



# POLICY BRIEF:

## COOK COUNTY PARKING TAX RULE CHANGE

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JANUARY 2, 2019

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*For questions pertaining to this brief please contact Tom Benedetto at [tom@caapts.org](mailto:tom@caapts.org)*

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## I. Background

During recent audits, The Cook County Revenue Department has decided to retroactively collect taxes from garage operators and apartment owners who lease spaces to residents as part of a parking agreement. Previously, the City of Chicago and Cook County residential off-street parking tax exemption applied to apartment residents with simple proof of residency from the apartment owners or manager (the law frees up off-street parking by exempting apartment residents who lease parking spaces in garages from paying the parking tax).

Recently, however, garage managers and apartment owners were notified that Cook County, which has just begun conducting audits for the first time, will be enforcing the residential off-street parking exemption in a stricter fashion than the City has been doing for years. The County will require the lease period of the parking agreement to exactly match the lease period of the apartment lease, if the parking agreement is NOT part of the parking lease. Operators and owners were unaware that standard industry practice was in violation of the law. **It is the position of the CAA that the decision to retroactively require operators and owners to pay taxes on violations of which they were never notified is unfair and unnecessary. The change is not consistent with industry practices, fails to account for seasonal parking agreements, and will cause financial hardship for many of our apartment residents.**

After meeting with the Cook County Revenue Department, they subsequently notified CAA that the apartment lease and parking agreement do not need to be coterminous, as long as the parking agreement is part of the lease. In addition, a lawsuit was filed against the county challenging its new interpretation and enforcement. You can find that motion below (Pg. 8).

CAA members are trying to determine how best to comply with the County's new interpretation and enforcement practices, how agreements with parking garage operators are impacted, and if new or amended lease language is necessary. As a member, you will be notified of changes to the Click 'n Lease program. This issue brief is designed to give our members access to all relevant and current information. **If you are a member believed to be in violation of Cook County Parking Tax Law as the County is now interpreting it or you are being audited, please contact [tom@caapt.org](mailto:tom@caapt.org). In addition, please continue to check the CAA website in the coming weeks for more information regarding this issue.**

## II. Cook County Parking Tax Ordinance

**ORDINANCE**

**00-0-31  
Sponsored by**

**THE HONORABLE JOHN H. STROGER, JR.,  
PRESIDENT OF THE COOK COUNTY BOARD OF COMMISSIONERS**

**Co-Sponsored by**

**THE HONORABLE JERRY BUTLER, ALLAN C. CARR, EARLEAN COLLINS,  
JOHN P. DALEY, TED LECHOWICZ, ROBERTO MALDONADO,  
JOSEPH MARIO MORENO, DEBORAH SIMS, BOBBIE L. STEELE  
AND CALVIN R. SUTKER, COUNTY COMMISSIONERS**

**COOK COUNTY PARKING LOT AND  
GARAGE OPERATIONS TAX ORDINANCE**

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF COOK,  
ILLINOIS, AS FOLLOWS:

An Ordinance providing for the imposition of a tax on parking at certain locations; for definitions; for registration of tax collectors; for maintenance of records; for tickets and tags; for tax remittance and returns; for rules and regulations; and for penalties and interest.

**SECTION 1 – SHORT TITLE**

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

**SECTION 2 – DEFINITIONS**

For purposes of this Ordinance, whenever any of the following words, terms or definitions are used, they shall have the meaning ascribed to them in this section:

"Department" or "Department of Revenue". The Cook County Department of Revenue.

"Motor vehicle". Any vehicle that is self-propelled.

"Operator". Any person conducting the operation of a parking lot or garage, as defined by this Ordinance, or receiving consideration for parking or storage of motor vehicles at a parking place.

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

00-0-31

"Person". Any natural person, trustee, court-appointed representative, syndicate, association, partnership, limited liability company, firm, club, company, corporation, business trust, institution, agency, government corporation, municipal corporation, district or other political sub-division, or any other entity recognized by law as the subject of rights and duties.

