

BOARD OF COMMISSIONERS OF COOK COUNTY



JOURNAL

**Wednesday, OCTOBER 14, 2015
(11:00 A.M.)**

Special Meeting: FY 2016 President's Executive Budget

Cook County Building, 118 North Clark Street, Board Room 569, Chicago, Illinois

TONI PRECKWINKLE, PRESIDENT

**LUIS ARROYO, JR.
RICHARD R. BOYKIN
JERRY BUTLER
JOHN P. DALEY
JOHN A. FRITCHEY
BRIDGET GAINER
JESUS G. GARCIA
GREGG GOSLIN
STANLEY MOORE**

**SEAN M. MORRISON
JOAN PATRICIA MURPHY
TIMOTHY O. SCHNEIDER
PETER N. SILVESTRI
DEBORAH SIMS
ROBERT B. STEELE
LARRY SUFFREDIN
JEFFREY R. TOBOLSKI**

**DAVID ORR
COUNTY CLERK**

Board met pursuant to the following call:

Thursday, October 8, 2015

The Honorable David Orr
Cook County Clerk
69 West Washington Street
Chicago, Illinois 60602

Dear Clerk Orr:

Re: SPECIAL MEETING NOTIONCE for October 14, 2015 at 11:00 A.M. in County Board Room,
118 North Clark Street, Room 569, Chicago, Illinois

Dear Clerk Orr:

Pursuant to the authority vested in me, I hereby call a Special Meeting of the Board of Commissioners of Cook County to be convened on Wednesday, October 14, 2015 at the hour of 11:00 A.M. in the County Board Room, Room 569, County Building, 118 North Clark Street, Chicago, Illinois. At said meeting, the Executive Budget for Fiscal Year 2016 will be presented to the Cook County Board of Commissioners.

Please issue the Notice of this Special Meeting as required by law.

Very truly yours,

TONI PRECKWINKLE, President
Cook County Board of Commissioners

COPY OF LETTER SENT TO ALL COMMISSIONERS

October 9, 2015

President and Members
Cook County Board of Commissioners

Ladies and Gentlemen:

Toni Preckwinkle, President of the Board of Commissioners of Cook County, has directed me to call a Special Meeting of the Board of Commissioners of Cook County on Wednesday, October 14, 2015 at the hour of 11:00 A.M. in the County Board Room, Room 569, County Building, 118 North Clark Street, Chicago, Illinois. At said meeting, the Executive Budget for Fiscal Year 2016 will be presented to the Cook County Board of Commissioners.

Very truly yours,

DAVID ORR, County Clerk

* * * * *

This is to certify that a copy of the above notice was hand delivered and personally addressed to each Member of the Board of Cook County Commissioners at their home address and was deposited in the United States Mail on Friday, October 9, 2015.

DAVID ORR, County Clerk

* * * * *

The following Legal Notice appeared in the Chicago Tribune Newspaper on Monday, October 12, 2015; Tuesday, October 13, 2015; and Wednesday, October 14, 2015.

LEGAL NOTICE

Toni Preckwinkle, President of the Board of Commissioners of Cook County, has directed me to call a Special Meeting of the Board of Commissioners of Cook County on Wednesday, October 14, 2015 at the hour of 11:00 A.M. in the County Board Room, Room 569, County Building, 118 North Clark Street, Chicago, Illinois. At said meeting, the Executive Budget for Fiscal Year 2016 will be presented to the Cook County Board of Commissioners.

Very truly yours,

DAVID ORR, County Clerk and
Clerk of the Board of the Commissioners of Cook County, Illinois

OFFICIAL RECORD

President Preckwinkle in the chair.

CALL TO ORDER

At 11:00 A.M., being the hour appointed for the meeting, the President called the Board to order.

QUORUM

County Clerk David Orr called the roll of members and there was found to be a quorum present.

ROLL CALL

Present: President Preckwinkle and Commissioners Arroyo, Boykin, Butler, Daley, Fritchey, Garcia, Goslin, Moore, Morrison, Silvestri, Sims and Suffredin - 12.

Absent: Commissioners Gainer, Murphy, Schneider, Steele and Tobolski - 5.

BOARD OF COMMISSIONERS OF COOK COUNTY

PRESIDENT

BUDGET MESSAGE OF THE PRESIDENT

to the

BOARD OF COMMISSIONERS FOR THE FISCAL YEAR 2016

For those that have heard me speak before, you know I usually focus on our principle responsibilities – public health and public safety, as well as economic development. I am able to do that because we build everything on a foundation of fiscal responsibility. If we can't identify our challenges, work together to address them and measure our performance, how can we effectively provide services to those who need us most?

And so, while I give a budget address once a year to talk about County's finances, in fact, every day, everything we do, is a reflection of our commitment to fiscal responsibility.

Together, we have passed five budgets that have closed over \$1.4 billion in deficits. We have demanded more accountability from our operations and our employees. Last year alone, the Cook County Health and Hospitals System served nearly 300,000 patients by providing more than 1 million outpatient visits, performing more than 15,000 surgeries and running 5 million lab tests. We have awarded more than \$10 million in grants focused on addressing violence, reducing recidivism and providing community support, with an additional \$3.2 million planned for 2016. Our Department of Homeland Security and Emergency Management has conducted more than 1,300 training sessions and exercises for more than 25,000 first responders, deployed personnel and resources to 1,500 incidents and events throughout the County and

managed more than \$150 Million in federal grant funds. This year, we have supported investments of more than \$173 million in abandoned and/or vacant properties through tax incentives which we estimate will result in the creation of over 2,800 jobs and the retention of over 2,700 jobs.

