



City of Wilmington
Ordinance & Licensing Committee
Tuesday, January 12, 2021 at 6:00 p.m.

PURSUANT TO EXECUTIVE ORDER 2020-07 SIGNED BY GOVERNOR PRITZKER AND GUIDANCE PROVIDED BY LEGAL COUNSEL, THE CITY OF WILMINGTON MAY CONDUCT ALL OR PORTIONS OF THIS MEETING BY USE OF TELEPHONIC OR ELECTRONIC MEANS WITHOUT A PHYSICAL QUORUM PRESENT IN THE BOARDROOM. PUBLIC ACCESS TO THIS MEETING IS AVAILABLE AS FOLLOWS:

Join Zoom Meeting

<https://us02web.zoom.us/j/85714363583?pwd=Y1pRaFd6d0I5SWVEU29nMlpDVVpBdz09>

Meeting ID: 857 1436 3583

Passcode: 667911

Dial by your location

+1 312 626 6799 US (Chicago)

Meeting ID: 857 1436 3583

Passcode: 667911

WE ARE HAPPY TO ACCOMMODATE WRITTEN PUBLIC COMMENTS. ANY WRITTEN COMMENTS MUST BE RECEIVED VIA EMAIL BY 3:00 P.M. ON THE DAY OF THE SCHEDULED MEETING. COMMENTS RECEIVED BY 3:00 P.M. WILL BE PUT INTO THE RECORD AND CONSIDERED BEFORE COMMITTEE ACTION. COMMENTS CAN BE SUBMITTED BY EMAIL TO JZILLER@WILMINGTON-IL.COM

Location & Time

Via Zoom
6:00 p.m. 1/12/2021

**Ordinance & Licensing
Committee Members**

Floyd Combes, Co-Chair

Dennis Vice, Co-Chair

Kevin Kirwin

Lisa Butler

Dennis Vice

Agenda

1. Call to Order
2. Approval of the December 8th, 2020 Meeting Minutes
3. Old Business
4. New Business
 - a. Discuss Committee Membership
 - b. Review Ordinance Amending Public Intoxication
 - c. Review Ordinance Amending Amusement Tax
 - d. Review Ordinance Regarding Social Media
5. Other Pertinent Information
6. Public Comment
(State your full name clearly; limit 3 minutes each per Ordinance 19-06-18-01)
7. Adjournment

*Posting Date
1/8/2021 4:03 PM tk*

**CITY OF WILMINGTON
ORDINANCE & LICENSING COMMITTEE
Tuesday, December 8, 2020 at 6:00 p.m.
Wilmington City Hall, Council Chambers
1165 S. Water Street**

In Attendance

Committee Members

Co-Chair - Alderman Floyd Combes
Alderman Kevin Kirwin
Alderman Lisa Butler
Alderman Dennis Vice

City Officials

Mayor Roy Strong
City Administrator Joie Ziller

The December 8, 2020 meeting of the Ordinance & Licensing Committee was called to order at 6:00 p.m. by Alderman Combes.

Alderman Combes made the following announcement: *PURSUANT TO EXECUTIVE ORDER 2020-07 SIGNED BY GOVERNOR PRITZKER AND GUIDANCE PROVIDED BY LEGAL COUNSEL, THE CITY OF WILMINGTON MAY CONDUCT ALL OR PORTIONS OF THIS MEETING BY USE OF TELEPHONIC OR ELECTRONIC MEANS WITHOUT A PHYSICAL QUORUM PRESENT IN THE BOARDROOM. PUBLIC ACCESS TO THIS MEETING IS AVAILABLE AS FOLLOWS: WE ARE HAPPY TO ACCOMMODATE WRITTEN PUBLIC COMMENTS. ANY WRITTEN COMMENTS MUST BE RECEIVED VIA EMAIL BY 3:00 P.M. ON THE DAY OF THE SCHEDULED MEETING. COMMENTS RECEIVED BY 3:00 P.M. WILL BE PUT INTO THE RECORD AND CONSIDERED BEFORE COMMITTEE ACTION. COMMENTS CAN BE SUBMITTED BY EMAIL TO JZILLER@WILMINGTON-IL.COM*

Approval of Previous Meeting Minutes

The minutes were reviewed. **Alderman Butler made a motion and Alderman Kirwin seconded to accept the October 13th, 2020 Committee meeting minutes and have them placed on file.**

Upon roll call, the vote was:

AYES: 4 Combes, Kirwin, Butler, Vice

NAYS: 0

ABSENT: 0

The motion carried.

OLD BUSINESS:

No old business was discussed at this time.