**SECTION 3 – TAX IMPOSED**

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

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

<u>Time Period</u>	<u>Parking Charge or Fee Imposed by Operator</u>	<u>Tax Amount</u>
24 Hours or less	\$ 3.00 or less	\$0.00
24 Hours or less	\$ 3.01 to \$4.99	\$0.50
24 Hours or less	\$ 5.00 to \$11.99	\$0.75
24 Hours or less	\$12.00 or more	\$1.00
Weekly	\$15.00 or less	\$0.00
Weekly	\$15.01 to \$24.99	\$2.50
Weekly	\$25.00 to \$59.99	\$3.75
Weekly	\$60.00 or more	\$5.00
Monthly	\$60.00 or less	\$0.00
Monthly	\$60.01 to \$99.99	\$10.00
Monthly	\$100.00 to \$239.99	\$15.00
Monthly	\$240.00 or more	\$20.00

(c) The tax imposed by this section shall not apply to (i) residential off-street parking of house or apartment or condominium occupants, wherein an arrangement for parking is provided in the house or apartment lease in a written agreement between the landlord or tenant, (ii) residential parking provided for condominium occupants pursuant to a written agreement between the condominium association and the owner, occupant or guest of a unit owner, whether the parking charge is payable to the landlord, condominium association, or to the operator of the parking lot or garage or (iii) to hospital and medical employees at a hospital or medical center parking lot or garage.

(d) The amount of the tax due under this Ordinance, shall be computed exclusive of any federal, state or municipal taxes imposed.

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

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#### **SECTION 4 – REGISTRATION**

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

#### **SECTION 5 – MAINTENANCE OF RECORDS**

(a) It shall be the duty of every operator to keep accurate and complete books and records to which the Director of Revenue shall at all times have full access. These books and records shall include all cash register or other receipts required by this Ordinance, all tickets and voided tags, and a daily sheet for each location showing (i) the number of motor vehicles parked in or on each lot or garage, segregated on a daily, weekly, monthly, or other basis, and also segregated by the amount of the charge or fee imposed for parking and (ii) the actual parking lot or garage tax receipts collected from all parking transactions.

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

#### **SECTION 6 – TICKETS AND TAGS**

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

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

(c) It shall be the duty of every operator to issue a receipt to all persons seeking the privilege of parking a motor vehicle on a daily basis. The receipt shall indicate the parking charge paid and the amount of tax paid. The operator shall maintain records showing the number of motor vehicles parked, the total charges paid and the amount of tax collected for each range of parking charges described in Section 3.

(d) Every operator shall require a tag to be attached to each motor vehicle that is permitted to park on a weekly or monthly basis, or other basis longer than one day. Each tag shall show the name of the operator and address of the parking lot or garage upon or in which the motor vehicle parked; an identification number; the number and issuing state of the license plate of the parked motor vehicle; and whether the motor vehicle is parked on a weekly or monthly or other basis longer than one day, indicating starting and ending dates of the week, month or other period. Tags shall be issued by the operator in numerical sequence.

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

**SECTION 7 – TAX REMITTANCE AND RETURNS; COMMISSION**

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

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

(c) In addition to any other information required by the Director of Revenue, every operator shall report on the remittance return the total amount of charges collected from recipients during the preceding calendar month for the privilege of parking a motor vehicle in or upon a parking lot or garage located in Cook County.

**SECTION 8 – RULES AND REGULATIONS**

The Director of Revenue is authorized to adopt, promulgate and enforce Rules and Regulations pertaining to the administration and enforcement of this Ordinance.

**SECTION 9 – APPLICATION OF UNIFORM REVENUE PROCEDURES ORDINANCE**

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

**SECTION 10– SEVERABILITY**

If any provisions of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of this Ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

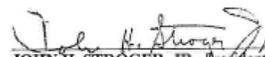
**SECTION 11 – VIOLATIONS – PENALTY**

Any person violating any of the provisions of this Ordinance shall be fined not less than \$50.00 nor more than \$200.00 for each offense. Every day such violation continues shall constitute a separate and distinct offense.

**SECTION 12 – EFFECTIVE DATE**

This Ordinance shall take effect January 1, 2001.

Approved and adopted this 21st day of November 2000.

  
JOHN H. STROGER, JR., President  
Cook County Board of Commissioners

(SEAL)

Attest:   
DAVID ORR, County Clerk

### III. Correspondence with Director of Cook Co. Department of Revenue



**TONI PRECKWINKLE**  
PRESIDENT  
Cook County Board  
of Commissioners

RICHARD R. BOYKIN  
1st District

DENNIS DEER  
2nd District

JERRY BUTLER  
3rd District

STANLEY MOORE  
4th District

DEBORAH SIMS  
5th District

EDWARD MOODY  
6th District

JESUS G. GARCIA  
7th District

LUIS ARROYO, JR.  
8th District

PETER N. SILVESTRE  
9th District

BRIDGET GAINER  
10th District

JOHN P. DALEY  
11th District

JOHN A. FRITCHEY  
12th District

LARRY SUFFREDIN  
13th District

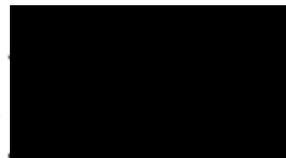
GREGG GOSLIN  
14th District

TIMOTHY O. SCHNEIDER  
15th District

JEFFREY R. TOBOLSKI  
16th District

SEAN M. MORREON  
17th District

Department of Revenue  
**Zahra Ali**  
DIRECTOR  
118 N. Clark St. Suite 1160 • Chicago, Illinois 60602 • (312) 603-6870



Stanley K. Kaminski  
Duane Morris LLP  
190 South LaSalle Street  
Suite 2700  
Chicago, Illinois 60603-3433

Re: County Parking Tax on Residential Off-Street Parking

Dear Mr. Kaminski:

I am in receipt of your letter dated June 13, 2018 regarding the application of the County parking tax to residential off-street parking. Thank you for expressing your concerns. As discussed previously and acknowledged in your letter, the County's Parking Tax Ordinance ("Ordinance") differs from that of the City of Chicago ("City"). The relevant section of the County Ordinance reads as follows:

(f) The tax imposed by this Section shall not apply to: (1) Residential off-street parking of house or apartment or condominium occupants, wherein an arrangement for parking is provided in the house or apartment lease in a written agreement between the landlord and tenant. (Cook County Code of Ordinances, Section 74-512(f)).

Although we understand your concerns about the County's interpretation of this section, we believe the section clearly states that the parking agreement must be part of the house or apartment lease. Contrary to your letter, the County has never issued any opinion or made any statement indicating a different reading of the Ordinance. In an effort to work with the parking industry, we previously indicated we would accept a copy of the housing rent roll proving residency along with the parking agreement, which must coincide with the lease term. Understanding that someone may seek parking in the middle of their lease term, we would expect the parking agreement to cover the remainder of the lease. Our position on this matter has not changed.

Very truly yours,

Zahra Ali  
Director of Revenue



**TOMI PRECKWINKLE**

PRESIDENT  
Cook County Board  
of Commissioners

RICHARD R. BOYKIN  
1st District

DENNIS DEER  
2nd District

JERRY BUTLER  
3rd District

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14th District

TIMOTHY O. SCHNEIDER  
15th District

JEFFREY R. TOBOLSKI  
16th District

Department of Revenue

**Zahra Ali**

DIRECTOR

118 N. Clark St. Suite 1160 • Chicago, Illinois 60602 • (312) 603-6870

VIA EMAIL

November 9, 2018

May Kay Minaghan  
MKM Services

Re: County Parking Lot & Garage Operations Tax

Dear Ms. Minaghan:

Thank you for expressing your concerns. Having met with you in July 2018 with a follow-up conference call and emails regarding application of the County's parking tax to residential off-street parking, our position has not changed and the ordinance provision itself responds to your inquiry. As discussed in our meeting, the County's Parking Tax Ordinance ("Ordinance") differs from that of the City of Chicago ("City"), and the County has not issued any opinion or made any statement indicating a different reading of the Ordinance. The relevant section of the Ordinance reads as follows:

(f) The tax imposed by this Section shall not apply to: (1) Residential off-street parking of house or apartment or condominium occupants, wherein an arrangement for parking is provided in the house or apartment lease in a written agreement between the landlord and tenant. (Cook County Code of Ordinances, Section 74-512(f)).

Although we understand your concerns about the County's interpretation of this section, we believe the section clearly states that the parking agreement must be part of the house or apartment lease. The ordinance specifically states that the parking terms should be part of the lease, so provided that is the case, there is no need for them to be coterminous.

Sincerely,

Zahra Ali  
Director of Revenue

### IV. Planned Property Management, Inc. Motion for Summary Judgement (10/19/2018)

Double-click the page below to view full motion as a .PDF

IN THE COUNTY OF COOK, ILLINOIS  
DEPARTMENT OF ADMINISTRATIVE HEARINGS

COUNTY OF COOK,	)	
	)	
Petitioner,	)	
	)	
v.	)	Citations: RP 160037, RP 160039
	)	
PLANNED PROPERTY MANAGEMENT	)	
C/O 1133 N. DEARBORN 2010 LLC and	)	
PLANNED PROPERTY MANAGEMENT	)	
C/O 1111 N. DEARBORN 2010 LLC	)	
	)	
Respondents.	)	

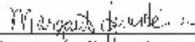
ADMIN. HEARING  
OCT 19 2018

**NOTICE OF FILING**

TO: Daniel H. Brennan, Jr. [daniel.brennan@cookcountyil.gov](mailto:daniel.brennan@cookcountyil.gov)  
Assistant State's Attorney

PLEASE TAKE NOTICE that on October 19, 2018, we filed with the Cook County Department of Administrative Hearings, Respondent, Planned Property Management, Inc.'s Motion for Summary Judgment, copies of which are served on you.

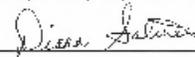
SmithAmundsen LLC

  
\_\_\_\_\_  
Attorney for Respondents

Margaret C. Feinstein (ARDC # 6269742)  
SmithAmundsen LLC  
130 North Michigan Avenue, Suite 3500  
Chicago, Illinois 60601  
(312) 894-3200  
[mfeinstein@salawus.com](mailto:mfeinstein@salawus.com)

**PROOF OF SERVICE**

The undersigned, a non-attorney, certifies that I served this document by e-mailing a copy to the above named attorney(s) on or before October 19, 2018. Under penalty as provided by law pursuant to 735 ILCS 5/1-109, I certify that the preceding sentence is true and correct.

  
\_\_\_\_\_

## V. **Chicago Tribune Article: January 2, 2019**

Cook County, parking operators in dispute Millions in back taxes that could hit consumers at risk

BY GREGORY PRATT

CHICAGO TRIBUNE

Cook County Board President Toni Preckwinkle's administration is doing more than 20 audits of private parking operators dating back seven years to determine whether they owe potentially millions in back taxes related to residential apartment parking, records and interviews show. The issue has the potential to affect many Chicago-area residents and cost parking lot operators millions that could ultimately be passed on to consumers. If individual parking companies end up getting hit hard by an audit, they're likely to raise their own prices to try and recoup that money, ultimately hurting consumers.

At the heart of the issue is a conflict between Cook County and parking operators over the basic rules around off-street residential parking. Cook County and Chicago charge 9 and 22 percent taxes, respectively, on the monthly charge for parkers, while allowing a tax break for off-street parking that is meant to alleviate overcrowding on congested streets. The operator collects the tax from the customer, then pays it to Cook County. But in recent months, parking industry officials said, the county has changed how it interprets the exemption by demanding that residential parking agreements be documented in leases or addendums to leases in order to be claimed. As part of the audits it's conducting, the county is reviewing several years' worth of records to see if back taxes are owed — leading operators to cry foul.

Preckwinkle officials, meanwhile, said the county has not changed its rules but has focused on whether parking companies owe money they should have been paying all along. The county said it's constantly performing audits of all types, and this exemption was found in several parking tax audits conducted beginning late last year.