What we are doing makes a difference. Let me give you one example. A young man came to Lawndale Christian Legal Center (LCLC) a year and a half ago as a 16 year old charged with a robbery committed at school, facing both a criminal case and an expulsion. Through Cook County Justice Advisory Council Violence Prevention funding, he was provided with one-on-one case management services that helped him identify goals, connect him to other services, and kept him motivated and high-achieving throughout the time his case was pending. Not only was he not expelled – his grades went from D's to A's. He was placed on probation and has successfully met all terms of his probation to date. He went on to become the star of the 2015 Court Advocacy Apprenticeship, a summer employment program that trains court-involved youth in legal advocacy. In fact, one of the judges who presided over a mock trial this summer, told this young man that he did a better job in his mock trial than real lawyers in her courtroom. She insisted he go to law school and followed up with a handwritten note about how well he did in his cross-examination.

Though we are making a difference, our work is far from done.

Today's budget recommendation addresses not only the \$198.9 million deficit in our FY2016 operating budget, but also the long-term financial viability of Cook County government.

The recommendation I put forth today is not only a plan to solve next year's budget deficit, but a course of action, based on tough choices and strategic investments, for our long-term financial viability.

Five years ago, we began to put our house in order by tackling a half-billion dollar deficit with 16% cuts across the board. Since taking office, we've cut the County's operating budget by more than \$450 million.

We aren't stopping there. This year we must again make hard choices to live within our means. First, we will always look to reduce costs. That is why this budget recommendation contains almost \$108 million in additional cost reductions for our taxpayers.

We have been able to achieve these expenditure reductions by driving down personnel costs, demanding greater operational efficiency and working with the Cook County Health and Hospitals System to reduce taxpayer support for the system.

Let me start with our largest expenditure. Cook County employs over 23,000 people and, as a result, roughly 87% of the general fund is dedicated to personnel-related expenses.

And while personnel expenses are necessary and we must invest in our employees who provide critical public services, we've made significant strategic and structural changes to ensure that these costs are minimized. We conducted a full audit of the health benefits we provide our employees to ensure that all dependents enrolled for coverage are actually eligible. Because of this due diligence, as well as the critical changes to employee contributions and our plan designs, that we negotiated with our union partners, we have cut \$11 million from our projected employee health benefits spending. In fact in an environment where health care costs rise faster than inflation, our partnership with our unions will allow us to reduce health benefit spending by \$2.7 million compared to what we saw in 2015.

We continue to strive for a smaller, stronger Cook County government. We have reduced personnel costs by over \$32 million this year. Our workforce is 9 percent smaller than when I took office. This year, we are further reducing our budgeted positions by 287. This will be done primarily through eliminating vacant positions. Sadly, it also includes 51 layoffs.

Of the 51 position reductions, half of them come from the Offices under the President and half from the Sheriff's office. I want to acknowledge the Sheriff for being a good fiscal steward, working to reduce the size of the jail campus and, making difficult decisions to help reduce costs.

In a job that has not been short of challenges, laying off people is the most difficult. We do not make these decisions lightly.

Workforce reductions are necessary – but they are not enough. This year, we will cut over \$5 million in expenditures by implementing a new time and attendance system, leasing out additional office space, auditing our utility bills, and reducing our passenger vehicle and fuel usage.

We have to take a hard look at the programs and services throughout Cook County agencies.

One of the programs we've identified is the Mortgage Foreclosure Mediation Program. This program, housed in the Chief Judge's Office, encourages homeowners in foreclosure to come to court for free counseling and legal services to help resolve their cases. The program currently has 8 full-time employees and \$3.4 million in contractual services.

In light of continually decreasing mortgage foreclosure filings, we are proposing the reduction of this program. Unemployment is, by far, the leading cause of foreclosure. In Cook County, unemployment has been returning to pre-recession levels. It fell below 6% last fall and has held there; the lowest unemployment rate since early 2008. In just the last year, monthly foreclosure filings have decreased by 52%. Therefore, we have proposed eliminating the contractual services while retaining the County employees.

Sheriff Dart conducted a similar review of his programs and found that, while the mission was on target, the outcomes and expenses were not. Therefore, he is eliminating the Day Reporting Center and the Graffiti Unit.

After reviewing an evaluation by Loyola University, which was funded through a grant from the Illinois Criminal Justice Information Authority, I am also proposing eliminating the State's Attorney's Drug Diversion Program. The study found that roughly 35 participants entered Deferred Prosecution Program each month. Of that 35, about 7 people each month are actually referred to the Drug Diversion Program. This equates to roughly 88 people a year entering a program that costs \$710,000 in contractual services.

Over 35,000 drug cases go through our court system every year. A program that treats 7 individuals a month at a cost of \$8,000 per participant is not the most effective use of resources.

Clearly there is a problem. In 2013 alone, there were 50,000 drug arrests. The scale of the solution needs to correspond to the scale of the problem.

To that end, we are working with the Cook County Health and Hospitals System to launch a pilot Community Triage Center (CTC) to provide prevention and diversion services for individuals who are at-

risk of arrest due to behavioral health conditions. Waiting until an at-risk individual is arrested and detained is both expensive to taxpayers and harmful to those being detained. If individuals having psychiatric and/or substance-related problem, and is at risk of committing a crime, could utilize the Community Triage Center. Access will be prioritized to allow police officers to drop off individuals and rapidly return to their patrol areas, as well as provide walk-in services for those released from the Cook County Jail. The patient would receive a comprehensive assessment and be linked to the appropriate health care and social services resources, including housing, vocational training and civil legal assistance. Similar models have proven successful in Los Angeles, Houston and San Antonio and we think this presents a real opportunity to continue to decrease our jail population and better serve our residents.