NEW BUSINESS:

Review Request for Exception of a Recreational Vehicle Placement on Property

Along with the Mayor's recommendation, Alderman Combes made a motion and Alderman Kirwin seconded to approve the variance request for 300 Roland.

Upon roll call, the vote was:

AYES: 4 Combes, Kirwin, Butler, Vice

NAYS: 0

ABSENT: 0

The motion carried.

Other Pertinent Information

Alderman Vice volunteered to be co-chair of the committee due to the resignation of the previous co-chair.

Public Comment

No public comments were received via email.

Adjournment

With no further business before the Committee, Alderman Butler made a motion and it was seconded by Alderman Kirwin to adjourn.

Upon roll call, the vote was:

AYES: 4 Combes, Kirwin, Butler, Vice

NAYS: 0

ABSENT: 0

THE MOTION CARRIED unanimously and the meeting was adjourned at 6:11 p.m.

Respectfully submitted,

Tessa Krusinski
Executive Secretary

ORDINANCE NO. DRAFT

**AN ORDINANCE REPEALING SECTION 132.20 AND AMENDING SECTION 132.13
OF THE WILMINGTON CODE OF ORDINANCES REGULATING
ALCOHOL IN CERTAIN LOCATIONS**

WHEREAS, Section 55-15 of the Substance Use Disorder Act (20 ILCS 301/55-15) states that no municipality may adopt or enforce any law that includes being intoxicated as the sole basis of the offense, nor interpret or apply any law to circumvent the provisions of Section 55-15.

WHEREAS, The Mayor and Corporation Authorities of the City of Wilmington find it in the best interest of the City to repeal Section 132.13 – Public Intoxication to ensure compliance with Section 55-15 of the Substance Use Disorder Act (20 ILCS 301/55-15) and to amend Section 132.20 – Possession, sale, or consumption of alcoholic liquor in public places so that the City can enforce as an ordinance violation the offense of illegal transportation of alcohol in motor vehicles;

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

SECTION 1: AMENDMENT TO SECTION 132.20 OF THE CODE

That Chapter 132 Offenses against Public Peace of the City of Wilmington Code of Ordinances is hereby amended so that Section 132.20 “Possession, sale, or consumption of alcoholic liquor in public places” shall state as follows:

132.20 - Possession, sale, or consumption of alcoholic liquor in certain places.

- (A) It shall be unlawful for any person to transport, carry, possess, or have any alcoholic liquor on or about his person on any public street, alley, sidewalk, or other public property within the city except in the original package with the seal unbroken.

- (B) It shall be unlawful for any person to sell, offer for sale, keep for sale, or consume any alcoholic liquor on any public street, alley, sidewalk, or any other public property within the city.
- (C) It shall be unlawful for any person to transport, carry, possess or have any alcoholic liquor within the passenger area of any motor vehicle upon a public roadway in the city except in the original container and with the seal unbroken.

Penalty, see Section 132.99(C)

SECTION 2: SEVERABILITY

If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

SECTION 3: REPEALER

Section 132.13 – Public Intoxication is hereby repealed. All ordinances or parts of ordinances conflicting with any provisions of this ordinance are hereby repealed.

SECTION 4: EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

PASSED this ____ day of _____, 2021 with ____ members voting aye, ____ members voting nay, the Mayor voting _____, with _____ members abstaining or passing and said vote being:

Kevin Kirwin	_____	John Persic, Jr.	_____
Dennis Vice	_____	Floyd Combes	_____
Ben Dietz	_____	Lisa Butler	_____
		Frank Studer	_____

Approved this ____ day of _____, 2021

Roy Strong, Mayor

Attest:

Joie Ziller, Deputy City Clerk

ORDINANCE NO. DRAFT

**AN ORDINANCE OF THE CITY OF WILMINGTON
AMENDING CHAPTER 113 AMUSEMENTS
PERTAINING TO AMUSEMENT TAXES**

WHEREAS, the City of Wilmington, Illinois is a non-home rule Illinois Municipal Corporation;
and

WHEREAS, pursuant to 65 ILCS 5/11-42-5 of the Illinois Municipal Code, the City is authorized to impose a tax upon amusements; and

WHEREAS, the City now desires to impose a tax upon the amusement of video streaming, audio streaming and online games delivered within the City (“Streaming Tax”); and

WHEREAS, the Illinois Mobile Telecommunications Sourcing Conformity Act (“MTSCA”), 35 ILCS 638/1 et seq., regulates the taxation of mobile telecommunication services; and

WHEREAS, the City of Wilmington (“City”) in accordance with the MTSCA, regulates the taxation of mobile telecommunications services within the City; and

WHEREAS, the City’s Streaming Tax will provide much needed revenue to promote the general health, safety, and welfare of the City and its residents within the City; and

WHEREAS, the Mayor and City Council of the City of Wilmington, hereby believe that it is in the best interest of the City and its residents to impose said Streaming Tax; and

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

SECTION 1: RECITALS INCORPORATED

The foregoing recitals shall be and are hereby incorporated as findings of fact as if said recitals were fully set forth herein.

