



## **CITY OF WASHINGTON, ILLINOIS**

### **City Council Agenda Communication**

- Meeting Date:** January 12, 2023
- Prepared By:** Chief Michael D. McCoy and Deputy Chief Jeff Stevens
- Agenda Item:** Amending Chapter 112 of the Washington City Code Regarding Delivery of Alcoholic Liquor
- Explanation:** The attached ordinance amendment would bring the City Code in to compliance with Public Act 101-0668, which limited home rule authority in regulating delivery of alcoholic liquor. The current impact is small, in that the City has been allowing curbside delivery as a pandemic response. One portion of the amendment is not required by P.A. 101-0668 and is still subject to home rule authority. The Illinois Liquor Control Act currently allows mixed drinks to be sold for off-premises consumption subject to a number of limitations, including that the drink is in a sealed, tamper-evident container. That provision of the Liquor Control Act will sunset January 3, 2024. For consistency and for the convenience of our retailers, that provision is included.
- Fiscal Impact:** No significant direct impact. Amending the City Code may alert local retailers that they can compete with out-of-the-city retailers offering delivery, which may affect sales tax revenue.
- Action Requested:** Review and deliberation by the City Council, followed by a vote on the amendment.

Synopsis: Adoption of this ordinance would bring the City Code in to alignment with the Illinois Liquor Control Act as regards retailer delivery of alcoholic liquor as required by Public Act 101-0668 and similarly align the Code regarding the sale of mixed drinks for off-premises consumption. The amendment regarding mixed drinks is subject to home rule regulation.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 112 OF THE WASHINGTON CITY CODE TO  
CODIFY RETAILER LICENSING DELIVERY PRIVILEGES  
REGARDING ALCOHOLIC LIQUOR**

**WHEREAS**, the City of Washington is a home-rule municipality in accordance with the Constitution of the State of Illinois of 1970;

**WHEREAS**, Public Act 101-0668 (Senate Bill 54) amended Section 5/5-1(d) (the “Amendment”) of the Illinois Liquor Control Act of 1934 (the “Act”) affecting retailer licensing shipping and delivery privileges regarding alcoholic liquor (as defined in the Act); and

**WHEREAS**, the Amendment to the Act specifies that “a home rule unit may not regulate the delivery of alcoholic liquor inconsistent with th[e] [Amendment]. This [] is a limitation . . . on the concurrent exercise by home rule units of powers and functions exercised by the State[]”; and

**WHEREAS**, the City Council of the City of Washington has determined that it is in the best interests of the City to amend the City Code to ensure it is consistent with the Amendment and the Act regarding delivery of alcoholic liquor.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Washington, Illinois as follows:

Section 1: The recitals; as set forth above, are incorporated herein as though fully set forth and shall be considered the express findings of the City Council.

Section 2: That Chapter 112 of the City Code of the City of Washington, Tazewell County, Illinois, be, and the same hereby is amended by adding new Section 112.41 to provide as follows:

**“§ 112.41 DELIVERY OF ALCOHOLIC LIQUOR**

(A) Except as provided in the Illinois Liquor Control Act of 1934, nothing in this Code shall deny, limit, remove, or restrict the ability of a holder of a retailer’s license to deliver alcoholic liquor to the purchaser for use or consumption. The delivery shall be made only within twelve hours from the time the alcoholic liquor leaves the licensed premises of the retailer for delivery. For the purposes of this Section 112.41, “delivery” means the movement of alcoholic liquor purchased from a licensed retailer to a consumer through the following methods:

(1) Delivery within a licensed retailer’s parking lot, including curbside, for pickup by the consumer;

- (2) Delivery by an owner, officer, director, shareholder, or employee of the licensed retailer; or
  - (3) Delivery by a third-party contractor, independent contractor, or agent with whom the licensed retailer has contracted to make deliveries of alcoholic liquors. This may include delivery companies specializing in food/beverage deliveries. Under subsection (1), (2), or (3), a delivery shall not include the use of common carriers.
- (B) Any retail license issued to a manufacturer shall only permit the manufacturer to sell beer at retail on the premises actually occupied by the manufacturer. For the purpose of further describing the type of business conducted at a retail licensed premises, a retailer's licensee may be designated by the Illinois Liquor Control Commission as (i) an on premise consumption retailer, (ii) an off premise sale retailer, or (iii) a combined on premise consumption and off premise sale retailer.
- (C) A retailer and its third-party delivery agent may deliver alcoholic liquor if the Illinois Liquor Control Commission has designated the retailer as an off-premises consumption or as a combined (off-premises/on-premises) license holder. No other licensee is authorized to deliver alcoholic liquor off premises to the consumer. Any retailer that delivers alcoholic liquor without an off-premises consumption or a combined (off-premises/on-premises) license, shall be in violation of this subsection and shall be subject to the penalties set forth in Section 112.99.
- (D) The retailer and its third-party delivery agent shall abide by all requirements of the Illinois Liquor Control Act of 1934, which include but are not limited to:
- (1) All packages containing alcoholic liquor must be clearly labeled **"CONTAINS ALCOHOL. SIGNATURE OF A PERSON 21 YEARS OF AGE OR OLDER REQUIRED FOR DELIVERY. PROOF OF AGE AND IDENTITY MUST BE SHOWN BEFORE DELIVERY."** This warning must be prominently displayed on the packages.
  - (2) A retailer shall require the transporter that delivers the alcoholic liquor package to obtain the signature of a person 21 years of age or older at the delivery address at the time of delivery.
  - (3) At the expense of the retailer, the retailer shall receive a delivery confirmation from the third-party delivery company indicating the location of the delivery, time of delivery, and the name and signature of the individual 21 years of age or older who accepts delivery.

(E) The retailer and its third-party agents shall abide by all local, state, and federal delivery laws, including but not limited to the alcohol beverage delivery laws of other states.

(F) A retailer shall be liable for delivery violations of a third-party delivery agent.

(G) All alcoholic liquor deliveries shall be in the original package unless the alcoholic liquor is delivered pursuant to 235 ILCS 5/6-28.8 (Delivery and carry out of mixed drinks permitted), which is scheduled to be repealed on January 3, 2024, as applicable. This subsection of 112.41 shall be repealed if and when 235 ILCS 5/6-28.8 is repealed.

(H) A retail licensee may sell alcoholic liquors to a special event retailer licensee for resale to the extent permitted by Section 5/5-1(e) of the Illinois Liquor Control Act of 1934. See Section 5/5-1(d) of the Illinois Liquor Control Act of 1934.

(I) Nothing contained herein this section shall be construed to be inconsistent with Section 5/5-1(d) of the Illinois Liquor Control Act of 1934, as amended by Public Act 101-0668.

Section 3: That Chapter 112 of the City Code of the City of Washington, Tazewell County, Illinois, be, and the same hereby is amended by adding Section 112.01(D) to provide as follows:

(D) **ALCOHOLIC LIQUOR.** For purposes of this Chapter, “alcoholic liquor” shall have the same meaning as set forth in Section 5/1-3.05 of the Illinois Liquor Control Act of 1934, as amended from time to time.

Section 4: All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed insofar as they are in conflict with this ordinance.

Section 5: If any provision of this ordinance is adjudged invalid, such adjudication shall not affect the validity of the ordinance as a whole or of any portion not adjudged invalid.

Section 6: This ordinance shall be in full force and effect from and after its passage, approval and publication as required by law.

**PASSED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_ 2023.

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK