I. CALL TO ORDER

II. PUBLIC PARTICIPATION

III. OLD BUSINESS

IV. NEW BUSINESS
   1. Adjudication Process
   2. COVID-19 Education and Enforcement Resolution

V. EXECUTIVE SESSION
   1. Pending Litigation

VI. ADJOURNMENT
ADJUDICATION PROCESS

ATTACHMENTS:

- 2. Adjudication Program (PDF)
Administrative Adjudication Program

Plan for McHenry County Health Department

September 8, 2020

Draft Program Design and Implementation
Background and Goals

State legislation (55 ILCS 5/Div. 5-43) provides for Counties to adopt and implement an administrative adjudication process for enforcing certain types of ordinance violations. All the collar counties have implemented the process, as has Madison, Peoria and Tazwell counties. A number of County Municipalities have been using this process successful for years including Crystal Lake, Woodstock, Huntley, and Algonquin.

Administrative adjudication of ordinance violations provides a expedited and cost effective process for the County to obtain compliance for time critical violations and violations that have a direct negative impact on the quality of life of adjacent property owners.

In cases where the property owner does not agree with the County’s position on a violation, it provides a process for the owner to refute the evidence or demonstrate compliance in front of a hearing officer.

The Goals for adopting and implementing an administrative adjudication process include the following:

- Simplify and expedite the current process for ordinance enforcement.
- Expedite compliance of Environmental Health and some Animal Control violations in a shortened amount of time. Violations such as illegal burning, barking dogs.
- Improve the quality of life for owners of properties adjacent to violations by gaining compliance in a shorter amount of time.
- Use the existing fines associated with each ordinance as an incentive for compliance.
- Charge hearing costs and fines to cover the costs associated with the administrative adjudication process.

State Law provides for accommodations that reduces reliance on the services of the Circuit Clerk, the Court System, the State’s Attorney’s, the Sheriff’s Department, thereby reducing duplicate costs, and staff time involvement.

Implementation of an administrative adjudication process requires several actions by the McHenry County Board. These include:

- Adoption of a resolution based on the State of Illinois enabling legislation.
- May include initial funding of the Adjudicator’s contract for services, which once, implemented hearing fees should cover such costs.
Implementation Plan

This proposal seeks to quickly establish the Administrative Adjudication Program (AAP) using a phase in approach of critical areas of need for expidited adjudication. This approach allows for staff training and creation of the documentation process, making adjustments to permitting to system for record keeping, and assessing the time needs for Hearings.

The types of violations and their respective departments that would utilize this program are proposed to be:

**Environmental Health**
1. Illegal Burning Violations
2. Well and Septic Violations
3. Food Service Violations
4. Other

**Animal Control**
1. Nuisances: Banking dogs, Unleashed animals
2. Failure to get vaccinations
3. Other

It is important to note that the goal of the process is speedy compliance.

The AAP is used only after staff has been unsuccessful at gaining compliance

The administrative adjudication process utilizes the Hearing process with a Hearing officer and the potential for fines to provide additional incentives for the owner to comply.

In cases where owners make compliance difficult to obtain, the hearing costs and fines help pay for the additional costs to taxpayers for the County to enforce the adopted ordinances. Serious cases would still be prosecuted by the State’s Attorney’s Office through the current Circuit Court process.
Process

The Administrative Adjudication Process will operate as follows;

Standard Approach:

✓ County staff is made aware of an ordinance violation.

✓ The owner is notified that a violation exists and instructed as to what is required to bring the violation into compliance and within what time frame.

Change in approach:

• If compliance is not obtained within the specified time frame, the case is set for the next administrative adjudication hearing. The owner is notified via a mailed notice.

• At the hearing, county staff (with prior training) presents the evidence to the hearing officer. The owner has the opportunity to refute the evidence or demonstrate compliance.

• The hearing officer enters a judgment which may include assessing hearing costs, fines, entering a default judgment if the owner does not show, or setting an additional hearing for the next month. The judgment could set fines to be assessed if compliance is not obtained by the second hearing.

• If a second hearing is set, the hearing officer may at that time reduce fines previously assessed if compliance is achieved.

• The judgment is mailed to the owner after the hearing. The judgment is to include requirements for compliance, the amount to be paid for hearing costs and/or fines, and instructions on how to appeal the judgment through the Circuit Court.

• If the hearing costs and/or fines stipulated in the judgment are not paid by the owner, the County may record a lien against the property.

• If compliance is not gained through this process, the County may still prosecute the case through the Circuit Court system.