We have made incredible progress in reducing the over-reliance on pre-trial detention for non-violent offenders. By now most of you have heard me speak about the County jail. You have heard the disturbing facts: 90% of the people in Cook County's jail are awaiting trial. Of that 90%, 70% are accused of non-violent offenses. And what's truly troubling is that while African-Americans and Latinos make up 50% of the County's population, they account for 85% of the people in the Cook County Jail.

For 24 years, the average jail population exceeded 10,000 people. This time two years ago, the daily population was roughly 9,900. Today, the confined population is approximately 8,200 – lower than it's been since 1991.

This has been accomplished by focusing on the bond court process, the port of entry into the jail. We have been moving away from a cash bond system by working with judges in bond court to provide them with better, and more complete information about the people appearing before them. In the last year, over half of those who came through bond court were released on their own recognizance or were granted non-cash releases, such as electronic monitoring programs; compared with less than 20% two years ago. During this time, we have seen no percentage increase in failures to appear for court hearings or the percentage of people on pretrial supervision who are arrested for new offenses.

Because of this, we are now able to decrease the size of the jail campus. Next year, we will begin the process of demolishing three jail divisions. This year will save over \$3 million in operating expenses as well as avoid \$188 million in maintenance and repair costs over 10 years. The Sheriff is working to manage his overtime and non-personnel costs to be sure they are in line with the size of the facility and the number of people it houses. Sheriff Dart and I will continue to work to drive down not only the jail population, but the costs of operating the jail campus.

I started by saying that the real measure of our commitment to fiscal responsibility is the services we are able to provide every day. Nowhere is that more true than our health system. President Obama's Affordable Care Act has been a godsend to our patients and our government in Cook County. To date, we have almost 170,000 members as part of CountyCare, making us one of the largest and most successful Medicaid expansion programs in the country.

The Affordable Care Act has provided us a pathway to financial sustainability. When I took office, Cook County allocated over \$380 million to our health system, largely for uncompensated care. Next year the allocation to the Cook County Health and Hospital System operations will be \$125 million. This is \$39 million less than last year and \$264 million less than when I took office.

But in addition to the financial argument, there is a more powerful one. It means we provide better health care. We are building a system focused on preventive care, to provide our patients with a primary care doctor responsible for their wellness.

Now, nearly 70% of our patients have insurance. That also means that the patients who relied on us in the past may now choose to go almost anywhere else. If we are going to thrive as a system of choice, we need to invest in and improve the experience for our patients.

One of our biggest projects is the redevelopment of the Cook County Hospital Central Campus. We are negotiating with two development teams to accomplish our mission. First, the core medical redevelopment will address the critical needs of the Cook County Health and Hospitals System, including a new ambulatory care clinic with both administrative offices and clinical space. It will also evaluate how patients enter and move through the hospital campus. Second, through a separate process, we are redeveloping the vacant and underutilized campus real estate. This will create mixed-use redevelopment opportunities that leverage the Old Cook County Hospital Building, and its excess surrounding land, to generate revenue for the County, and build a community in the area surrounding our primary hospital campus.

In turning to revenue, we are focused on due diligence to ensure we are bringing in all that is owed.

First, we must ensure we are fully enforcing and collecting all our projected revenue. Since taking office, we have turned an agency of largely voluntary compliance into one of mandatory enforcement. We have built comprehensive investigation and compliance units within the Department of Revenue, to ensure a level playing field for all taxpayers.

This year, we are seeing a \$10 million increase in revenues due almost entirely to increased enforcement and collection, primarily of the cigarette and gas tax. The Assessor is also projecting the additional \$2.1 million in fines and any unpaid back taxes due to auditing of property tax exemption requests.

I want to recognize the good work of Zahra Ali, Director of Revenue and her team. She is not only bringing in additional revenue, she is shaping a system of best practice that has been recognized nationally and internationally.

Secondly, we reviewed our existing revenue sources for loopholes and inconsistencies. As a result, we are extending the amusement tax by three previously exempt categories: participatory amusement, such as sporting leagues, the margin charged by ticket re-sellers, and in-home amusement, such as cable. All three are already collected by the City of Chicago and will provide a more uniform taxing base, allowing us to collect additional revenue while maintaining our current tax rate

Additionally, we are proposing amendments to the Tobacco Tax to include e-cigarettes and e-vapor products, as studies are showing that these products are increasingly being adopted by minors as a gateway to nicotine addiction. A tax of 20 cents per milliliter generates \$1.5 million. Together, these efforts bring in an additional \$22 million to support our core mission of public safety.

In discussing revenue, it is important to acknowledge that this budget includes the approved increase in the sales tax rate, which will go into effect on January 1st. As we can see from the current stalemate in Springfield, we were right to act. Raising the sales tax was the only way to ensure the long-term

sustainability of the services we provide and avoid transferring growing obligations to the next generation. As Cook County Board President, that's my priority.

The increase will generate \$308 million in 2016, reflecting eight months of collections and \$473.8 million in 2017 for a full year of collections. As I promised in our preliminary budget forecast, that revenue has been dedicated to addressing the Pension Fund's \$6.5 billion unfunded liability with an additional appropriation of \$270M, paying our legacy debt service and investing in our antiquated transportation infrastructure.

We are taking the difficult but necessary steps to ensure the long-term financial sustainability of County government. We are making strategic structural investments to ensure our operational efficiency and stability.

Historically, the County's approach was to patch outdated systems rather than invest in new, better technologies. As a result, departments and agencies that work together are operating on separate systems. Too many operations have remained paper-based, cumbersome and time-consuming. Multiple legacy platforms, many of which are at the end of their useful lives, are creating inefficiency and pose considerable risk to critical County operations.

That is why I have committed over \$90 million towards technology improvements since taking office, with an additional \$62 million for FY2016. It is also why a modest amount of the projected sales tax - \$2.5 million next year – has been dedicated to supporting the ongoing maintenance and upgrades of our technology systems.

We are replacing several of the County's outdated financial systems with one fully integrated system that will provide cost savings, management efficiencies, and ensure current and accurate data. We are also launching a new Integrated Tax Processing System that will modernize the administration of Cook County home rule taxes. This means we can efficiently administer the taxes, provide business friendly features, such as self-registration and online return filing, and conduct additional and more frequent audits and investigations.

We are also introducing a new biometric time and attendance system, eliminating the for with paper timecards or filling out a daily timesheet, which impacts nearly 75% of our workforce. The pilot has already been launched in the Clerk of the Circuit Court, Sheriff's Office and the Forest Preserves. It will roll out countywide next year. This is a piece of a larger over-time strategy and we are projecting reduced over-time of \$14.6 million just next year.

We will also be rolling out an integrated criminal justice system, known as the "data bus", to ensure that all our public safety stakeholders can access and share information. Since the Illinois Supreme Court convened meetings all of the public safety stakeholders in 2013, we know that meaningful reform can come from collaboration. Now we will have the infrastructure to support it.

By replacing out-of-date systems, we are building the foundation for a smarter, quicker and more responsive County government.

There is no question – Cook County is stronger than it was five years ago, when I took office. Together, we have worked hard; we have lived within our means. We are more responsible and more responsive.

We are more accountable and more innovative. The plan presented today is not only a testament to how far we have come; but charts our course moving forward.

Thank you.

TONI PRECKWINKLE, President

* * * * *

The Message of the President to the Board of Cook County Commissioners was given by President Preckwinkle.

* * * * *

President Preckwinkle then submitted the Executive Budget to the Board of Commissioners for the Fiscal Year 2016, for referral to the Committee on Finance.

Chairman Daley, seconded by Vice Chairman Sims, pursuant to the statues of the State of Illinois, Chapter 55, Article 6, moved Item 15-5972 the 2016 Executive Budget for Cook County as submitted by the Office of the President be referred to the Committee on Finance. **The motion carried unanimously.**

Chairman Daley, seconded by Vice Chairman Sims, motion to suspend the rules to take up all New Items. **The motion carried unanimously.**

15-6024

Sponsored by: TONI PRECKWINKLE, President, Cook County Board of Commissioners

PROPOSED ORDINANCE AMENDMENT

AMUSEMENT TAX ORDINANCE

WHEREAS, fiscal responsibility, innovative leadership, transparency and accountability, and improved services have been and continue to be the underlying mission of the President and the Cook County Board of Commissioners; and

WHEREAS, improvements in enforcement of current Home Rule Tax Ordinances are essential to encourage increased compliance; and

WHEREAS, the Department of Revenue wishes to codify already established practices in order to alleviate confusion; and

WHEREAS, further alignment with the City of Chicago's Amusements Ordinance will alleviate tax reporting burdens on area businesses;

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 74, Taxation, Article X, Amusement Tax, Sections 74-390 through 74-398 of the Cook County Code shall be 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 (1) 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, racing, riding on animals or vehicles, baseball, basketball, softball, soccer, football, tennis, golf, hockey, track and field games, bowling, or billiard and pool games-; (2) ~~any entertainment or~~ 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-; or (3) any paid television programming, whether transmitted by wire, cable, fiber optics, laser, microwave, radio, satellite or similar means. 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.

Charges paid means the gross amount of consideration paid for the privilege to enter, to witness, to view or to participate in an amusement, valued in money, whether received in money or otherwise, including cash, credits, property and services, determined without any deduction for costs or expenses whatsoever, but not including charges that are added on account of the tax imposed by this article or on account of any other tax imposed on the charge.

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.

Operator means any person who sells or resells a ticket or other license to an amusement for consideration or who, directly or indirectly, receives or collects the charges paid for the sale or resale of a ticket or other license to an amusement. The term includes, but is not limited to, persons engaged in the business of selling or reselling tickets or other licenses to amusement, whether on-line, in person or otherwise.

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-;
- (3) With respect to paid television, any person operating a community antenna television system or wireless cable television system, or any person receiving consideration from the patron for furnishing, transmitting, or otherwise providing access to paid television programming.

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.

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

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.

Resale means the resale of a ticket or other license to an amusement after the ticket or other license has been sold by the owner, manager or operator of the amusement, or by the owner, manager or operator of the place where the amusement is being held, to an independent and unrelated third party.

Reseller means a person who resells a ticket or other license to an amusement for consideration. The term includes, but is not limited to, ticket brokers 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 means the privilege to enter, to witness, to view or to participate in an amusement, whether or not expressed in a tangible form.

