Subsection (a), the hearing officer shall order the continued impoundment of the vehicle as provided in this division unless the owner of the vehicle posts with the County a cash bond in the amount of \$500.00 plus any applicable towing and storage fees.~~

~~(e) — *Notification of impoundment; hearing scheduled; failure of owner to appear; determination; penalty.* Within ten days after a vehicle is seized and impounded pursuant to this division, the County shall notify by certified mail, return receipt requested, the owner of record of the date, time and location of a hearing that will be conducted pursuant to this division. The hearing shall be scheduled and held, unless continued by order of the hearing officer, no later than 30 days after the vehicle was seized. The hearing shall be conducted by a hearing officer of the County. All interested persons shall be given a reasonable opportunity to be heard at the hearing. If, after the hearing, the hearing officer determines by a preponderance of evidence that the vehicle violated this section and that none of the exceptions described in Subsections (b) (1) — (b)(3) and (2) of this section applies, the hearing officer shall enter an order finding the owner of record of the vehicle civilly liable to the County for an administrative penalty in the amount of \$500.00. If the owner of record fails to appear at the hearing, the hearing officer shall enter a default order in favor of the County requiring the payment to the County of an administrative penalty in the amount of \$500.00. If the hearing officer finds that no such violation occurred, the hearing officer shall order the immediate return of the owner's vehicle or cash bond.~~

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~~(f) Administrative penalty constitutes debt owing to County. If an administrative penalty is imposed pursuant to this division section, such penalty shall constitute a debt due and owing to the County. If a cash bond has been posted pursuant to this division section, the bond shall be applied to the penalty. If a vehicle has been impounded when such a penalty is imposed, the County may seek to obtain judgment against the vehicle or enforce such judgment against the vehicle as provided by law. Except as provided otherwise in this division, a vehicle shall continue to be impounded until:~~

- ~~(1) — The penalty, plus any applicable towing and storage fees, is paid to the County, in which case possession of the vehicle shall be given to the person who is legally entitled to possess the vehicle; or~~
- ~~(2) — The vehicle is sold or otherwise disposed of to satisfy a judgment or enforce a lien as provided by law. If the administrative penalty and applicable fees are not paid within 30 days after an administrative penalty is imposed under Subsection (e) of this section against an owner of record who defaults by failing to appear at the hearing, the vehicle shall be deemed unclaimed and shall be disposed of in the manner provided for by law for the disposition of unclaimed vehicles. In all other cases, if the administrative penalty and applicable fees are not paid within 30 days after the expiration of time at which administrative review of the hearing officer's determination may be sought, or within 30 days after an action seeking administrative review has been resolved in favor of the County, whichever is applicable, the vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles.~~

~~(g) — Except as otherwise specifically provided by law or this ordinance, no owner, lien holder or other person shall be legally entitled to take possession of a vehicle impounded under this section until the civil penalty and fees applicable under this division have been paid. However, whenever a person with a lien of record against an impounded vehicle has commenced foreclosure proceedings, possession of the vehicle shall be given to that person if the person agrees in writing to refund to the County the amount of the net proceeds of any foreclosure sale, less any amounts required to pay all lien holders of record, up to \$500.00 plus the applicable fees. Notwithstanding the foregoing, a lien holder shall be entitled to take possession of a vehicle impounded under this section by deferring payment of the civil penalty and fees applicable under this division upon submission of the following information to the Sheriff or his designated agent on a form provided for that purpose:~~

- ~~(1) — A copy of Certificate of Title or other competent evidence to demonstrate the filing of the lien with the Illinois Secretary of State or other applicable governmental entity which document shall be certified as a true and correct copy of such document under notary seal; and~~
- ~~(2) — A copy of the installment sales or loan agreement related to the vehicle which document shall be certified as a true and correct copy of such document under notary seal; and~~
- ~~(3) — A sworn statement that the owner/purchaser of the vehicle is in default and that the lien holder has a right under the agreement to repossess or otherwise foreclose on its lien and that it is repossessing and foreclosing on its lien; and~~
- ~~(4) — A notarized agreement to indemnify and hold harmless the County, the Sheriff and their agents for the release of the vehicle to the lien holder; and~~
- ~~(5) — A written agreement in which the lien holder agrees that it shall conditionally pay to the~~