Comments from County and Municipal Officials regarding this Process:

1. “Process has helped staff tighten up their process and procedures.”
2. “Having a Adjudicator trained in our ordinance allows for a much less frustrating process for the alleged violator”, who can argue his position on the reasonableness of the violation.
3. County Board members are happy to learn that their unhappy constituent will have an opportunity to plead his site of the citation before a knowledgable judge.
Budget Summary

The proposed budget reflects a number of key costs and potential revenues based on similar programs in surrounding counties and local municipalities and fine revenue projects from County departments.

First Year Estimated Revenues

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<tr>
<th>Month</th>
<th>No. of cases *</th>
<th>Hearing Fees $100</th>
<th>Fines ** $50 - $500</th>
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These are potential projected revenues. Again, the GOAL is to bring about compliance not be a revenue stream.

First Year Estimated Expenditures

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<th>Month</th>
<th>Hearing Officer</th>
<th>Recording Secretary</th>
<th>Training *</th>
<th>Misc. Expenses</th>
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" Security may be used upon recommendation of staff depending on the nature of the can an individual(s) involved.
Draft County McHenry County Board Resolution

1-1: Adoption of System of Administrative Adjudication

The COUNTY OF MCHENRY ("County") hereby adopts 55 ILCS 5/5-41 et seq. in its current form and as it may be amended from time to time for the adjudication of violations of County ordinances regulating animal control; the definition, identification, and abatement of public nuisances; the accumulation, disposal, and transportation of garbage, refuse, and other forms of solid waste; the construction and maintenance of buildings and structures; sanitation practices; and zoning, to the extent permitted by the Illinois Constitution.

1-2: Procedures not Exclusive

The adoption by the County of a system of administrative adjudications does not preclude the County from using other methods to enforce county ordinances, including, but not limited to, relief in the Circuit Court for the Sixteenth Judicial Circuit, McHenry County, Illinois.

1-3 Definitions

In this Ordinance, unless the context requires otherwise:

"Code" means any County ordinance that pertains to or regulates any of the following: animal control; the definition, identification, and abatement of public nuisances; the accumulation, disposal, and transportation of garbage, refuse, and other forms of solid waste; the construction and maintenance of buildings and structures; sanitation practices; and zoning.

"Code enforcement officer" means a county employee authorized to issue citations for county code violations and to conduct inspections of public or private real property to determine whether code violations exist. However, nothing shall be construed to allow for administrative adjudication of an ordinance violation in the case where a State statute or administrative rule provides for a specific method or procedure to be followed, other than administrative adjudication, in enforcing a county ordinance.

"Hearing officer" means a person other than a code enforcement officer or law enforcement officer having the following powers and duties:

(1) To preside at an administrative hearing called to determine whether a code violation exists.
(2) To hear testimony and accept evidence from the code enforcement officer, the respondent, and all interested parties relevant to the existence of a code violation.
(3) To preserve and authenticate the record of the hearing and all exhibits and evidence introduced at the hearing.
(4) To issue and sign written findings and a decision and order stating whether a code violation exists.
(5) To issue subpoenas as allowed by section...
(6) To impose penalties consistent with applicable code provisions and to assess costs reasonably related to instituting the proceedings upon finding the respondent liable for the charged violation. In no event, however, shall the hearing officer have the authority to impose a penalty of incarceration.

“Property owner” means the legal or beneficial owner of an improved or unimproved parcel of real estate.

“Respondent” means a property owner, waste hauler, or other person charged with liability for an alleged code violation and the person to whom the notice of violation is directed.

“Solid Waste” means demolition materials, food and industrial processing wastes, garden trash, land cleaning waste, mixed refuse, non-combustible refuse, and trash as defined in the Solid Waste Disposal District Act. [70 ILCS 3105/1 et seq.].

“Waste hauler” means any person owning or controlling any vehicle used to carry or transport garbage, refuse, or other forms of solid waste.

1-4: Code Hearing Unit

There is hereby established a Code Hearing Unit in the County government. The Code Hearing Unit shall consist of Hearing Officer, Recorder of Secretary. The function of the Code Hearing Unit shall be to expedite the prosecution and correction of violations of County ordinances (‘‘code violation’’) regulating animal control; the definition, identification, and abatement of public nuisances; the accumulation, disposal, and transportation of garbage, refuse, and other forms of solid waste; the construction and maintenance of buildings and structures; sanitation practices; and zoning. Charges of code violations are to be heard and adjudicated by a hearing officer appointed by the McHenry County Board.