SECTION 2: ORDINANCE AMENDED

That Article XI Business Regulations, Chapter 113 Amusements of the Wilmington Code of Ordinances be the same and the same is hereby amended to include the following:

Article 11. – Amusement Taxes

113.110 . Applicability of Provisions:

The provisions of this chapter, except as otherwise provided, shall apply to all amusements as hereinafter defined, whether specifically licensed or regulated under other provisions of this code or other ordinances, or not.

113.111 . Definitions:

“Amusement”: 1. Any exhibition, performance or show for entertainment purposes, including, but not limited to, any theatrical, dramatic, musical or spectacular performance, motion picture show, flower, poultry or animal show, animal act, circus, rodeo, athletic contest, sport, game or similar exhibition for public entertainment, including, without being limited to, boxing, wrestling, skating, dancing, swimming, racing, or riding on animals or vehicles, baseball, basketball, softball, football, tennis, golf, hockey, track and field games, bowling, billiard and pool games. 2. Any entertainment or recreational activity offered for public participation, including, without being limited to, dancing, carnival, amusement park rides and games, bowling, billiard and pool games. 3. Any paid television programming, whether transmitted by wire, cable, fiber optics, laser, microwave, radio, satellite or similar means. 4. Any video streaming, audio streaming or remotely-accessed online games made available or delivered electronically to patrons on a rental or subscription basis.

“Charges Paid”: the gross amount of consideration paid for the privilege to enter, to witness, to view or to participate in an amusement, including amounts paid for the right to access an amusement, valued in money, whether received in money or otherwise, including cash, credits, property and services, determined without any deduction for costs or expenses whatsoever. The term “charges paid” includes any and all charges that the patron pays incidental to obtaining the privilege to enter, to witness, to view or to participate in an amusement, including but not limited to any and all related markups, service fees, convenience fees, facilitation fees, cancellation fees and other such charges, regardless of terminology. The term “charges paid” does not include charges that are added on account of the tax imposed by this chapter or on account of any other tax imposed on the charge.

“Owner or Operator”: (1) any person who sells or resells a ticket or other license to an amusement for consideration or who, directly or indirectly, receives or collects the charges paid for the sale or resale of a ticket or other license to the amusement. The term includes, but is not limited to, persons engaged in the business of selling or reselling tickets or other licenses to amusements, whether online, in person or otherwise; (2) with respect to the owner of an amusement, any person which has an ownership or leasehold interest in such amusement or any person who has a proprietary interest in the amusement so as to entitle such person to all or a portion of the proceeds, after payment of reasonable expenses, from the operation, conduct or presentation of such amusement, excluding proceeds from non-amusement services and from sales of tangible personal property; (3) any person or entity operating a community antenna television system or wireless cable television system, or any person or entity receiving consideration from the patron for furnishing, transmitting, or otherwise providing access to paid television programming; (4) a person or entity operating a system, or any person or entity receiving consideration from the patron, for providing access to or electronically delivering video streaming, audio streaming or online games to patrons.

“Paid Television”: programming that can be viewed on a television or other screen, and is transmitted by cable, fiber optics, laser, microwave, radio, satellite or similar means to members of the public for consideration.

“Patron”: any person who acquires the privilege to enter, to witness, to view or to participate in an amusement; any person who has a primary place of use within the City who purchases the right to access an electronic amusement.

“Person”: any natural individual that participates in an amusement, including a firm, organization, society, foundation, institution, partnership, association, joint stock company, joint venture, limited liability company, public or private corporation, receiver, executor, trustee or other representative appointed by order of any court, or any other entity recognized by law.

113.112. Amusement Tax Imposed

(A) STREAMING TAX

(1) Except as otherwise provided by this Chapter, an amusement tax is imposed upon any person who participates in the privilege to witness, view or participate in an amusement. This includes not only charges paid for the privilege to witness, view or participate in amusements in person but also charges paid for the privilege to witness, view or participate in electronic amusements including, but not limited to, shows, movies, videos, music or online games, that take place within the City, or are delivered to a patron with a primary place of use within the jurisdictional boundaries of the City. This tax is not imposed on transactions where the patron pays for the rights of the permanent use of an electronic amusement.