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~~ or to participate in such amusement, unless subsection (f) of this section provides for a lower rate.
- (b) The tax imposed by subsection (a) of this section may be waived for the following persons or privileges, after approval by the Department of Revenue or, if applicable, the Cook County Board of Commissioners:
 - (1) The privilege of witnessing or participating in any stock show or business show that is not open to the general public;
 - (2) The privilege of witnessing or participating in 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 or participating in 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;~~

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 of Illinois, 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 {departments} of any political subdivision of the State of Illinois;~~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;~~

Provided, however, 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, by 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 be granted unless a written application for exemption is filed with the Department at least 45 calendar days prior to the amusement event or 15 calendar days prior to the date that admission tickets to the amusement are first made available for sale, whichever is earlier. The application shall be on a form prescribed by the Director of Revenue and shall contain all information necessary to permit the Department to

determine whether the exemption claimed by the applicant is applicable. If the department determines that by granting the exemption the potential loss of tax revenue will be greater than \$150,000.00 the application shall be submitted to the Cook County Board of Commissioners for final approval. The County Board may deny the exemption application if it finds that the exemption is not in the best economic interest of the County.

- (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:
- ~~(1) Any Federal, State or municipal taxes imposed upon the amusement patron, and~~
 - ~~(2) Any amounts subject to other Cook County taxes (with the exception of County Retailers' Occupation Tax), provided such County taxes are separately listed on the ticket of admission and the corresponding Cook County tax has been paid on that separately stated amount.~~
 - ~~(3) Any separately stated optional 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.
- (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.

- (g) It shall be presumed that all amusements are subject to tax under this article until the contrary is established by books, records or other documentary evidence.
- (h) It is unlawful for any person to produce, present, conduct, or resell tickets to, any amusement without collection of the tax, except as provided in this article.

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 ~~thereof or any of the foregoing.~~

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 and every reseller, 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. Collection, payment and accounting.

- (a) It shall be the joint and several duty of every owner, manager, ~~or~~ 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 or buyer the tax imposed by this article; provided, however, that a reseller of tickets shall be required to collect and remit tax to the Department only on that portion of the ticket price that exceeds the amount that the reseller paid for the tickets. For purposes of this provision, it shall be presumed that the amount that the reseller paid for the tickets is the face amount of the tickets, unless the taxpayer or tax collector proves otherwise with books, records or other documentary evidence. Tax payments accompanied by tax returns prescribed by the Department shall be remitted to the Department on or before the 20th day of the month following the month in which payment for the amusement is made.
- (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 kept for a period equal to the statute of limitations as identified in the Uniform Penalties, Interest and Procedures Ordinance, 34-60 et seq., and shall be open to inspection by the Department at all reasonable times during business hours.
- (c) Every owner, manager, ~~or operator~~ or reseller 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.

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

The Department of Revenue is authorized to adopt, promulgate and enforce rules and regulations pertaining to the interpretation, collection, administration and enforcement of this article, including, but not limited to, the meaning and scope of the exemptions contained in Section 74-392.

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.

Sec. 74-398. Violations; penalty.

Any person violating any of the provisions of this article 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~~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. 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 penalties due and owing as well as costs incurred for such proceedings.

Effective date: This Ordinance Amendment shall be in effect immediately upon adoption

15-6025

Sponsored by: TONI PRECKWINKLE, President, Cook County Board of Commissioners

PROPOSED ORDINANCE AMENDMENT

TOBACCO TAX ORDINANCE

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 74, Taxation, Article XI, Tobacco Tax, Sections 74-430 through 74-450 of the Cook County Code is hereby amended as Follows:

Sec. 74-430. Short Title.

This article may be cited as the “Cook County Tobacco Tax Ordinance”

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, other tobacco products, ~~or~~ cigarette tax stamps, or Consumable Products, 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.

Consumable Product means any nicotine liquid solution or other material containing nicotine that is depleted as a vapor product is used.

Consumer means a person who purchases cigarettes, ~~or~~ Other Tobacco Products, or Consumable Products from a wholesale tobacco dealer, retail tobacco dealer or retail cigarette manufacturer, and not for resale purposes.

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.

Large cigar means any roll of tobacco wrapped in leaf tobacco or any substance containing tobacco and weighing more than four pounds per one thousand units.

Little cigar means any roll of tobacco, other than a cigarette, wrapped in leaf tobacco or any substance containing tobacco and not weighing more than four pounds per one thousand units.

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.

Loose little cigars means little cigars that are not contained within a sealed container, pack or package as provided by the manufacturer.

Manufacturer means any person, other than a Retail Cigarette Manufacturer, who makes or fabricates cigarettes, ~~and/or other~~ tobacco products, and/or Consumable Products and sells them.

Other Tobacco Products includes, but is not limited to, smokeless tobacco, smoking tobacco, large cigars and little cigars, but does not include cigarettes.

Package means the original packet, box, tin or container whatsoever used to contain and to convey cigarettes, ~~or other tobacco products,~~ or Consumable 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, ~~or Other Tobacco Products,~~ or Consumable Products inventory is possessed, stored or sold.

Purchaser means a buyer of cigarettes, ~~or Other Tobacco Products,~~ or Consumable Products, including, but not limited to, retail tobacco dealers, retail cigarette manufacturers and/or consumers.

Retail cigarette manufacturer means any retail tobacco dealer who provides to consumers tobacco and other material and equipment for the production and sale of cigarettes within the retail cigarette manufacturer's premises in Cook County.

Retail tobacco dealer means any person who engages in the business of selling cigarettes, ~~or other tobacco products,~~ or Consumable Products in the County of Cook to a consumer. A retail tobacco dealer shall not include any person who is licensed by the State of Illinois as a tobacco distributor or wholesaler.