~~County up to the sum of the civil penalty and fees applicable under this division from any "Surplus" upon the lien holder's receipt of the funds from the repossession sale of the vehicle pursuant to the Illinois Uniform Commercial Code. The amount of the "Surplus" shall be as defined pursuant to 810 ILCS 5/9-615. The written agreement shall further provide that in the event that the foreclosure sale does not yield enough to pay the full amount owed to the County, then the lien holder shall pay the County as much as is available from the surplus, if any, and the lien holder shall not have any further liability to the County for such sums. The written agreement shall further provide that if the lien holder is required to allow the owner/purchaser to redeem or reinstate the vehicle and/or contract under applicable law, then the amount of the civil penalty and fees applicable under this division shall be due and owing by the owner/purchaser as an expense of retaking, holding, preparing for disposition, processing or disposing as provided in 810 ILCS 5/9-615 and the lien holder shall collect such sum from the owner/purchaser and pay it to the County as a condition of allowing such redemption or reinstatement, unless the owner/purchaser presents a statement from the County or its agent showing that such sum or any part of it has been satisfied, waived or found inapplicable.~~

~~(h) — Upon the request of a lien holder to obtain possession of a vehicle impounded under this section, the County, the Sheriff or their agent shall provide a lien holder with a statement setting forth the amount of the civil penalty and fees applicable under this division section~~

Effective Date: This ordinance will be effective 30 days after adoption.

Vice Chairman Silvestri, seconded by Commissioner Fritchey, moved Approval of the Substitute Proposed Ordinance Amendment to Communication No. 317538. The motion carried.

317539 AN AMENDMENT TO CHAPTER 30 ENVIRONMENT, SECTIONS 30-455 THROUGH 30-457 (PROPOSED ORDINANCE AMENDMENT). Submitting a Proposed Ordinance Amendment sponsored by Toni Preckwinkle, President and Peter N. Silvestri, County Commissioner; Co-Sponsored by Gregg Goslin and Larry Suffredin, County Commissioners.

PROPOSED ORDINANCE AMENDMENT

OFFENSES AGAINST THE PUBLIC PEACE

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 30 Environment, Sections 30-455 through 30-457 of the Cook County Code are hereby amended as follows:

~~Sec. 30-455 – Noise on a public way.~~

~~(a) — No person shall make, or cause, permit or allow to be made upon a public way, or in such close proximity to a public way as to be distinctly and loudly audible upon such public way, any noise of any kind by crying, calling or shouting, or by means of any whistle, rattle, bell, gong, clapper, hammer, drum, horn, hand organ, mechanically operated piano, other musical instrument, wind instrument, mechanical device, radio, phonograph,~~

~~sound amplifying or other similar electronic device; provided that the restrictions shall not apply to any licensed peddler crying or calling for the purpose of advertising goods, wares or merchandise when lawfully using any public way in the County between the hours of 8:00 a.m. and 6:00 p.m.~~

~~(b) — No person shall use or perform any hand organ or other musical instrument or device, for pay or in expectation of payment, in any public way or public place of the County before 8:00 a.m. or after 6:00 p.m. of any day.~~

~~Sec. 30-456 Steam whistles.~~

~~(a) — No person shall blow, or cause to be blown, within the County, a steam whistle of any stationary steam plant as a signal for commencing or suspending work or for any other purpose.~~

~~(b) — This section shall not be construed as forbidding the use of steam whistles as alarm signals in case of fire, collision, or other imminent danger.~~

~~Sec. 30-457 Boisterous use of premises.~~

~~No person owning, or in possession or control of any building or premises, shall use the same, permit the use of the same, or rent the same to be used for any business or employment or residential use, or for any purpose of pleasure or recreation, if such use shall, by its boisterous nature, disturb or destroy the peace of the neighborhood in which such building or premises is situated or be dangerous or detrimental to health.~~

~~Sec. 30-455—Sec.30-457. Reserved.~~

BE IT FURTHER ORDAINED, by the Cook County Board of Commissioners, that Chapter 58 Offenses and Miscellaneous Provisions, Sections 58-178 through 58-182 of the Cook County Code is hereby enacted as follows:

Sec. 58-178. Noise on a public way.

(a) No person shall make, or cause, permit or allow to be made upon a public way, or in such close proximity to a public way as to be distinctly and loudly audible upon such public way, any noise of any kind by crying, calling or shouting, or by means of any whistle, rattle, bell, gong, clapper, hammer, drum, horn, hand organ, mechanically operated piano, other musical instrument, wind instrument, mechanical device, radio, phonograph, sound amplifying or other similar electronic device; provided that the restrictions shall not apply to any licensed peddler crying or calling for the purpose of advertising goods, wares or merchandise when lawfully using any public way in the County between the hours of 8:00 a.m. and 6:00 p.m.