(2) The rate of the tax shall be equal to **5% [Rate to be determined by City Council]** of the charges paid for such streaming service.

(3) In the case of amusements that are delivered electronically, as in the case of video streaming, audio streaming and online games, the rules set forth in the Illinois Mobile Telecommunications Sourcing Conformity Act, 35 ILCS 638, as amended, may be utilized for the purpose of determining which customers and charges are presumed to be subject to the tax imposed by this Chapter.

(B) TAX ADDITIONAL

The tax imposed in this Chapter is in addition to all other taxes imposed by the State of Illinois or any municipal corporation or political subdivision thereof.

(C) REGISTRATION

(1) Every Owner or Operator providing services to customers subject to this tax within the City shall apply for registration as a tax collector with the City no later than thirty (30) days after commencing such business or thirty (30) days after the effective date of this Ordinance imposing the Streaming Tax, whichever occurs later.

(2) The application shall be submitted to the City on the forms provided by the City and contain such information as reasonably required by the City to impose, collect, and audit all amounts related to the Streaming Tax.

(D) COLLECTION, PAYMENT, AND ACCOUNTING

(1) It shall be the joint and several duty of every Owner or Operator of an amusement under this Chapter to secure from each patron or buyer the tax imposed by this Chapter.

(2) For purposes of this Chapter, it shall be presumed that the amount of the Streaming Tax imposed on each Person, unless the taxpayer or tax collector provides otherwise with books, records, or other documentary evidence, has been collected from the Person by the Owner or Operator.

(3) Streaming Tax payments, accompanied by tax returns prescribed by the City, shall be remitted to the City not later than the 20th day of the month following the month in which payment for the Streaming Tax was made.

(4) Every Owner or Operator who is required to collect the Streaming Tax imposed by this Chapter shall be considered a tax collector for the city. All Streaming Tax collected shall be held by such tax collector as trustee for and on behalf of the City. The failure of the tax collector to collect the tax shall not excuse or release the patron from the obligation to pay the tax.

(5) The ultimate incidence of the Streaming Tax shall remain on the Person and shall never be shifted to the Owner or Operator.

(6) Notwithstanding any other provision of this Chapter, in order to permit sound fiscal planning and budgeting by the City, no Person shall be entitled to a refund of, or credit for, the Streaming Tax imposed by this Chapter unless the Person files a claim for refund or credit within one (1) year after the date on which the Streaming Tax was paid or remitted to the City.

(7) The Owner or Operator shall be subject to audit, inspection and record keeping provisions of this Code.

(8) It shall be unlawful for any Owner or Operator and/or Person to prevent, hinder, or interfere with the City's Officials, employees, and/or agents designated to discharge their respective duties in the performance and enforcement of the provisions of this Chapter.

(9) It is the duty of every Owner or Operator to keep accurate and complete books and records to which the City's officials, employees, and/or agents will at all times have full access.

(E) RULES AND REGULATIONS; AUTHORIZED

The City is authorized to adopt, promulgate, and enforce any additional rules and regulations pertaining to the interpretation, collection, administration, and enforcement of this Chapter.

(F) APPLICATION OF CITY CODE.

Any citation under this Chapter may be in addition to any other citations issued by the City under any and all applicable sections of the City Code.

(G) VIOLATIONS; PENALTIES

It shall be a violation of this Chapter for an Owner or Operator to fail to file a report within the time prescribed in this Chapter.

(1) Report Required: An Owner or Operator who falsely reports or fails to report the amount of Streaming Tax due as required by this Chapter shall be in violation of this Chapter and is subject to the penalties in this Section. All payments not remitted when due shall be paid together with a penalty assessment on the unpaid balance at a rate of 1.5% per month.

(2) Fine Imposed: Any Owner or Operator violating the provisions of this Chapter shall be subject to a fine of \$250.00 for the first offense, \$500.00 for the second offense and \$750.00 for a third offense.

(3) Each day a violation continues shall constitute a separate violation.

(4) It shall be deemed a violation of this Chapter for any Person to knowingly furnish false or inaccurate information to the City.