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 or cigars or for use as wrappers of cigars or 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, snus, 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 powdered tobacco that is not intended to be smoked.

Snus means any moist tobacco product 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; snus, 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 tobacco dealer, retail cigarette manufacturer 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.

Vapor product means any nonlighted, noncombustible product that employs a mechanical heating element, battery, or electronic circuit regardless of shape or size and that can be used to produce vapor from nicotine in a solution. The term includes any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. The term does not include any product regulated by the United States Food and Drug Administration under Chapter V of the federal Food, Drug, and Cosmetic Act.

Wholesale tobacco dealer means any person who engages in the business of selling or supplying cigarettes, ~~and/or~~ Other Tobacco Products, ~~and/or~~ Consumable Products, who brings or causes to be brought into the County of Cook cigarettes, ~~and/or~~ Other Tobacco Products, ~~and/or~~ Consumable Products for sale or resale to retail tobacco dealers, ~~and/or~~ retail cigarette manufacturers, ~~and/or~~ consumers in or outside the County of Cook. For the purposes of this Article, wholesale tobacco dealers also includes persons or businesses licensed as tobacco distributors, cigarette distributors or wholesalers with the State of Illinois.

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

Wholesale tobacco dealers, retail tobacco dealers and retail cigarette manufacturers as defined in this Article, shall register with the Department in accordance with policies or procedures prescribed by the Department.

Sec. 74-433. - Tax imposed; cigarettes, other tobacco products; collection; remittance.

- (a) *Cigarette Tax rate.* A tax at the rate of 150 mils or \$0.15 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 150 mils or \$0.15 per cigarette shall become in force and effect on March 1, 2013. The tax herein levied shall be in addition to any and all other taxes.
- (b) *Cigarette 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 Subsections 74-446(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) *Retail cigarette manufacturer tax rate.* A tax at the rate of \$0.15 per cigarette is hereby imposed upon each cigarette sold by a retail cigarette manufacturer. The tax herein levied shall be in addition to any and all other taxes.
- (d) *Other tobacco product tax rate.* A tax at the rates specified in this Section is hereby imposed upon the sale of all Other Tobacco Products within the County of Cook, the ultimate incidence of and liability for payment of said tax to be borne by the Consumer of said Other Tobacco Products. The tax imposed hereby at the rates listed in Subsection (1) shall come into force and effect on March 1, 2012 and Subsection (2) on January 1, 2013.
 - (1) A tax at the following rates is hereby imposed upon the sale of the following products through December 31, 2012:
 - a. Smoking tobacco: \$0.30 per ounce or fraction thereof.

- b. Smokeless tobacco: \$0.30 per ounce or fraction thereof.
 - c. Little cigars: \$0.05 per unit or cigar.
 - d. Large cigars: \$0.25 per unit or cigar.
- (2) A tax at the following rates is hereby imposed upon the sale of the following products effective January 1, 2013:
- a. Smoking tobacco: \$0.60 per ounce or fraction thereof.
 - b. Smokeless tobacco: \$0.60 per ounce or fraction thereof.
 - c. Little cigars: \$0.05 per unit or cigar.
 - d. Large cigars: \$0.30 per unit or cigar.
- (e) Consumable Product tax rate. Effective May 1, 2016, a tax at the rate of \$0.20 per fluid milliliter is hereby imposed upon Consumable Products sold within the County of Cook. All invoices for vapor products issued by manufacturers and/or wholesalers must state the amount of Consumable Products in milliliters. The ultimate incidence of and liability for payment of said tax is to be borne by the Consumer of such Consumable Products.
- (f) Wholesale Tobacco Dealer, Retail Tobacco Dealer and Retail Cigarette Manufacturer Tax collection. Any wholesale tobacco dealer shall collect the tax levied by this Article from any Purchaser to whom the sale of said cigarettes, ~~and/or Other Tobacco Products,~~ and/or Consumable Products is made within the County of Cook and shall remit to the County the tax levied by this Article. Any retail tobacco dealer and retail cigarette manufacturer also shall collect the tax from any Consumer to whom the sale of said cigarettes, ~~and/or Other Tobacco Products,~~ and/or Consumable Products is made within the County of Cook. Any such tax shall be collected as a trustee for and on account of the County of Cook. Nothing in this Article shall be construed to impose a tax upon the occupation of wholesale tobacco dealer, retail tobacco dealer, and retail cigarette manufacturer.
- (~~g~~) Other Tobacco Products and Consumable Products Tax remittance.
- (1) Wholesale Tobacco Dealers. It shall be the duty of every wholesale tobacco dealer to remit the tax due on the sales of Other Tobacco Products and Consumable Products to retail tobacco dealers, and/or retail cigarette manufacturers ~~and/or consumers~~ in Cook County on forms prescribed by the Department, on or before the twentieth day of the month following the month in which the sales of Other Tobacco Products and/or Consumable Products occurred.
 - (2) Retail Cigarette Manufacturers. It shall be the duty of every retail cigarette manufacturer to remit the tax due on cigarettes produced and sold on the premises, on forms prescribed by the Department, on or before the twentieth day of the month following the month in which the cigarette sales occurred.