The off-street residential parking issue is potentially thorny for Preckwinkle, who also is running for Chicago mayor, as her political opponents seek to portray her as being overly reliant on regressive taxes, such as the county's now-rescinded pop tax. Preckwinkle's also likely to face questions over the county in 2016 increasing the sales tax by 1 percentage point, an about-face on the key issue that propelled her into office against Todd Stroger in 2010. She later cast the move as necessary for the county's pensions, debt costs and transportation infrastructure needs. Preckwinkle also supported a December vote by county commissioners to restore a 6 percent tax on parking reservations made through apps such as SpotHero that was set to be cut this month. Officials note the parking issue isn't a new tax but an outgrowth of the county's efforts to audit taxes currently on the books.

During Preckwinkle's first year in office, the county had five field auditors compared with 21 today, three audit supervisors and six revenue assessment analysts whose focuses include refunds, tax discovery initiatives and bulk sales, officials said. "Since taking office (Preckwinkle) has simply professionalized the county's operations, and this is another example," Preckwinkle spokesman

Nick Shields said. “Before (Preckwinkle), the Department of Revenue primarily collected tax payments. Our efforts to properly administer and audit to our tax ordinances do not equate to a change in rules.” Still, there’s tension between the county and affected parties. County officials said they are working through more than 20 audits. So far, audits have generated \$700,000 for the county in unpaid back taxes, though the county won’t say how many audits that amount encompasses. Officials also declined to say how much they think the county will recoup from its audits but estimated it could be millions.

The Chicago Parking Association and the Chicagoland Apartment Association have expressed concerns, particularly over the county’s attempts to reach into past years for back taxes. “Changing the policy, or (changing) the way they’re enforcing it is understandable,” CAA Vice President Michael Mini said. “To hold (operators) responsible for not complying with something they thought they were complying with all along and were given no indication they were in violation of is unfair.”

Said Shields: “It’s our opinion (that) the operators should have been aware of their obligation and collecting this tax all along. “In instances where there appears to be a genuine attempt by a business operator to comply, we can negotiate to waive penalties,” Shields said. “That process happens on a case-by-case basis if the taxpayer can prove that they have made an effort to comply.”

Representing the Chicago Parking Association, attorney Stanley Kaminski in June wrote to county revenue director Zahra Ali, noting there’s “controversy over the proper collection of the Cook County Parking Tax as it relates to residential offstreet parking.” The county said it would interpret an exemption for apartment residents “in a stricter fashion than the city,” Kaminski wrote. The county said it requires that the lease period in the parking agreement “exactly match the same lease period in the apartment lease,” Kaminski wrote. That, Kaminski said, would be a burden on month-to-month parkers and snow birds, among others, whose parking needs don’t always match the lease. The county’s “overly strict construction of the county exemption defeats the intended purpose of the exemption to not penalize apartment tenants for having to use offstreet parking to alleviate the overcrowding of the limited on-street parking in the city,” Kaminski wrote.

Part of the dispute revolves around if Cook County’s ordinance allows for a separate parking agreement or whether it has to be included in the lease itself. Chicago allows parking lot operators to provide a “separate writing or supporting documentation” of an arrangement for parking with its residents. Through Kaminski, the Chicago Parking Association asked the county to reevaluate its interpretation of the lease requirements for the off-street parking exemption and apply the law “as we believe it was intended.” But, the group said, if the county wants to make a change, the tax should not apply retroactively.

In its response, the county said the section “clearly states that the parking agreement must be part of the house or apartment lease. “Contrary to your letter, the county has never issued any opinion or made any statement indicating a different reading of the ordinance,” Ali wrote. Assuming that the parking agreement is not part of the lease, the county still expects the parking agreement to cover the remainder of the lease, Shields said.

“A parking agreement that is not in the lease does not qualify for the exemption,” he said. “In an effort to work with the parking operators, we have agreed to consider for exemption parking agreements that are separate from the lease provided the terms have a beginning or end date coinciding with that date in the lease.”