(b) No person shall use or perform any hand organ or other musical instrument or device, for pay or in expectation of payment, in any public way or public place of the County before 8:00 a.m. or after 6:00 p.m. of any day.

(c) Any person found in violation of any provision of this Section will be fined \$100.00.

Sec. 58-179. Steam whistles.

(a) No person shall blow, or cause to be blown, within the County, a steam whistle of any stationary steam plant as a signal for commencing or suspending work or for any other purpose.

(b) This section shall not be construed as forbidding the use of steam whistles as alarm signals in case of fire, collision, or other imminent danger.

(c) Any person found in violation of subsection (a) of this Section will be fined \$100.00.

Sec. 58-180. Boisterous use of premises.

No person owning, or in possession or control of any building or premises, shall use the same, permit the use of the same, or rent the same to be used for any business or employ mentor residential use, or for any purpose of pleasure or recreation, if such use shall, by its boisterous nature, disturb or destroy the peace of the neighborhood in which such building or premises is situated or be dangerous or detrimental to health. Any person found in violation of any provision of this section will be fined \$100.00. Every day that such violation continues shall be deemed a separate and distinct offense.

Sec. 58-181 Public urination or defecation.

Any person who urinates or defecates on the public way, or on any outdoor public property, or on any outdoor private property, shall be fined \$100.00. This ordinance shall not apply to use of a temporary or permanent structure or enclosure erected outdoors for use as a toilet facility.

Sec. 58-182. Administrative adjudication.

(a) Violations of Article II, Sec 58-42 thru58-45 shall be adjudicated pursuant to Chapter 2 Administration, Article IX Administrative Hearings of this Code.

Effective date: This Ordinance Amendment shall be in effect thirty (30) days from adoption.

***Referred to the Committee on Law Enforcement on 04-03-12.**

Vice Chairman Silvestri, seconded by Commissioner Fritchey, moved to Accept the Substitute Proposed Ordinance Amendment to Communication No. 317539. The motion carried, and the Amendment to Communication No. 317539 was Substituted as follows:

SUBSTITUTE PROPOSED ORDINANCE FOR COMMUNICATION NO. 317539

Sponsored by:

THE HONORABLE TONI PRECKWINKLE, PRESIDENT and PETER N.SILVISTRI
and EDWIN REYES, COUNTY COMMISSIONERS

Co-Sponsored by:

GREGG GOSLIN and LARRY SUFFREDIN, COUNTY COMMISSIOENRS

OFFENSES AGAINST THE PUBLIC PEACE

~~BE IT ORDAINED~~, by the Cook County Board of Commissioners, that Chapter 30 Environment, Sec. 30-455 through Sec. 30-457 of the Cook County Code are hereby amended as follows:

Sec. 30-455 – Noise on a public way.

(a) ~~No person shall make, or cause, permit or allow to be made upon a public way, or in such close proximity to a public way as to be distinctly and loudly audible upon such public way, any noise of any kind by crying, calling or shouting, or by means of any whistle, rattle, bell, gong, clapper, hammer, drum, horn, hand organ, mechanically operated piano, other musical instrument, wind instrument, mechanical device, radio, phonograph, sound amplifying or other similar electronic device; provided that the restrictions shall not apply to any licensed peddler crying or calling for the purpose of advertising goods, wares or merchandise when lawfully using any public way in the County between the hours of 8:00 a.m. and 6:00 p.m.~~

(b) ~~No person shall use or perform any hand organ or other musical instrument or device, for pay or in expectation of payment, in any public way or public place of the County before 8:00 a.m. or after 6:00 p.m. of any day.~~

Sec. 30-456 Steam whistles.

(a) ~~No person shall blow, or cause to be blown, within the County, a steam whistle of any stationary steam plant as a signal for commencing or suspending work or for any other purpose.~~

(b) ~~This section shall not be construed as forbidding the use of steam whistles as alarm signals in case of fire, collision, or other imminent danger.~~

Sec. 30-457 Boisterous use of premises.

~~No person owning, or in possession or control of any building or premises, shall use the same, permit the use of the same, or rent the same to be used for any business or employment or residential use, or for any purpose of pleasure or recreation, if such use shall, by its boisterous nature, disturb or destroy the peace of the neighborhood in which such building or premises is situated or be dangerous or detrimental to health.~~

Sec. 30-455 — Sec. 30-457. Reserved.