SECTION 3: SEVERABILITY

If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

SECTION 4: REPEALER

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

SECTION 5: EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

PASSED this ____ day of _____, 2021 with ____ members voting aye, ____ members voting nay, the Mayor voting _____, with ____ members abstaining or passing and said vote being:

Kevin Kirwin	_____	John Persic, Jr.	_____
Dennis Vice	_____	Floyd Combes	_____
Ben Dietz	_____	Lisa Butler	_____
		Frank Studer	_____

Approved this ____ day of _____, 2021

Roy Strong, Mayor

Attest:

Joie Ziller, Deputy City Clerk

ORDINANCE NO. DRAFT

**AN ORDINANCE REGARDING SOCIAL MEDIA USE
BY THE MUNICIPALITY AND BY ITS EMPLOYEES
FOR THE CITY OF WILMINGTON**

WHEREAS, the Illinois Municipal Code, 65 ILCS 5/1-2-1, provides that the corporate authorities of each municipality may pass all ordinances and make all rules and regulations proper or necessary, to carry into effect the powers granted to municipalities, with such fines or penalties as may be deemed proper; and

WHEREAS, The City of Wilmington understands that the use of social media by the City, its employees, and constituents presents opportunity for rapid and constant communication and also accompanying risks and responsibilities, the City establishes the following guidelines for acceptable use of social media; and

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

SECTION 1: SOCIAL MEDIA USE POLICY ADOPTED

The Social Media Use Policy, included as Exhibit A to this Ordinance, is hereby adopted.

SECTION 3: SEVERABILITY

If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

SECTION 4: REPEALER

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

SECTION 5: EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

PASSED this ____ day of _____, 2021 with ____ members voting aye, ____ members voting nay, the Mayor voting ____, with ____ members abstaining or passing and said vote being:

Kevin Kirwin	_____	John Persic, Jr.	_____
Dennis Vice	_____	Floyd Combes	_____
Ben Dietz	_____	Lisa Butler	_____
		Frank Studer	_____

Approved this ____ day of _____, 2021

Roy Strong, Mayor

Attest:

Joie Ziller, Deputy City Clerk

EXHIBIT A
SOCIAL MEDIA USE POLICY FOR THE
CITY OF WILMINGTON

I. Statement of Purpose

The City of Wilmington recognizes that social media platforms like Facebook have become mainstream forms of communication among residents, media outlets, government agencies, businesses and others. The City believes that social media platforms can effectively broaden the reach of government communication to its constituents and foster a dynamic environment for social discourse. Using this technology, the City has additional avenues by which to share news releases, inform the public of projects, initiatives and general city service information, and highlight events and positive media coverage. Additionally, social media provides the ability to share other information that supports the goals and mission of the City. Social media also provides a two-way means by which to interact with residents, visitors, media, local business owners and people who work in the City.

II. Administration of Accounts

A designated administrator, or administrators, will be responsible for maintenance and supervision of each social media platform of the City. Each administrator will be knowledgeable regarding the terms of the Social Media Use Policy, regarding other responsibilities to review content to ensure it is in compliance with the Policy and in furtherance of the City's goals.

III. "Social media platform(s)" shall mean any of the City of Wilmington accounts or online services that allow for interaction with City residents and other users, including, but not limited to, Twitter, Facebook and Instagram.

IV. Comment Policy

Social media platforms not only provide the government with a communications venue but often allow for public comment to be posted to the City's sites. Any comment made by a member of the public as a social media user is that user's opinion only. Publication of the comment does not imply endorsement or agreement by the government nor reflect the opinions or policies of the government.

The following enumerated list of content may not be permitted on the City's social media platforms and such content is subject to removal and/or restriction by the administrator. Content that:

- 1) promotes, fosters, or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, status with regard to public assistance, national origin, physical or mental disability or sexual orientation.
- 2) violates a legal ownership interest (such as a copyright or trademark);
- 3) threatens any person or organization;
- 4) includes personally identifiable information, such as a Social Security number or other sensitive information;
- 5) violates any federal, state or local law or encourages illegal activity;
- 6) is obscene, sexual or pornographic in content and/or language;
- 7) promotes commercial activities not related to government business;
- 8) is spam or links to malware/viruses; or
- 9) discloses confidential government information, sensitive information or personal information relating to government officials and employees, or members of the public.

Each particular private social media enterprise maintains a “Terms of Use” agreement. All comments posted to any City social media platform are bound by those Terms of Use agreements and the City reserves the right to report any user violation to the respective enterprise.

The City of Wilmington reserves the right to remove content from, or deny access to, any government social media platforms if any individual or organization violates the Social Media Use Policy.

V. Compliance with Laws

All City social media platforms shall adhere to applicable federal, state and local laws, regulations and policies. Content posted on any City social media platform by any user is subject to the Freedom of Information Act, record retention laws and may be subject to e-discovery laws. Property that is protected by copyright or trademark should not be posted or maintained on a social media platform in violation of the owner’s legal interest.