1-5 Procedure for Instituting Proceedings

(a) When a code enforcement officer observes a code violation, the officer shall note, or in the case of an animal control violation, the code enforcement officer may respond to the filing of a formal complaint by noting the violation on a violation notice and report form, indicating the following: the name and address of the respondent, if known; the name, address, and vehicle registration number of the waste hauler who deposited the waste, if applicable; the type and nature of the violation; the date and time the violation was observed; the names of witnesses to the violation; and the address of the location or property where the violation is observed.

(b) The violation notice and report form shall contain a file number and a hearing date noted by the code enforcement officer in the spaces provided for that purpose on the form. The violation notice and report form shall state that failure to appear at the hearing on the date indicated may result in a determination of liability for the cited violation.
and the imposition of fines and assessment of costs as provided by the applicable county ordinance. The violation notice and report form shall also state that upon a determination of liability and the exhaustion of or failure to exhaust procedures for judicial review, any unpaid fines or costs imposed will constitute a debt due and owed to the County.

(c) The code enforcement officer shall certify the correctness of the information required by subsection (a) by signing his name to the violation notice and report form, and indicate the date on which this was done. Failure to certify does not invalidate the violation notice, but will not establish a prima facie case at trial.

(d) A copy of the violation notice and report form shall be filed with the Code Hearing Unit and served on the respondent either personally or by first class mail, postage prepaid, sent to the address of the respondent. If the name of the respondent property owner cannot be ascertained or if the service on the respondent cannot be made by mail, service may be made on the respondent property owner by posting, not less than 20 days before the hearing is scheduled, a copy of the violation notice and report form in a prominent place on the property where the violation was found.

1-6 Notice of Hearing/ Subpoenas/ Default

(a) The respondent shall have at least twenty days after service of the violation notice and report form to prepare for the hearing, unless the violation is deemed by the code enforcement officer to be an immediate threat to the public health, safety, or welfare, at which time the hearing date may be expedited as necessary.

(b) All administrative hearings shall be conducted on the date set for hearing. For good cause shown, a continuance may be granted at the discretion of the hearing officer. Lack of preparation shall not be grounds for a continuance. Continuances shall not exceed 28 days.

(c) At any time prior to the hearing date, at the request of the code enforcement officer, the attorney for the county, the respondent, or the attorney for the respondent, the hearing officer assigned to hear the case may issue subpoenas directing witnesses to appear and give testimony at the hearing.

(d) If, at the time set for hearing, the respondent or his attorney fails to appear, the hearing officer shall proceed with the hearing and accept evidence relating to the existence of a code violation. At the close of the hearing, upon sufficient evidence of a violation, the hearing officer may enter a default judgment of liability against the respondent and impose fines and assess costs. A copy of the order of default shall be served promptly in any manner for service of a notice of violation permitted by this ordinance and applicable to the violation. A copy of the default
judgment, which is a final determination, shall apprise the respondent of the procedure for setting aside the default judgment and also shall apprise the respondent of the availability of an appeal of the default judgment to the Circuit Court of McHenry County.

(e) A respondent against whom a default judgment has been entered may file a motion with the code enforcement unit to set aside the default judgment and for a new hearing. A motion to set aside a default judgment may be filed within 28 days of entry of the default judgment. A motion to set aside a default judgment shall set forth the reason(s) the respondent failed to appear on the original hearing date. The motion will be heard and ruled upon by the code hearing officer.

1-7 Representation at Hearings

The case for the County may be presented by the code enforcement officer or by the State’s Attorney. In no event, however, may the case for the County be presented by an employee of the code hearing unit. The case for the respondent may be presented by the respondent or the respondent’s attorney. If the respondent is a corporation, it may appear through any officer, director, manager, or supervisor of the corporation.

1-8 Conduct of Hearings

The hearing officer shall preside at the hearing, shall hear testimony, and shall accept any evidence relevant to the existence or non-existence of a code violation on the property indicated. The code enforcement officer’s signed violation notice and report form shall be prima facie evidence of the existence of the code violation described in the form. The strict rules of evidence applicable to judicial proceedings do not apply to hearings authorized under this ordinance. The burden of proof is a preponderance of the evidence. Once a prima facie case is established by the County, the burden of proof then shifts to the respondent.