BE IT FURTHER ORDAINED, by the Cook County Board of Commissioners, that Chapter 58 Offenses and Miscellaneous Provisions, Sec. 58-178 through 58-181 of the Cook County Code is hereby enacted as follows:

Sec. 58-178. Noise on a public way.

(a) No person shall make, or cause, permit or allow to be made upon a public way, or in such close proximity to a public way as to be distinctly and loudly audible upon such public way, any noise of any kind by crying, calling or shouting, or by means of any whistle, rattle, bell, gong, clapper, hammer, drum, horn, hand organ, mechanically operated piano, other musical instrument, wind instrument, mechanical device, radio, phonograph, sound amplifying or other similar electronic device; provided that the restrictions shall not apply to any licensed peddler crying or calling for the purpose of advertising goods, wares or merchandise when lawfully using any public way in the County between the hours of 8:00 a.m. and 6:00 p.m.

(b) No person shall use or perform any hand organ or other musical instrument or device, for pay or in expectation of payment, in any public way or public place of the County before 8:00 a.m. or after 6:00 p.m. of any day.

(c) Any person found in violation of any provision of this Section will be fined \$100.00.

Sec. 58-179. Steam whistles.

~~(a) No person shall blow, or cause to be blown, within the County, a steam whistle of any stationary steam plant as a signal for commencing or suspending work or for any other purpose.~~

~~(b) This section shall not be construed as forbidding the use of steam whistles as alarm signals in case of fire, collision, or other imminent danger.~~

~~(c) Any person found in violation of any provision of this Section will be fined \$100.00.~~

Sec. 58-180. Sec. 58 -179. Boisterous use of premises.

No person owning, or in possession or control of any building or premises, shall use the same, permit the use of the same, or rent the same to be used for any business or employment or residential use, or for any purpose of pleasure or recreation, if such use shall, by its boisterous nature, disturb or destroy the peace of the neighborhood in which such building or premises is situated or be dangerous or detrimental to health. Any person found in violation of any provision of this section will be fined \$100.00. Every day that such violation continues shall be deemed a separate and distinct offense.

Sec. 58 – 180. Reserved.

Sec. 58 –181. Public urination or defecation:

Any person who urinates or defecates on the public way, or on any outdoor public property, or on any outdoor private property, shall be fined \$100.00. This ordinance shall not apply to use of a temporary or permanent structure or enclosure erected outdoors for use as a toilet facility.

Sec. 58-182. Sec. 58-181. Administrative adjudication.

A Violations of Article II, Sec 58- 178 thru 58-180 shall be adjudicated pursuant to Chapter 2, Administration, Article IX, Administrative Hearings of this Code.

Effective date: This ordinance shall be in effect 30 days from adoption

Vice Chairman Silvestri, seconded by Commissioner Fritchey, moved Approval of the Substitute Proposed Ordinance Amendment to Communication No. 317539. The motion carried.

317541 AN AMENDMENT TO CHAPTER 58 OFFENSES AND MISCELLANEOUS PROVISIONS, ARTICLE IV OFFENSES INVOLVING PUBLIC MORALS, SECTION 58-163 (PROPOSED ORDINANCE AMENDMENT). Submitting a Proposed Ordinance Amendment sponsored by Toni Preckwinkle, President and Peter N. Silvestri, County Commissioner; Co-sponsored by Gregg Goslin and Larry Suffredin, County Commissioners.

PROPOSED ORDINANCE AMENDMENT

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 58 Offenses and Miscellaneous Provisions, Article IV Offenses Involving Public Morals, Section 58-163 of the Cook County Code is hereby amended as follows:

ARTICLE IV. OFFENSES INVOLVING PUBLIC MORALS

Sec. 58-163. - Drug paraphernalia.

- (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:

Drug paraphernalia means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Cannabis Control Act (720 ILCS 550/1 et seq.) and the Illinois Controlled Substance Act (720 ILCS 570/100 et seq.). It includes, but is not limited to:

- (1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
- (2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;
- (3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant of which is a controlled substance;
- (4) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;

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- (5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
- (6) Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;
- (7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from or in otherwise cleaning or refining, marihuana;
- (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;
- (9) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
- (10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;
- (11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;
- (12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish, or hashish oil into the human body, such as:
 - a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - b. Water pipes;
 - c. Carburetion tubes and devices;
 - d. Smoking and carburetion masks;
 - e. Roach clips: Meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;
 - f. Miniature cocaine spoons, and cocaine vials;
 - g. Chamber pipes;
 - h. Carburetor pipes;

- i. Electric pipes;
- j. Air-driven pipes;
- k. Chillums;
- l. Bongs;
- m. Ice pipes or chillers.

