



COOK COUNTY PARKING LOT AND GARAGE OPERATIONS TAX

A recent attempt by the County to reinterpret the parking lot tax and collect new revenue is in direct violation of its own Ordinance and must be remedied.

Background

- The Cook County Parking Lot and Garage Operations Tax (Section 74-510 – 74-549) allows for a tax imposed upon the use and privilege of parking a motor vehicle in or upon any parking lot or garage in the County.
- The tax shall be collected from any person who seeks the privilege of occupying space in or upon any parking lot or garage. The ultimate incidence of and liability for payment of the tax is on the person who seeks the privilege of occupying space. (Section 74-512)
- The Ordinance requires "...every operator...to keep accurate and complete books and records to which the Director of Revenue shall, at all times, have full access.... (1) The number of motor vehicles parked in or on each lot or garage; (2) the actual parking lot or garage tax receipts collected from all parking transactions; (3) any other original source documents and books. (Section 74-514).
- The County recently began auditing private parking companies, potentially to collect millions in back taxes, as reported in a January 2, 2019, *Chicago Sun-Times* article, "Preckwinkle Pursues Back Taxes from Parking Lot Operators." Over 20 audits have been completed; anecdotally, two BOMA/Suburban Chicago members who have been audited have received bills for back taxes, interest and penalties totaling in excess of \$6,000,000.

Concerns

- Suburban property owners and managers generally oversee parking lots where most parking is free and spots turn over throughout the day. There is no reason to believe that this Ordinance applies to landlords and property management firms, nor did the County provide notice at any time until now that any taxes were due. Per Section 74-512.2(e), the ultimate incidence of and liability for payment of the tax is on the person who parks in the spot.
- As evidenced by the properties that have been audited, a value has been inappropriately assigned to these suburban lots, apparently based on highly-questionable market comparables and highly-questionable extrapolation of any parking rent that is received by tenants. This does not even take into consideration any vacancy in the building, which may constitute a considerable percentage.
- If the tax is assessed to the property, most office leases prohibit the recovery of sales taxes from tenants and therefore this tax would need to be paid by the landlord, which, again, is not the intent of the Ordinance.
- A review of the Cook County Annual Appropriation Bill, Volume I, refers to \$50 million in revenue anticipated from audit compliance associated with this tax, creating the unfortunate appearance – given the clear language of the Ordinance -- that this is little more than an inventive attempt to identify a new revenue stream.

Action Requested

The application of this tax in the suburban office market -- on parking spaces where no revenue is received -- is both discriminatory and a clear and direct violation of the Ordinance as written. The County should immediately reconsider its interpretation of this Ordinance. BOMA/Suburban Chicago would welcome the opportunity to work with the County on this and provide any further information.

Building Owners and Managers Association of Suburban Chicago

1515 E. Woodfield Road, Suite 110 • Schaumburg, Illinois 60173 • (847) 995-0970 • Fax (847) 995-0971
www.bomasuburbanchicago.com • Email boma@bomasuburbanchicago.com

**Cook County
Code of Ordinances**

ARTICLE XIII. - PARKING LOT AND GARAGE OPERATIONS TAX

Editor's note— *Ord. No. 11-O-22, adopted Feb. 16, 2011, amended Art. XIII in its entirety to read as herein set out. Former Art. XIII pertained to similar subject matter and derived from Ord. No. 00-O-31, adopted Nov. 21, 2000.*

Sec. 74-510. - Short title.

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

(Ord. No. 11-O-22, 2-16-2011; Ord. No. 13-O-34, 7-17-2013.)

Sec. 74-511. - Definitions.

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

Charge or fee paid for parking means the gross amount of consideration for the use or privilege of parking a motor vehicle in or upon any parking lot or garage in Cook County, 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 to the charge or fee on account of the tax imposed by this Chapter or on account of any other tax imposed on the charge or fee. "Charge or fee paid for parking" shall exclude separately stated charges not for the use or privilege of parking. If any separately stated charge is not optional, it shall be presumed, unless proved otherwise, that it is part of the charge for the use or privilege of parking.

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

Motor vehicle means any vehicle that is self-propelled.

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

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

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

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

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

(Ord. No. 11-O-22, 2-16-2011; Ord. No. 13-O-34, 7-17-2013; Ord. No. 18-5789, 10-17-2018; Ord. No. 19-0622, 12-12-2018.)