1-9 Findings, Determination, and Order

At the conclusion of the hearing, the hearing officer shall make a determination on the basis of the evidence presented at the hearing as to whether a code violation exists. The determination shall be in writing and shall be designated as the hearing officer’s findings, decision, and order. The findings, decision, and order shall include the hearing officer’s findings of fact, a determination of whether a code violation exists based on the findings of fact, and an order imposing a fine or other penalty, directing the respondent to correct the violation, or dismissing the case if the violation is not proved. If the hearing officer determines that the respondent is liable for the cited violation, the hearing officer shall enter an order imposing sanctions that are provided in the Code for the violations proved, including the imposition of fines and the recovery of the costs of the proceedings. Costs may be recovered in the same manner as fines and penalties. A copy of the findings, decision, and order shall be served by personal
service or by any method provided for service of the violation notice and report form under paragraph 1-5.

1-10 Administrative Review

The findings, decision, and order of the hearing officer shall be subject to review in the Circuit Court of McHenry County. The Administrative Review Law [735 ILCS 5/3-101 et seq.] and the rules adopted pursuant thereto shall apply to and govern every action for the judicial review of the final findings, decision, and order of a hearing officer under this section.

1-11 Transfer or Conveyance of Property

The order to correct a code violation and the sanctions imposed by the County against a respondent property owner as the result of a finding of a code violation under this Ordinance shall attach to the property, subject to the interests of all lien holders of record, as well as to the owner of the property, so that the owner cannot avoid the finding of a code violation against the owner by conveying or transferring the property to another. Any subsequent transferee or owner of property takes the property subject to the findings, decision, and order of a hearing officer under this Ordinance if a notice consisting of a copy of the order to correct a code violation and imposing any sanctions and costs, if applicable, and a description of the real estate affected that is sufficient to identify the real estate has been filed in the office of the McHenry County Recorder by the County prior to the transfer or conveyance to the subsequent transferee or owner.

1-12 Collection of Unpaid Fines or Other Sanctions

(a) Any fine or other sanction or costs imposed, or any part of any fine or other sanction or costs imposed, remaining unpaid after the exhaustion of or failure to exhaust procedures for judicial review under the Administrative Review Law [735 ILCS 5/3-101 et seq.] is a debt due and owed to McHenry County and, as such, may be collected in accordance with applicable law. Any subsequent owner or transferee of property takes subject to this debt if a notice has been filed pursuant to section 1-11.

(b) After expiration of the period within which judicial review under the Administrative Review Law may be sought for a final determination of the code violation, the County may commence a proceeding in the Circuit Court of McHenry County for purposes of obtaining a judgment on the hearing officer’s findings, decision, and order, by filing a petition. Nothing in this Ordinance prevents the County from consolidating multiple findings, decisions, and orders against a person or property in such a proceeding.

(c) Upon commencement of the action, the County shall file a certified copy of the findings, decision, and order, which shall be accompanied by a certification that recites facts sufficient to show that the findings, decision, and order were issued in accordance with this Ordinance and 55 ILCS 5/5-41 et seq.. Service of the summons and a copy of the petition may be by any method provided by Section 2-203 of the Code of Civil Procedure.
[735 ILCS 5/2-203] or by certified mail, return receipt requested, provided that the total amount of fines or other sanctions and costs imposed by the findings, decision, and order does not exceed $5,000.

(d) If the court is satisfied that the findings, decision, and order were entered within the requirements of 55 ILCS 5/5-41 et seq. and this ordinance, and that the respondent had an opportunity for a hearing under and for judicial review as provided in 55 ILCS 5/5-41 et seq.:

(1) The court shall render judgment in favor of the County and against the respondent for the amount indicated in the findings, decision, and order plus court costs. The judgment has the same effect and may be enforced in the same manner as other judgments for the recovery of money.

(2) The court may issue other orders or injunctions, or both, requested by the County to enforce the order of the hearing officer or to correct a code violation.

1-13 Not Exclusive

The adoption by the County of a system of administrative adjudication does not preclude McHenry County from using other methods to enforce the County’s ordinances and code violations.

1-14 Severability

Should a court of competent jurisdiction determine that one or more sections or subsections of this Ordinance is or are invalid, the remaining sections or subsections hereof shall remain in full force and effect.

1-15 Effective Date

This Ordinance shall become effective on ____________________
(55 ILCS 5/Div. 5-43 heading)
Division 5-43. Administrative Adjudication – Specific Counties
(Source: P.A. 96-1386, eff. 7-29-10; 97-333, eff. 8-12-11.)

(55 ILCS 5/5-43005)
Sec. 5-43005. Applicability. This Division 5-43 applies only to the counties of Cook, DuPage, Kane, Lake, McHenry, and Will.
(Source: P.A. 96-1386, eff. 7-29-10.)

(55 ILCS 5/5-43010)
Sec. 5-43010. Administrative adjudication of code and ordinance violations; definitions.

(a) Any county may provide by ordinance for a system of administrative adjudication of county code violations to the extent permitted by the Illinois Constitution.

(b) Any county may provide by ordinance for a system of administrative adjudication of violations of ordinances enacted by a participating unit of local government only where: (i) the unit of local government is engaging in governmental activities or providing services within the boundaries of the county; (ii) the unit of local government has no system of administrative adjudication; and (iii) the violation occurred within the boundaries of the county.

(c) As used in this Division:
"Participating unit of local government" means a unit of local government which has entered into an intergovernmental agreement or contract with a county for the administrative adjudication of violations of its ordinances by the county pursuant to this Division.
"System of administrative adjudication" means the adjudication of any violation of a county ordinance or of a participating unit of local government's ordinance, except for (i) proceedings not within the statutory or the home rule authority of counties or a participating unit of local government; and (ii) any offense under the Illinois Vehicle Code (or a similar offense that is a traffic regulation governing the movement of vehicles and except for any reportable offense under Section 6-204 of the Illinois Vehicle Code).
"Unit of local government" has the meaning as defined in the Illinois Constitution of 1970 and also includes a not-for-profit corporation organized for the purpose of conducting public business including, but not limited to, the Northeast Illinois Regional Commuter Railroad Corporation.
(Source: P.A. 99-754, eff. 1-1-17.)

(55 ILCS 5/5-43015)
Sec. 5-43015. Administrative adjudication procedures not exclusive. The adoption by a county of a system of administrative adjudication does not preclude the county from using other methods to enforce county ordinances. An intergovernmental agreement or contract entered into between a county and participating unit of local government under this Division does not preclude a participating unit of local government from using other methods to enforce its ordinances.
(Source: P.A. 99-754, eff. 1-1-17.)

(55 ILCS 5/5-43020)
Sec. 5-43020. Code hearing units; powers of hearing officers.

(a) An ordinance establishing a system of administrative adjudication, pursuant to this Division, shall provide for a code hearing unit within an existing agency or as a separate agency in the county government. The ordinance shall establish the jurisdiction of a code hearing unit
that is consistent with this Division. The “jurisdiction” of a code hearing unit refers to the particular code violations that it may adjudicate.

(b) Adjudicatory hearings shall be presided over by hearing officers. The powers and duties of a hearing officer shall include:

1. hearing testimony and accepting evidence that is relevant to the existence of the code violation;
2. issuing subpoenas directing witnesses to appear and give relevant testimony at the hearing, upon the request of the parties or their representatives;
3. preserving and authenticating the record of the hearing and all exhibits and evidence introduced at the hearing;
4. issuing a determination, based on the evidence presented at the hearing, of whether a code violation exists, which shall be in writing and shall include a written finding of fact, decision, and order including the fine, penalty, or action with which the defendant must comply; and
5. imposing penalties consistent with applicable code provisions and assessing costs upon finding a party liable for the charged violation, except, however, that in no event shall the hearing officer have authority to:
   (i) impose a penalty of incarceration; or (ii) impose a fine in excess of $50,000, or at the option of the county for a fine imposed for a violation of a county ordinance or at the option of a participating unit of local government for a fine imposed for violation of an ordinance of the participating unit of local government, such other amount not to exceed the maximum amount established by the Mandatory Arbitration System as prescribed by the Rules of the Illinois Supreme Court from time to time for the judicial circuit in which the county is located. The maximum monetary fine under this item (5), shall be exclusive of costs of enforcement or costs imposed to secure compliance with the county's ordinances or participating unit of local government's ordinances and shall not be applicable to cases to enforce the collection of any tax imposed and collected by the county or participating unit of local government.

(c) Prior to conducting administrative adjudication proceedings, administrative hearing officers shall have successfully completed a formal training program that includes the following:

1. instruction on the rules of procedure of the administrative hearings that they will conduct;
2. orientation to each subject area of the code violations that they will adjudicate;
3. observation of administrative hearings; and
4. participation in hypothetical cases, including ruling on evidence and issuing final orders.

In addition, every administrative hearing officer must be an attorney licensed to practice law in the State of Illinois for at least 3 years.

(d) A proceeding before a code hearing unit shall be instituted upon the filing of a written pleading by an authorized official of the county or participating unit of local government.

(Source: P.A. 99-754, eff. 1-1-17.)

(55 ILCS 5/5-43025)
Sec. 5-43025. Administrative hearing proceedings.

(a) Any ordinance establishing a system of administrative adjudication, pursuant to this Division, shall afford parties due process of law, including notice and opportunity for hearing. Parties shall be served with process in a manner reasonably calculated to give them actual notice, including, as appropriate, personal service of process upon a party or its employees or agents; service by mail at a party's address; or notice that is posted upon the property where the violation is found when the party is the owner or manager of the property. In counties with a population under 3,000,000, if the notice requires the respondent to answer within a certain
amount of time, the county or participating unit of local government must reply to the answer within the same amount of time afforded to the respondent.

(b) Parties shall be given notice of an adjudicatory hearing that includes the type and nature of the code violation to be adjudicated, the date and location of the adjudicatory hearing, the legal authority and jurisdiction under which the hearing is to be held, and the penalties for failure to appear at the hearing.

(c) Parties shall be provided with an opportunity for a hearing during which they may be represented by counsel, present witnesses, and cross-examine opposing witnesses. Parties may request the hearing officer to issue subpoenas to direct the attendance and testimony of relevant witnesses and the production of relevant documents. Hearings shall be scheduled with reasonable promptness, except that for hearings scheduled in all non-emergency situations, if requested by the defendant, the defendant shall have at least 15 days after service of process to prepare for a hearing. For purposes of this subsection (c), "non-emergency situation" means any situation that does not reasonably constitute a threat to the public interest, safety, or welfare. If service is provided by mail, the 15-day period shall begin to run on the day that the notice is deposited in the mail.

(Source: P.A. 99-754, eff. 1-1-17.)

(55 ILCS 5/5-43030)
Sec. 5-43030. Rules of evidence shall not govern. The formal and technical rules of evidence do not apply in an adjudicatory hearing permitted under this Division. Evidence, including hearsay, may be admitted only if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

(Source: P.A. 96-1386, eff. 7-29-10.)

(55 ILCS 5/5-43035)
Sec. 5-43035. Enforcement of judgment.

(a) Any non-real property tax, fee, fine, other sanction, or costs, or part of any non-real property tax, fee, fine, other sanction, or costs unpaid after the exhaustion of or the failure to exhaust judicial review procedures under the Administrative Review Law are a debt due and owing the county for a violation of a county ordinance, or the participating unit of local government for a violation of a participating unit of local government's ordinance, and may be collected in accordance with applicable law.

(b) After expiration of the period in which judicial review under the Administrative Review Law may be sought for a final determination of a code violation, unless stayed by a court of competent jurisdiction, the findings, decision, and order of the hearing officer may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

(c) In any case in which a defendant has failed to comply with a judgment ordering a defendant to correct a code violation or imposing any non-real property tax, fee, fine, or other sanction as a result of a code violation, any expenses incurred by a county for a violation of a county ordinance, or the participating unit of local government for a violation of a participating unit of local government's ordinance, to enforce the judgment, including, but not limited to, attorney's fees, court costs, and costs related to property demolition or foreclosure, after they are fixed by a court of competent jurisdiction or a hearing officer, shall be a debt due and owing the county for a violation of a county ordinance, or the participating unit of local government for a violation of a participating unit of local government's ordinance, and the findings, decision, and order of the hearing officer may be enforced in the same manner as a judgment entered by a court. Prior to any expenses being fixed by a hearing officer pursuant to this subsection (c), the county for a violation of a county ordinance, or the participating unit of local government for a violation of a participating unit of local government's ordinance, shall provide notice to the defendant that states that the defendant shall appear at a hearing before the administrative hearing officer to determine whether the defendant has failed to comply with the judgment. The
notice shall set the date for the hearing, which shall not be less than 7 days after the date that notice is served. If notice is served by mail, the 7-day period shall begin to run on the date that the notice was deposited in the mail.

(c-5) A default in the payment of a non-real property tax, fee, fine, or penalty or any installment of a non-real property tax, fee, fine, or penalty may be collected by any means authorized for the collection of monetary judgments. The State's Attorney of the county in which the non-real property tax, fee, fine, or penalty was imposed may retain attorneys and private collection agents for the purpose of collecting any default in payment of any non-real property tax, fee, fine, or penalty or installment of that non-real property tax, fee, fine, or penalty. Any fees or costs incurred by the county or participating unit of local government with respect to attorneys or private collection agents retained by the State's Attorney under this Section shall be charged to the offender.

