

*Wilmington City Council  
Wilmington, Delaware  
October 7, 2021*

City Council met in “**virtual**” regular session on the above date at 6:30 p.m., President Ernest M. Congo, II presiding.

The opening prayer was done by Akira Grenardo, Deputy City Clerk.

The Pledge of Allegiance was recited by City Council.

**ROLL CALL**

The following members responded to the Call of the Roll: Council Members Gray, Darby, Oliver, Harlee, B. Fields, McCoy, Johnson, N. Field, Cabrera, Dixon and Spadola, and Council President Congo. Total, twelve. Absent with leave, Council Member Walsh. Total, one.

**MINUTES**

After reading a portion of the minutes of September 16, 2021, upon a motion of Council Member Cabrera, seconded by Council Members Dixon and Gray, it was moved they be accepted as written. Motion prevailed.

**COMMITTEE REPORTS**

The City Clerk read the following committee report:

| <b><u>Health, Aging &amp; Disabilities<br/>Committee Member</u></b> | <b><u>Present</u></b> | <b><u>Absent<br/>with<br/>Leave</u></b> | <b><u>Absent<br/>w/out<br/>Leave</u></b> |
|---|-----------------------|---|--|
| Rysheema J. Dixon, Chair  | X                     |   |  |
| Maria D. Cabrera, Vice Chair  | X                     |   |  |
| Yolanda M. McCoy  | X                     |   |  |
| Bregetta A. Fields  | X                     |   |  |
| Zanthia Oliver  | X                     |   |  |
| Ernest “Trippi” Congo II, Ex-Officio                                | X                     |   |  |

President and Members of Council of  
The City of Wilmington

September 22, 2021

Ladies and Gentlemen:

We, your Health, Aging & Disabilities Committee by **Virtual Meeting with anchor location**, to who was referred **Ordinance No. 21-037** entitled:

AN ORDINANCE TO AMEND CHAPTER 34 OF THE CITY CODE  
REGARDING BED BUG EXTERMINATION AND TREATMENT.

Have given this Ordinance careful study and recommend Council vote on it accordingly.

Respectfully submitted, Members of  
Health, Aging & Disabilities Committee

Upon a motion of Council Member Dixon, seconded by Council Members Gray and B. Fields, the Report was received, recorded and filed. Motion prevailed.

The City Clerk read the following committee report:

| Finance & Economic Development Committee Member | Present | Absent w Leave | Absent w/out Leave |
|---|---------|----------------|--------------------|
| Chris Johnson, Chair                            | YES     |                |                    |
| Michelle Harlee, Vice Chair                     | YES     |                |                    |
| Nathan Field                                    |         | YES            |                    |
| Zanthia Oliver                                  | YES     |                |                    |
| Loretta Walsh                                   |         | YES            |                    |
| James Spadola                                   | YES     |                |                    |
| Ernest "Trippi" Congo, Ex-Officio               | YES     |                |                    |

President and Members of Council of  
The City of Wilmington

October 4, 2021

Ladies and Gentlemen:

We, your Finance & Economic Development Committee by **Virtual Meeting with anchor location**, to who was referred **Substitute No. 1 to Ordinance No. 21-044** entitled:

AN ORDINANCE TO AMEND CHAPTER 2 OF THE CITY CODE  
TO REQUIRE ANNUAL ETHICS TRAINING

Have given this Substitute Ordinance careful study and recommend Council vote on it accordingly.

Respectfully submitted, Members of  
Finance & Economic Development Committee

Upon a motion of Council Member Johnson, seconded by Council Member Dixon, the Report was received, recorded and filed. Motion prevailed.

### **TREASURER'S REPORT**

The following Treasurer's Report for October 7, 2021 was read into the record by City Clerk and upon a motion of Council Member Cabrera, seconded by Council Member Dixon, the Report was received, recorded and filed. Motion prevailed.

*Note: The Treasurer's Report is included herein as an insert from Page 4 to Page 5.*

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# City of Wilmington



**DaWayne Sims**  
City Treasurer

## Treasurer's Report

October 07, 2021

### Cash - Ledger Balance (as of 10/06/2021):

|                                    |            |                         |
|------------------------------------|------------|-------------------------|
| General                            | M & T Bank | \$ 8,326,299.00         |
| Payroll                            | M & T Bank | \$ 1,259,984.52         |
| Law Department Court Costs         | M & T Bank | \$ 4,438.07             |
| Total Petty Cash                   | M & T Bank | \$ 6,284.22             |
| Police - Evidence Found (Currency) | M & T Bank | \$ 1,182,148.25         |
| Police & Fire Remembrance          | M & T Bank | \$ 8,444.49             |
| Police Department Discretionary    | M & T Bank | \$ 19,108.35            |
| Rent Withholding Escrow            | M & T Bank | \$ 4,137.97             |
| Grant-in-Aid                       | M & T Bank | \$ 112,760.87           |
| Community Development Block Grant  | M & T Bank | \$ 1.00                 |
| Capital Projects                   | M & T Bank | \$ 1.00                 |
| <b>Total Cash on Hand</b>          |            | <b>\$ 10,923,607.74</b> |

### Cash Equivalents & Investments (as of 10/06/2021):

| