

**ORDINANCE NO. 20-06-16-01**

**AN ORDINANCE PERMITTING THE OFF-PREMISES SALE OF ALCOHOLIC BEVERAGES AT CERTAIN LOCATIONS IN THE CITY OF WILMINGTON AND AMENDING THE CITY'S ORDINANCES TO CONFORM WITH SUCH PERMITTED SALES**

WHEREAS, the COVID-19 pandemic has negatively affected many businesses in the City including some licensed liquor establishments; and

WHEREAS, the Illinois General Assembly has adopted, and the Governor, has signed into law, House Bill 2682, an Act which permits the off-premises sale of mixed drinks under certain conditions; and

WHEREAS, by Executive Order the Governor has permitted the off-premises sale of liquor in its original container at locations which normally would not be permitted to make those sales; and

WHEREAS, it is in the best interest to the City to adopt this Ordinance to allow these sales on a temporary basis to conform to State law and Executive Orders.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WILMINGTON, WILL COUNTY, ILLINOIS:

**SECTION 1. SALE OF ALCOHOL FOR OFF-PREMISES CONSUMPTION**

That the Wilmington Code of Ordinances be the same and hereby amended to include the following amendment to Chapter 112 Alcoholic Liquor Dealers:

**112.28. Sale of Alcohol for Off-Premises Consumption.**

That notwithstanding anything to the contrary in the City of Wilmington Code of Ordinances, Class A, Class A1, Class D and Class D1 Liquor Licensees shall be permitted to sell alcoholic beverages for off-premises consumption subject to the following:

(A) *Definitions.* In this Ordinance, the following terms and phrases when used in this Ordinance, shall have the following definitions:

“*Cocktail*” or “*mixed drink*” means any beverage obtained by combining ingredients alcoholic in nature, whether brewed, fermented, or distilled, with ingredients non-alcoholic in nature, such as fruit juice, lemonade, cream, or a carbonated beverage.

“*Manufacturer’s Seal Product*” shall mean that the container is in its original manufacturer’s package, unopened, such as a bottle of wine or beer.

“*Original Container*” means, for the purposes of this Ordinance only, a container that is filled, sealed, and secured by a retail licensee’s employee at the retail licensee’s location with a tamper-evident lid or cap.

“*Sealed Container*” means a rigid container that contains a mixed drink, is new, has never been used, has a secured lid or cap designed to prevent consumption without removal of the lid or cap, and is tamper-evident.

“*Tamper-evident*” means a lid or cap that has been sealed with tamper-evident covers, including but not limited to, wax dip or heat shrink wrap.

(B) *Delivery and Carry Out of Mixed Drinks Permitted.* A cocktail or mixed drink placed in a sealed container by a retail licensee at the retail licensee’s location or a manufacturer sealed product may be transferred and sold for off-premises consumption if all of the following requirements are met:

(1) The cocktail, mixed drink or manufacturer’s sealed product is transferred within the licensed premises, by a curbside pickup, or by delivery by an employee of the retail licensee who:

- (i) Was trained in accordance with applicable requirements at the time of the sale;
- (ii) Is at least 21 years of age; and
- (iii) Upon delivery, verifies the age of the person to whom the cocktail is being delivered.

(2) If the employee delivering the product is not able to safely verify a person’s age, the employee shall cancel the sale of alcohol and return the product to the retail license holder.

(3) For transportation and delivery, the sealed container shall be placed in the trunk of the vehicle or if there is no trunk, in the vehicle’s rear compartment that is not readily accessible to the passenger area. This Section 3 does not apply to manufacturer’s sealed products;

(4) The sealed container shall be affixed with a label or tag that contains the following information:

- (i) The cocktail or mixed drink ingredients, type, and name of the alcohol;
- (ii) Name, license number, and address of the retail licensee that filled the original container and sold the product;
- (iii) Volume of the cocktail or mixed drink in the sealed container;
- (iv) Sealed container was filled less than 7 days before the date of sale; and
- (v) Requirements of this Section 4 shall not apply to manufacturer’s sealed products.

(5) Third-party delivery services are not permitted to deliver cocktails, mixed drinks, or manufacturer's sealed products under this Ordinance.

(6) If there is an executive order of the Governor in effect during a disaster, the employee delivering the manufacturer's sealed product, mixed drink or cocktail must comply with any requirements of that executive order, including, but not limited to, wearing gloves and a mask and maintaining distancing requirements when interacting with the public.

(C) *Prohibitions.* Delivery or carry out is prohibited if:

1. A third party transports and/or delivers the cocktail, mixed drink, or manufacturer's sealed product;
2. A container of a mixed drink or cocktail, or manufacturer's sealed product is not tamper-evident and sealed;
3. A container of a mixed drink or cocktail is transported in the passenger area of a vehicle;
4. A manufacturer's sealed product, mixed drink or cocktail is delivered by a person or to a person who is under the age of 21; or
5. The person delivering the manufacturer's sealed product, a mixed drink or cocktail fails to verify the age of the person to whom the mixed drink or cocktail is being delivered.

(D) *Violations.* Violations of this Ordinance shall be subject to any applicable penalties, including but not limited to Section 11-502 of the Illinois Vehicle Code (625 ILCS 5/11-502) or similar City of Wilmington Ordinances and Chapter 112 of the Wilmington Code of Ordinances and applicable sanctions with respect to Liquor License Violations.

### **SECTION 3. SEVERABILITY**

This Ordinance and every provision thereof shall be considered severable, and the invalidity of any section, clause, paragraph, sentence, or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

### **SECTION 4. REPEALER**

All ordinances or parts of ordinances conflicting with any provisions of this Ordinance are hereby repealed.

**SECTION 5. SUNSET CLAUSE**

Without further action by City Council, this ordinance shall be automatically repealed on June 1, 2021.

**SECTION 6. EFFECTIVE DATE**

The adoption of this ordinance is declared to be an emergency and shall be effective immediately.

PASSED this 16<sup>th</sup> day of June, 2020 with 7 members voting aye, 0 members voting nay, the Mayor voting N/A, with 0 members abstaining or passing and said vote being:

John Persic, Jr.	<u>aye</u>	Kevin Kirwin	<u>aye</u>
Dennis Vice	<u>aye</u>	Floyd Combes	<u>absent</u>
Ben Dietz	<u>aye</u>	Lisa Butler	<u>aye</u>
Jake Tenn	<u>aye</u>	Frank Studer	<u>aye</u>

Approved this 16<sup>th</sup> day of June, 2020



Attest:

*Roy Strong*  
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 Roy Strong, Mayor

*Joie Ziller*  
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 Joie Ziller, Deputy City Clerk