(d) Upon being recorded in the manner required by Article XII of the Code of Civil Procedure or by the Uniform Commercial Code, a lien shall be imposed on the real estate or personal estate, or both, of the defendant in the amount of any debt due and owing the county for a violation of a county ordinance, or the participating unit of local government for a violation of a participating unit of local government's ordinance, under this Section. The lien may be enforced in the same manner as a judgment lien pursuant to a judgment of a court of competent jurisdiction.

(e) A hearing officer may set aside any judgment entered by default and set a new hearing date, upon a petition filed within 21 days after the issuance of the order of default, if the hearing officer determines that the petitioner's failure to appear at the hearing was for good cause or at any time if the petitioner establishes that the county for a violation of a county ordinance, or the participating unit of local government for a violation of a participating unit of local government's ordinance, did not provide proper service of process. If any judgment is set aside pursuant to this subsection (e), the hearing officer shall have authority to enter an order extinguishing any lien that has been recorded for any debt due and owing the county for a violation of a county ordinance, or the participating unit of local government for a violation of a participating unit of local government's ordinance, as a result of the vacated default judgment.

(Source: P.A. 99-18, eff. 1-1-16; 99-739, eff. 1-1-17; 99-754, eff. 1-1-17; 100-201, eff. 8-18-17; 100-221, eff. 1-1-18.)

(55 ILCS 5/5-43040)
Sec. 5-43040. Impact on existing administrative adjudication systems. This Division does not affect the validity of systems of administrative adjudication that were authorized by State law, including home rule authority, and in existence before July 29, 2010 (the effective date of Public Act 96-1386).
(Source: P.A. 99-754, eff. 1-1-17.)

(55 ILCS 5/5-43043)
(Section scheduled to be repealed on January 1, 2022)
Sec. 5-43043. Mechanics lien demand and referral adjudication.
(a) Notwithstanding any other provision in this Division, a county's code hearing unit must adjudicate an expired mechanics lien referred to the unit under Section 3-5010.8.
(b) If a county does not have an administrative law judge in its code hearing unit who is familiar with the areas of law relating to mechanics liens, one may be appointed no later than 3 months after the effective date of this amendatory Act of the 100th General Assembly to adjudicate all referrals concerning mechanics liens under Section 3-5010.8.
(c) If an administrative law judge familiar with the areas of law relating to mechanics liens has not been appointed as provided subsection (b) when a mechanics lien is referred under Section 3-5010.8 to the code hearing unit, the case shall be removed to the proper circuit court with jurisdiction.
(d) This Section is repealed on January 1, 2022.
(Source: P.A. 100-1061, eff. 1-1-19.)

(55 ILCS 5/5-43045)
Sec. 5-43045. Impact on home rule authority. This Division does not preempt counties or participating units of local government from adopting other systems of administrative adjudication pursuant to their home rule powers.
(Source: P.A. 99-754, eff. 1-1-17.)
ATTACHMENTS:

- 3. Resolution 8680_Education and Enforcement (PDF)
RESOLUTION AUTHORIZING THE EMERGENCY APPROPRIATION OF $112,331 TO THE DEPARTMENT OF HEALTH’S FY20 BUDGET TO SUPPORT TRAINING, EDUCATION, AND ENFORCEMENT OF COVID-19 ADMINISTRATIVE RULES

WHEREAS, COVID-19 is caused by a novel coronavirus called SARS-CoV-2, a dangerously contagious and infectious respiratory disease which is spread person to person in respiratory droplets released by a person infected with the disease; and

WHEREAS, on January 31, 2020 the Health and Human Services (HHS) Secretary Azar declared a public health emergency for the entire United States to aid in the nation’s healthcare community’s response; and

WHEREAS, on March 9, 2020 Illinois Governor J.B. Pritzker issued a disaster proclamation; on March 10, 2020 the McHenry County Department of Health (MCDH) announced its first confirmed COVID-19 case; and on March 11, 2020 the WHO declared the COVID-19 outbreak a pandemic, and McHenry County Board Chairman, Jack Franks, declared a state of emergency; and

WHEREAS, on August 7, 2020 the Illinois Joint Commission on Administrative Rules adopted emergency rules amending the Control of Communicable Diseases Code, requiring various entities including businesses, services, facilities or organizations open to the public, schools and daycares to take reasonable efforts to comply with face covering rules and restrictions on gatherings of more than 50 people, unless exempted by law or Executive Order, to prevent further spread of COVID-19; and