(b) ~~Factors used in determining whether or not an item is drug paraphernalia.~~
~~In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following: A variety of factors shall be considered when determining whether an item is drug paraphernalia, which shall include but not be limited to the following:~~

- (1) Statements by an owner or by anyone in control of the object concerning its use;
- (2) Prior convictions, if any, of an owner, or of anyone in control of, the object, under any State or Federal law relating to any controlled substance;
- (3) The proximity of the object, in time and space, to a direct violation of this section;
- (4) The proximity of the object to controlled substances;
- (5) The existence of any residue of controlled substances on the object;
- (6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom the owner knows, or should reasonably know, intend to use the object to facilitate a violation of this section; the innocence of an owner, or of anyone in control of the object, as to direct violation of this section shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
- (7) Instructions, oral or written, provided with the object concerning its use;
- (8) Descriptive materials, accompanying the object which explain or depict its use;
- (9) National and local advertising concerning its use;
- (10) The manner in which the object is displayed for sale;

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- (11) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (12) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
- (13) The existence and scope of legitimate uses for the object in the community;
- (14) Expert testimony concerning its use.

(c) *Sale or possession.* This section shall be in effect within the County to prohibit the sale and possession of items intended for use or designed for use with illegal cannabis or drugs.

(d) *Possession of.* It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this section. Any person who violates this subsection ~~may be~~ shall be fined up to \$500.00 \$200.00.

(e) *Manufacture or delivery of.* It is unlawful for any person to deliver, possess with intent to deliver, or manufacture, with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test analyze, pack, re-pack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this section. Any person who violates this subsection, ~~upon conviction, may be imprisoned for not more than three months or fined \$500.00, or both~~ shall be fined \$200.

(f) *Delivery to a minor.* Any person 18 years of age or over who violates Subsection (d) of this section by delivering drug paraphernalia to a person under 18 years of age ~~who is at least three years such person's junior, upon conviction, may be imprisoned for not more than six months or~~ shall be fined \$500.00, or both.

(g) *Advertising.* It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any person who violates this subsection, ~~shall upon conviction, may be imprisoned for not more than 30 days or~~ be fined \$500.00, or both.

(h) *Seizure without warrant.* All drug paraphernalia manufactured, delivered, possessed, intended for use or designed for use defined in this section shall be seized without a warrant by a peace officer, ~~and the same shall be subject to forfeiture.~~

(i) *Administrative adjudication.* Violations of Article IV, Sec58-163 shall be adjudicated pursuant to Chapter 2 Administration, Article IX Administrative Hearings of this Code.

Effective date: This Ordinance Amendment shall be in effect thirty (30) days from adoption.

***Referred to the Committee on Law Enforcement on 04-03-12.**

Vice Chairman Silvestri, seconded by Commissioner Fritchey, moved to Accept the Substitute Proposed Ordinance Amendment to Communication No. 317541. The motion carried, and the Amendment to Communication No. 317541 was Substituted as follows:

SUBSTITUTE PROPOSED ORDINANCE AMENDMENT FOR COMMUNICATION NO. 317541

Sponsored by:

THE HONORABLE TONI PRECKWINKLE, PRESIDENT, and PETER N. SILVESTRI and
EDWIN REYES, COUNTY COMMISSIONERS

Co-sponsored by:

THE HONORABLE GREGG GOSLIN and LARRY SUFFREDIN, COUNTY COMMISSIONERS

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 58 Offenses and Miscellaneous Provisions, Article IV. Offenses Involving Public Morals, Section 58-163 of the Cook County Code is hereby amended as follows:

ARTICLE IV. OFFENSES INVOLVING PUBLIC MORALS

Sec. 58-163. - Drug paraphernalia.

(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:

Drug paraphernalia means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Cannabis Control Act (720 ILCS 550/1 et seq.) and the Illinois Controlled Substance Act (720 ILCS 570/100 et seq.). It includes, but is not limited to:

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- (1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
- (2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;
- (3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant of which is a controlled substance;
- (4) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;
- (5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
- (6) Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;
- (7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from or in otherwise cleaning or refining, marihuana;
- (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;
- (9) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
- (10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;
- (11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;
- (12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish, or hashish oil into the human body, such as:
 - a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - b. Water pipes;
 - c. Carburetion tubes and devices;
 - d. Smoking and carburetion masks;
 - e. Roach clips: Meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;
 - f. Miniature cocaine spoons, and cocaine vials;

- g. Chamber pipes;
- h. Carburetor pipes;
- i. Electric pipes;
- j. Air-driven pipes;
- k. Chillums;
- l. Bongs;
- m. Ice pipes or chillers.

(b) ~~Factors used in determining whether or not an item is drug paraphernalia. In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following: A variety of factors shall be considered when determining whether an item is drug paraphernalia, which shall include but not be limited to the following factors:~~

- (1) Statements by an owner or by anyone in control of the object concerning its use;
- (2) Prior convictions, if any, of an owner, or of anyone in control of, the object, under any State or Federal law relating to any controlled substance;
- (3) The proximity of the object, in time and space, to a direct violation of this section;
- (4) The proximity of the object to controlled substances;
- (5) The existence of any residue of controlled substances on the object;
- (6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom the owner knows, or should reasonably know, intend to use the object to facilitate a violation of this section; the innocence of an owner, or of anyone in control of the object, as to direct violation of this section shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
- (7) Instructions, oral or written, provided with the object concerning its use;
- (8) Descriptive materials, accompanying the object which explain or depict its use;
- (9) National and local advertising concerning its use;
- (10) The manner in which the object is displayed for sale;
- (11) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

- (12) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
- (13) The existence and scope of legitimate uses for the object in the community;
- (14) Expert testimony concerning its use.

(c) *Sale or possession.* This section shall be in effect within the County to prohibit the sale and possession of items intended for use or designed for use with illegal cannabis or drugs.

(d) *Possession of.* It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this section. Any person who violates this subsection ~~may be~~ shall be fined ~~up to \$500.00~~ \$200.00.

(e) *Manufacture or delivery of.* It is unlawful for any person to deliver, possess with intent to deliver, or manufacture, with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test analyze, pack, re-pack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this section. Any person who violates this subsection, ~~upon conviction, may be imprisoned for not more than three months or fined \$500.00, or both~~ shall be fined \$200.

(f) *Delivery to a minor.* Any person 18 years of age or over who violates Subsection (d) of this section by delivering drug paraphernalia to a person under 18 years of age ~~who is at least three years such person's junior, upon conviction, may be imprisoned for not more than six months or shall be fined \$500.00, or both.~~

(g) *Advertising.* It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any person who violates this subsection, shall upon conviction, ~~may be imprisoned for not more than 30 days or be fined \$500.00, or both.~~

(h) *Seizure without warrant.* All drug paraphernalia manufactured, delivered, possessed, intended for use or designed for use defined in this section shall be seized without a warrant by a peace officer, ~~and the same shall be subject to forfeiture.~~

(i) Administrative adjudication.

Violations of Article IV. , Sec 58-163 shall be adjudicated pursuant to Chapter 2, Administration, Article IX, Administrative Hearings of this Code.

Effective date: This amended ordinance shall be in effect 30 days from adoption.

Vice Chairman Silvestri, seconded by Commissioner Fritchey, moved Approval of the Substitute Proposed Ordinance Amendment to Communication No. 317541. The motion carried.

317542 OFFENSES INVOLVING PROPERTY RIGHTS (PROPOSED ORDINANCE).
Submitting a Proposed Ordinance sponsored by Toni Preckwinkle, President and Peter N. Silvestri, County Commissioner; Co-sponsored by Gregg Goslin, Edwin Reyes and Larry Suffredin, County Commissioners.

PROPOSED ORDINANCE

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 58 Offenses and Miscellaneous Provisions, Sections 58-42 through 58-46 of the Cook County Code is hereby enacted as follows:

ARTICLE II. OFFENSES INVOLVING PROPERTY RIGHTS

Sec. 58-42. Damage to public property.

(a) No person shall cut, injure, mark, or deface any public building, sewer, water pipe, hydrant, or other county property, or any tree, grass, shrub or sidewalk in any public way or public place.

(b) Any person violating subsection (a) of this section shall be fined \$200.00 for each offense.

(c) All costs associated with repair or replacement of any property in subsection (a) will be addressed by either applicable county ordinance or court of competent jurisdiction.

Sec. 58-43. Interference with utility equipment.

(a) When used in this section, "utility equipment" means any of the following located in a public way: (1) any lid, grate, screen or cover that allows access to any sewer, drain, electrical vault, coal hole, water vault, gas vault, tunnel or other opening or structure in the public way, or that allows the flow of water from the public way into a drain or sewer; (2) any light pole, lamp post, telephone or telegraph pole, or post or pole supporting electrical transformers or lines for transmission of electricity or cable television signals. "Utility equipment" may be either privately or publicly owned.

(b) No person shall:

- (1) Intentionally and without authorization of the owner, remove utility equipment or damage or alter utility equipment so as to diminish its effectiveness;
- (2) Without authorization of the actual owner, purchase, receive or possess illegally removed utility equipment. It is a defense under this subsection (b)(2) that a person charged with a violation did not know that the subject utility equipment was illegally removed;

- (3) Assist any other person in any action prohibited in subsection (b)(1) or (b)(2) of this section.

(c) Any person in violation of any provision of subsection (b) of this section shall be fined \$500.00.

(d) All costs associated with repair or replacement of any property in subsection (a) will be addressed by either applicable county ordinance or court of competent jurisdiction.

Sec. 58-44. Removing sod or earth without a permit.

(a) No person shall dig, cut or remove any sod or earth from any public way under the jurisdiction of the County without a permit or from any other public place without a permit or from any premises not his own without the consent of the owner. The permits required by this section will be issued by the proper County Department or appropriate local authority.

(b) Any person found in violation of this section shall be fined \$100.00 for each offense.

a. All costs associated with repair or replacement of any property in subsection (a) will be addressed by either applicable county ordinance or court of competent jurisdiction.

Sec. 58-45. Removal of sod or earth along public way.

(a) No person shall dig, cut or remove any sod or earth from any property adjoining or contiguous to a public way under the jurisdiction of the County, in such a manner as to leave said property in an unsafe or unsanitary condition or in such condition as will constitute a public nuisance.

(b) Any person violating this section shall be subject to a fine of \$100.00.

(c) All costs associated with repair or replacement of any property in subsection (a) will be addressed by either applicable county ordinance or court of competent jurisdiction.

Sec. 58-46. Administrative adjudication.

Violations of Article II, Sec 58-42 thru 58-45 shall be adjudicated pursuant to Chapter 2 Administration, Article IX Administrative Hearings of this Code.

Effective date: This Ordinance shall be in effect thirty (30) days after adoption.

***Referred to the Committee on Law Enforcement on 04-03-12.**

Vice Chairman Silvestri, seconded by Commissioner Fritchey, moved to Accept the Substitute Proposed Ordinance Amendment to Communication No. 317542. The motion carried, and the Amendment to Communication No. 317542 was substituted as follows:

SUBSTITUTE PROPOSED ORDINANCE FOR COMMUNICATION NO. 317542

Sponsored by:

THE HONORABLE EDWIN REYES, GREGG GOSLIN,
and PETER N. SILVESTRI, COUNTY COMMISSIONERS

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 58 Offenses and Miscellaneous Provisions, Sec. 58-42 through 58-46 of the Cook County Code is hereby enacted as follows:

ARTICLE II. OFFENSES INVOLVING PROPERTY RIGHTS

Sec. 58-42. Damage to public property

- (a) No person shall cut, injure, mark, remove or deface any public building, sewer, water pipe, hydrant, or other county property, ~~or any tree, grass, shrub, plant, sod, or sidewalk in any public way or public place.~~
- ~~(b) Any person violating subsection (a) of this section shall be fined \$200.00 for each offense.~~
- (b) No person shall cause any refuse, vermin poison, herbicide or any other foreign object or substance to be placed into or onto public property listed in subsection (a).
- (c) Any person violating subsection (a) or (b) of this section shall be fined \$200.00 for each offense.
- (d) All costs associated with repair or replacement of any property in subsection (a) or (b) will be addressed by either applicable county ordinance or court of competent jurisdiction.

Sec. 58-43. Public urination or defecation.

Any person who urinates or defecates on the public way, or on any outdoor public property, or on any outdoor private property, shall be fined \$100.00. This ordinance shall not apply to use of a temporary or permanent structure or enclosure erected outdoors for use as a toilet facility.

Sec. 58-43. Interference with utility equipment.

- ~~(a) When used in this section, "utility equipment" means any of the following located in a public way: (1) any lid, grate, screen or cover that allows access to any sewer, grain, electrical vault, coal hole, water vault, gas vault, tunnel or other opening or structure in the public way, or that allows the flow of water from the public way into a drain or sewer; (2)~~

~~any light pole, lamp post, telephone or telegraph pole, or post or pole supporting electrical transformers or lines for transmission of electricity or cable television signals. "Utility equipment" may be either privately or publicly owned.~~

~~(b) No person shall:~~

~~(1) Intentionally and without authorization of the owner, remove utility equipment or damage or alter utility equipment so as to diminish its effectiveness;~~

~~(2) Without authorization of the actual owner, purchase, receive or possess illegally removed utility equipment. It is a defense under this subsection (b)(2) that a person charged with a violation did not know that the subject utility equipment was illegally removed;~~

~~(3) Assist any other person in any action prohibited in subsection (b)(1) or (b)(2) of this section.~~

~~(c) Any person in violation of any provision of subsection (b) of this section shall be fined \$500.00.~~

~~(d) All costs associated with repair or replacement of any property in subsection (a) will be addressed by either applicable county ordinance or court of competent jurisdiction.~~

Sec. 58-44. Removing sod or earth without a permit.

~~(a) — No person shall dig, cut or remove any sod or earth from any public way under the jurisdiction of the County without a permit or from any other public place without a permit or from any premises not his own without the consent of the owner. The permits required by this section will be issued by the proper County Department or appropriate local authority.~~

~~(b) — Any person found in violation of this section shall be fined \$100.00 for each offense.~~

~~(c) — All costs associated with repair or replacement of any property in subsection (a) will be addressed by either applicable county ordinance or court of competent jurisdiction.~~

Sec. 58-45. Removal of sod or earth along public way.

~~(a) — No person shall dig, cut or remove any sod or earth from any property adjoining or contiguous to a public way under the jurisdiction of the County, in such a manner as to leave said property in an unsafe or unsanitary condition or in such condition as will constitute a public nuisance.~~

~~(b) — Any person violating this section shall be subject to a fine of \$100.00.~~

~~(c) — All costs associated with repair or replacement of any property in subsection (a) will be addressed by either applicable county ordinance or court of competent jurisdiction.~~

Sec. 58-44. Throwing objects in public places of amusement.

(a) No person shall cast, drop or throw any object, missile or any other substance or article in, from or onto any public place of amusement.

(b) Any person violating the provisions of this section shall be fined \$200.00 for each offense.

Sec. 58-45. Reserved.

Sec. 58-46. Administrative Adjudication.

Violations of Article II, Sec 58-42 thru 58-45 shall be adjudicated pursuant to Chapter 2, Administration, Article IX, Administrative Hearings of this Code.

Effective date: This ordinance shall be in effect 30 days after adoption.

Vice Chairman Silvestri, seconded by Commissioner Fritchey, moved Approval of the Substitute Proposed Ordinance Amendment to Communication No. 317542. The motion carried.

Chairman Murphy asked the Secretary to the Board to call upon the registered public speaker, in accordance with Cook County Code, Sec. 2-107(dd).

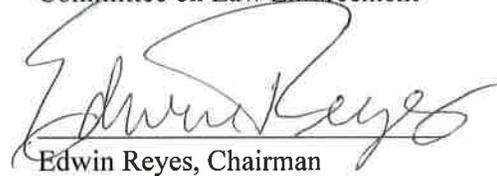
1. George Blakemore – Concerned Citizen

Commissioner Fritchey moved to Adjourn the meeting, seconded by Vice Chairman Silvestri. The motion carried and the meeting was Adjourned.

**YOUR COMMITTEE RECOMMENDS THE FOLLOWING ACTION
WITH REGARD TO THE MATTER NMED HEREIN:**

Communication Number 317538	Approved as Substituted
Communication Number 317539	Approved as Substituted
Communication Number 317541	Approved as Substituted
Communication Number 317542	Approved as Substituted

Respectfully submitted,
Committee on Law Enforcement



Edwin Reyes, Chairman

Attest:



Matthew B. DeLeon, Secretary

*A video recording of this meeting is available on the Office of the Secretary to the Board's website on the Video Page at <http://blog.cookcountyil.gov/secretarytotheboard/county-board-proceedings/county-board-video-and-audio/>.