- (3) Retail tobacco dealers and/or retail cigarette manufacturers untaxed Other Tobacco Products and Consumable Products. It shall be the duty of every retail tobacco dealer and/or retail cigarette manufacturer that purchases or acquires Other Tobacco Products and/or Consumable Products on which the tax set forth in this Article ~~on Other Tobacco Products~~ has not been paid, to remit the tax due, on forms prescribed by the Department, on or before the twentieth day following the month in which the Other Tobacco Products and/or Consumable Products for which taxes were not paid were sold in Cook County to a consumer.
- (g) Tax included in sales price. It shall be deemed a violation of this Article for a wholesale tobacco dealer, retail tobacco dealer or retail cigarette manufacturer to fail to include the tax imposed in this Article in the sale price of cigarettes, ~~and other tobacco products,~~ and Consumable Products to otherwise absorb such tax. The tax levied in this Article shall be in addition to any and all other taxes.
- (h) *Tax debt owed to County*. The tax required in this Article to be remitted to the County shall constitute a debt owed by any wholesale tobacco dealer, retail tobacco dealer or retail cigarette manufacturer.

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 other tobacco products,~~ and/or Consumable Products which are otherwise subject to the tax when the cigarettes, ~~and/or other tobacco products,~~ and/or Consumable Products are being sold to the following:

- (a) Another wholesale tobacco dealer holding a valid Cook County tobacco wholesaler's registration certificate; or
- (b) A wholesale tobacco dealer or a retail tobacco dealer when the selling wholesale tobacco dealer, or its agent, delivers the cigarettes, ~~or other tobacco products,~~ and/or Consumable Products to a location outside of Cook County.

Additionally, a wholesale tobacco dealer's sale of other tobacco products and/or Consumable Products to a consumer shall not be taxed so long as the sale occurs outside of Cook County.

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,~~ and or Consumable 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 or counterfeit other tobacco products.
 - (2) Counterfeit tax stamps.
 - (3) Improperly stamped packs.

- (4) Unstamped packs.
- (5) Other tobacco products and Consumable Products.
- (b) It shall be a violation of this Article for any wholesale tobacco dealer, retail tobacco dealer, or retail cigarette manufacturer 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 unmutated 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 tobacco dealer or retail tobacco dealer of altered/mutilated, counterfeit, used or reused tax stamps; or packs of counterfeit, improperly stamped, unstamped cigarettes or loose cigarettes; and the sale or resale, by a retail tobacco dealer or retail cigarette manufacturer, of Other Tobacco Products and/or Consumable Products on which the tax provided by this Article has not been paid shall give rise to the prima facie presumption that the wholesale tobacco dealer, retail tobacco dealer or retail cigarette manufacturer is in violation of the provisions of this Article. Retail tobacco dealers and retail cigarette manufacturers shall be held strictly liable for violations of this ordinance that occur within their premises regardless of the employment status of the actual violator.
- (d) Cigarette pack, tax stamp, loose cigarettes, other tobacco products and hindrance violation penalties.

Violation Type	Penalties Amount
Concealment	
1st Offense	\$2,000.00
2nd and each subsequent offense, an additional	4,000.00
Counterfeit packs of cigarettes	
40 or less	2,000.00
41 or more, per pack	50.00
2nd and each subsequent offense, an additional	4,000.00

Counterfeit tax stamps	
40 or less	2,000.00
41 or more, per stamp	50.00
2nd and each subsequent offense, an additional	4,000.00
Improperly stamped packs	
40 or less	2,000.00
41 or more, per pack	50.00
2nd and each subsequent offense, an additional	2,000.00
Loose cigarettes	
40 or less	1,000.00
40 or more, per cigarette	25.00
2nd and each subsequent offense, an additional	2,000.00
Other tobacco products	
1st offense	1,000.00
2nd and each subsequent offense, an additional	2,000.00
Sales to unregistered wholesalers	
1st offense	2,000.00
2nd and each subsequent offense, an additional	4,000.00
Unstamped packs	
40 packs or less	1,000.00
41 packs or more, per pack	25.00
2nd and each subsequent offense, an additional	2,000.00
Utilization of used or reused tax stamps	
40 or less packs or stamps	2,000.00
41 or more packs or stamps, per pack or stamp	50.00
2nd and each subsequent offense, an additional	4,000.00
Hinder inspection or audit	
1st offense	1,000.00
2nd and each subsequent offense, an additional	2,000.00
<u>Consumable Products</u>	
<u>1st offense</u>	<u>1,000.00</u>
<u>2nd and each subsequent offense, an additional</u>	<u>2,000.00</u>

Sec. 74-436. - Other violation penalties.

- (a) Any person determined to have violated this Article, as amended, excluding the violations described in Section 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. - Internet, mail order and outside-of-county purchases.

- (a) *Cigarettes.* With respect to cigarettes purchased over the internet, by mail order or outside the County, if the tax on cigarettes 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 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.
- (b) *Other Tobacco Products and Consumable Products.* With respect to other tobacco products and Consumable Products purchased by a consumer over the internet, by mail order or outside the County, if the tax on such other tobacco products and/or Consumable Products imposed pursuant to this Article has not been collected and/or remitted to the County previously by a wholesale tobacco dealer, retail tobacco dealer or retail tobacco manufacturer prior to the sale of the other tobacco products to the consumer within the County of Cook, such consumer shall be obligated to remit the tax due to the County, on forms prescribed by the Department, on or before the twentieth day following the month in which any such other tobacco products and/or Consumable Products were purchased by the consumer.

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, ~~or~~ Other Tobacco Products, and/or Consumable Products 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, ~~or~~ amount of Other Tobacco Products delivered, and/or amount, in milliliters, of Consumable Products delivered, and the name of the purchaser to whom delivery is made. The wholesale tobacco dealer 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 Procedures Ordinance (Section 34-60 et seq.).
- (b) *Wholesaler and Retailer inventory purchases; sales; reconciliations.* It shall be the duty of every wholesale tobacco dealer and retail tobacco dealer to make or maintain cigarette, ~~and/or~~ Other Tobacco Products, and/or Consumable Products inventory:
- (1) Purchase order documents, serially numbered, indicating the date; name, address of the person or business from whom the cigarettes, ~~or~~ Other Tobacco Products, and/or Consumable Products were purchased; brand name, type and total number of packages to be purchased in sequential date order, including the amount of Consumable Product in milliliters.
 - (2) Delivery or receipt documents, serially numbered indicating the date; name, address of the person or business to whom the cigarettes, ~~or~~ Other Tobacco Products, and/or Consumable Products were delivered; brand name, type and total number of packs delivered in sequential date order, including the amount of Consumable Product in milliliters.
 - (3) Wholesale tobacco dealer sales documents, serially numbered indicating the date; name, address of the person or business to whom the cigarettes, ~~or~~ Other Tobacco Products, and/or Consumable Products were sold; brand name, type and total number of packs delivered in sequential date order, including the amount of Consumable Product in milliliters.
 - (4) Retail tobacco dealer sales documents, indicating in sequential date order, brand name, type and total number of packs or amounts, including the amount of Consumable Product in milliliters, of Other Tobacco Products and/or Consumable Products 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, ~~or~~ Other Tobacco Products, and/or Consumable Products inventory was purchased; brand name; type and total number of packs and total amount of Consumable Product in milliliters purchased from each wholesaler.
- (c) *Taxable and nontaxable transaction books and records.* It shall be the duty of all wholesale tobacco dealers, retail tobacco dealers, retail cigarette manufacturers 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 tobacco dealers, retail cigarette manufacturers 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 wholesale tobacco dealers, retail tobacco dealers and retail cigarette manufacturers to keep records which verify the basis for any and all transactions which are claimed to be exempt from taxation pursuant to Section 74-434 of this Article.

Sec. 74-440. - Inspections; audits.

Books and records kept in compliance with Section 74-439 of this Article 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, ~~or~~ Other Tobacco Products, and/or Consumable Products inventory in or upon any premises. An audit or inspection may include the physical examination of the cigarettes, packaging, cigarette tax stamps, ~~or~~ Other Tobacco Products, or Consumable Products. 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. The Department shall be authorized to promulgate rules and procedures regarding hindrance violations.

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, and/or Consumable 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, and/or Consumable 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) 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. - Posting of signs.

Every retail tobacco dealer shall post a sign issued by the Department, indicating the offer to sell, the sale or purchase of unstamped packs or loose cigarettes is unlawful. The sign shall be posted in a conspicuous location, to anyone purchasing cigarettes, at the retailer's place of business.

Sec. 74-443. - Wholesale tobacco dealer quarterly returns.

A sworn quarterly cigarette, ~~and/or~~ other tobacco products, and or Consumable 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 Section 74-436 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. - Failure to file a return and/or remit tax.

In case of failure to file a tax return and remit 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. 74-445. - Authority to sell 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.~~
- (eb) *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. - Single state and county stamp and monthly tax return.

- (a) *Single state and county stamp.* Notwithstanding the provisions of Subsection 74-433(b), Section 74-435, and Subsection 74-445(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 Subsection 74-433(b), Section 74-435, Subsection 74-445(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) 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 Section 74-443 of this Article, which shall not be required.

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 percent 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 74-433), 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, 2013. With said inventory, the wholesale tobacco dealer shall submit a Department issued tax return and 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, 2013.
- (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, 2013. With said inventory, the retail tobacco dealer shall submit a Department issued tax return and 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, 2013.
- (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.
- (f) Every retail 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, or fails to pay all required tax due computed thereon, shall be subject to a penalty of \$1,000.00 per business location required to be reported on the tax return, in addition to all other penalties and interest that may be due under the provisions of Chapter 34, Article III, Uniform Penalties, Interest and Procedures and Section 74-436 of this Article.

Sec. 74-448. - Transmittal of excess tax collections.

In the event a wholesale tobacco dealer, retail tobacco dealer or retail cigarette manufacturer 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 wholesale tobacco dealer, retail tobacco dealer or retail cigarette manufacturer fails to return the said excess amount to the purchaser who paid the tax, the said wholesale tobacco dealer, retail tobacco dealer or retail cigarette manufacturer 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 2013 increase in the rate of the Home Rule Tobacco Tax to be deposited into the funds of the Cook County Health and Hospitals System for Fiscal Year 2013 as approved by the Budget Director. Deposit of tax proceeds following Fiscal Year 2013 shall be deposited into various funds and/or accounts as prescribed by the Budget Director.

Sec. 74-450. - Application of uniform penalties, interest and procedures ordinance.

Whenever not inconsistent with the provision of this Article or whenever this Article 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.

Effective date: This Ordinance Amendment shall be in effect immediately upon adoption

Chairman Daley, seconded by Vice Chairman Sims, motion to refer Items 15-6024 and 15-6025 to the Committee on Finance. **The motion carried unanimously.**

ADJOURNMENT

Chairman Daley, seconded by Vice Chairman Sims, moved that the Special Meeting do now adjourn.

The motion prevailed and the Special Meeting stood adjourned.

* * * * *

The next regular County Board Meeting is scheduled by law, for Wednesday, October 28, 2015.

David Orr
County Clerk