WHEREAS, pursuant to 20 ILCS 2305/2(a), all local boards of health, health authorities and officers, police officers, sheriffs, and all other officers and employees of the State or any locality, including the Illinois Department of Public Health (IDPH) and certified local health departments under 20 ILCS 2310/15, ("enforcing entities"), shall enforce the rules and regulations so adopted and orders issued by the IDPH; and

WHEREAS, the MCDH is a certified local health department and is delegated authority by the IDPH to enforce the COVID-19 temporary administrative rules; and

WHEREAS, the MCDH has provided consultation and training to over 535 individual food establishments, businesses and schools on implementing COVID-19 guidance, rules, and preventive measures; and

WHEREAS, the MCDH has seen a rise in COVID-19-related complaints since the start of Phase 4 Restore Illinois; and

WHEREAS, ongoing COVID-19 consultation, training, education and responding to complaints shifts staff resources away from the Department’s other mandated functions and essential services; and

WHEREAS, additional staff resources are needed to increase the MCDH’s capacity to ensure it effectively balances provision of existing mandated and essential services with the additional COVID-19 training, education, and enforcement activities; and

WHEREAS, the Local Coronavirus Urgent Remediation Emergency (or Local CURE) Support Program, supports expenditures necessary and related to the COVID-19 public health emergency and that these expenditures must be incurred by December 30, 2020; and

WHEREAS, it is the recommendation of the Board of Health to approve $112,331 in temporary personnel expenditures to ensure the Department of Health has the human resources it needs to
adequately address the COVID-19 administrative rules and regulations.

NOW, THEREFORE IT BE RESOLVED, that an appropriation in the amount of $112,331 in temporary personnel expenditures is authorized in the Department of Health’s FY20 budget for the following line items:

<table>
<thead>
<tr>
<th>LINE ITEM</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Revenue Increase</td>
<td></td>
</tr>
<tr>
<td>Revenue</td>
<td></td>
</tr>
<tr>
<td>Local CURE</td>
<td>$112,331</td>
</tr>
<tr>
<td>Expenditures</td>
<td></td>
</tr>
<tr>
<td>Personnel (30)</td>
<td>$109,226</td>
</tr>
<tr>
<td>Commodities (50)</td>
<td>$3,105</td>
</tr>
</tbody>
</table>

BE IT FURTHER RESOLVED, that the County Clerk is hereby authorized to distribute a certified copy of the Resolution to the County Auditor, County Treasurer, County Administrator, Director of Finance, and the Public Health Administrator.

DATED at Woodstock, Illinois, this 15th day of September, A.D., 2020.

______________________________
Jack D. Franks, Chairman
McHenry County Board

ATTEST:

______________________________
Joseph J. Tirio, County Clerk
TO: McHenry County Board  
FROM: Melissa Adamson  
DATE: September 15, 2020  
SUBJECT: Resolution Authorizing the Emergency Appropriation of $112,331 to the Department of Health’s FY20 Budget to Support Training, Education, and Enforcement of COVID-19 Administrative Rules

**Board / Committee Action Requested:** Request that the County Board authorize the emergency appropriation of $112,331 in expenditures to the Department of Health’s FY20 budget for COVID-19 training, education and enforcement of administrative rules and regulations.

**Background and Discussion:** During the COVID-19 pandemic, local health departments are responsible for identifying, investigating and reporting cases and tracking contacts, including identifying those at risk of disease, and providing education and enforcement of rules and requirements, including conducting on-site investigations of businesses, services, facilities or organizations open to the public, schools, and daycares to determine compliance with necessary control measures to limit the spread of COVID-19.

**Impact on Human Resources:** Additional temporary staff will be hired.

**Impact on Budget (Revenue; Expenses, Fringe Benefits):** The Local CURE funding reimburses for eligible COVID-19 expenses that were not accounted for in the budget including payroll expenses for public health employees whose services are substantially dedicated to mitigating or responding to COVID-19, and expenses for actions taken to facilitate compliance with COVID-19 public health measures [https://www2.illinois.gov/dceo/Pages/CURE.aspx](https://www2.illinois.gov/dceo/Pages/CURE.aspx).

**Impact on Capital Expenditures:** None

**Impact on Physical Space:** None

**Impact on Other County Departments or Outside Agencies:** None

**Conformity to Board Ordinances, Policies and Strategic Plan:** Conforms to the McHenry County Strategic Plan for Leadership and Governance strategy, Goal 2, Objective A and C; and Goal 5, Objective A; and Organizational Advancement and Services strategy, Goal 2, Objective A.