**Cook County
Code of Ordinances**

ARTICLE XIII. - PARKING LOT AND GARAGE OPERATIONS TAX

Sec. 74-512. - Tax imposed.

- (a) A tax is imposed upon the use and privilege of parking a motor vehicle in or upon any parking lot or garage in the County. The tax shall be collected by operators and valet parking operators, as described in this Article, from any person who seeks the privilege of occupying space in or upon any parking lot or garage.
- (b) Valet Parking Operators are required to collect and remit the tax imposed by this Article, for each motor vehicle parked at a Parking Lot or Garage, as described in this Article; however, if the valet parking operator has a written agreement with a parking lot or garage operator that designates an amount of consideration paid by the valet parking operator which the parking lot or garage operator remits to the Department as parking lot and garage operations tax, or proof of such tax being paid to the parking lot or garage operator, the valet parking operator may take a credit for the amount remitted by the parking lot or garage operator. The valet parking business shall have the burden of proving its entitlement to this credit with books, records and other documentary evidence.
- (c) Tax rates through August 31, 2013.
 - (1) The following tax rates imposed upon the use and privilege of parking a motor vehicle in or upon parking lots or garages, except for parking lots and garages in subsection (2), are in effect through August 31, 2013.

Parking Charge or Fee Time Period	Imposed by Operator	Tax Amount
24 hours or less	\$2.00 or less	\$0.00
24 hours or less	\$2.01 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	\$10.00 or less	0.00
Weekly	\$10.01 to \$24.99	2.50
Weekly	\$25.00 to \$59.99	3.75
Weekly	\$60.00 or more	5.00
Monthly	\$40.00 or less	0.00
Monthly	\$40.01 to \$99.99	10.00

Cook County
Code of Ordinances
ARTICLE XIII. - PARKING LOT AND GARAGE OPERATIONS TAX

Monthly	\$100.00 to \$239.99	15.00
Monthly	\$240.00 or more	20.00

- (2) The following tax rates imposed upon the use and privilege of parking a motor vehicle in or upon parking lots or garages owned by municipalities with populations of 250,000 inhabitants or less are in effect through August 31, 2013.

Parking Charge or Fee Time Period	Imposed by Operator	Tax Amount
24 hours or less	\$3.00 or less	\$0.00
24 hours or less	\$3.01 or \$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

**Cook County
Code of Ordinances**

ARTICLE XIII. - PARKING LOT AND GARAGE OPERATIONS TAX

- (d) Tax rates effective September 1, 2013.
- (1) A tax upon the use or privilege of parking a motor vehicle in or upon parking lots or garages, except for parking lots and garages in subsection (2), is hereby imposed at the rate of six percent of the charge or fee paid for parking for a 24-hour period or less and nine percent of the charge or fee paid for parking for a weekly or monthly period. This tax shall not apply if the charge or fee paid for parking in such parking lots or garages does not exceed \$2.00 for a 24-hour period or less, \$10.00 for a weekly period or \$40.00 for a monthly period.
 - (2) A tax upon the use and privilege of parking a motor vehicle in or upon parking lots or garages owned by municipalities with populations of 250,000 inhabitants or less is hereby imposed at the rate of six percent of the charge or fee paid for parking for a 24-hour period or less and nine percent of the charge or fee paid for parking for a weekly or monthly period. This tax shall not apply if the charge or fee paid for parking in such parking lots or garages does not exceed \$3.00 for a 24-hour period or less, \$15.00 for a weekly period or \$60.00 for a monthly period.
- (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.
- (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;
 - (2) Residential parking provided for condominium occupants pursuant to a written agreement between the condominium association and the owner, occupant or guest of a unit owner, whether the parking charge is payable to the landlord, condominium association, or to the operator of the parking lot or garage; or
 - (3) To hospital and medical center employees parking at a parking lot or garage where the hospital or medical center is the employer and, as described in this Article, operator.
- (g) The amount of the tax due under this Article shall be computed exclusive of any Federal, State or municipal taxes imposed.

(Ord. No. 11-O-22, 2-16-2011; Ord. No. 11-O-105, 11-15-2011; Ord. No. 13-O-34, 7-17-2013; Ord. No. 16-1374, 5-11-2016; Ord. No. 18-5789, 10-17-2018; Ord. No. 19-0622, 12-12-2018.)

Sec. 74-513. - Registration.

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

(Ord. No. 11-O-22, 2-16-2011; Ord. No. 13-O-34, 7-17-2013.)

Sec. 74-514. - Maintenance of records.

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

**Cook County
Code of Ordinances**

ARTICLE XIII. - PARKING LOT AND GARAGE OPERATIONS TAX

- (2) The actual parking lot or garage tax receipts collected from all parking transactions.
- (3) Any other original source documents and books of entry denoting the transactions that gave rise, or may have given rise, to any tax liability, exemption or deduction or defense to liability.
- (b) All books and records required by this Section shall be retained for the taxable time period as listed in the statute of limitations section of the Uniform Penalties, Interest and Procedures Ordinance, Article III, Section 34-60 et seq.; provided, however, that an operator on an annual basis may request approval from the Director of Revenue to discard tickets or tags that were issued more than one year earlier, and the Director shall grant approval if the director determines that the operator's books and records satisfy the requirements of this Article.

(Ord. No. 11-O-22, 2-16-2011; Ord. No. 13-O-34, 7-17-2013; Ord. No. 16-1374, 5-11-2016.)

Sec. 74-515. - Tickets; tags; receipts.

- (a) *Daily parker tickets.* It shall be the duty of every operator to issue to all persons seeking the privilege of parking a motor vehicle on a daily basis a distinctive ticket in the form and manner provided by this Section. Tickets shall be issued by the operator in numerical sequence.
- (b) *Daily parker ticket detail.* Each ticket issued by an operator shall indicate the name of the operator and the address of the parking lot or garage upon or in which the motor vehicle is parked. Unless the parking lot or garage is equipped with an automated ticket dispenser which triggers the opening of a gate, tickets shall consist of three parts; one part shall be issued by the operator to the recipient, one part shall be retained by the operator, who shall indicate on the back thereof the time of arrival and departure of the motor vehicle, and one part shall be attached to the parked motor vehicle for the purpose of identification. All three-part tickets shall contain the same serial number on each part of the ticket.
- (c) *Valet parking tickets.* All valet parking attendants must, upon taking custody of a patron's Motor Vehicle, for the purpose of parking such Motor Vehicle in or upon any Parking Lot or Garage, issue a distinctive ticket in the form and manner provided by this Section, such tickets or receipts shall be issued in numerical sequence.
- (d) *Valet parking ticket detail.* Each ticket issued by the valet parking operator shall indicate the name, address and telephone number of the company providing the valet service, the time and date the valet parking operator took custody of the vehicle, and the license plate number of the vehicle. Prior to returning custody of the vehicle to each customer the valet parking attendant must time stamp the ticket with the time, date the valet parking operator surrendered custody of the vehicle, and indicate the amount of tax paid.
- (e) *Weekly; monthly parking tags.* Every operator shall require a tag to be attached to each motor vehicle that is permitted to park on a weekly or monthly basis, or other basis longer than one day. Each tag shall show the name of the operator and address of the parking lot or garage upon or in which the motor vehicle parked; an identification number; the number and issuing state of the license plate of the parked motor vehicle; and whether the motor vehicle is parked on a weekly or monthly or other basis longer than one day, indicating starting and ending dates of the week, month or other period. Tags shall be issued by the operator in numerical sequence.
- (f) *Tag book.* 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.
- (g) *Parking receipts.* It shall be the duty of every operator and valet parking operator to issue a receipt to all persons seeking the privilege of parking a motor vehicle on a daily basis. The receipt shall indicate the parking charge paid and the amount of tax paid. The operator shall maintain records

**Cook County
Code of Ordinances**

ARTICLE XIII. - PARKING LOT AND GARAGE OPERATIONS TAX

showing the number of motor vehicles parked, the total charges paid and the amount of tax collected for each range of parking charges described in Section 74-512.

(Ord. No. 11-O-22, 2-16-2011; Ord. No. 13-O-34, 7-17-2013.)

Sec. 74-516. - Tax remittance and returns.

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

(Ord. No. 11-O-22, 2-16-2011; Ord. No. 13-O-34, 7-17-2013.)

Sec. 74-517. - Fines.

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

(Ord. No. 11-O-22, 2-16-2011; Ord. No. 13-O-34, 7-17-2013.)

Sec. 74-518. - Rules and regulations.

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

(Ord. No. 11-O-22, 2-16-2011; Ord. No. 13-O-34, 7-17-2013.)

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

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

(Ord. No. 11-O-22, 2-16-2011; Ord. No. 13-O-34, 7-17-2013.)

Secs. 74-520—74-549. - Reserved.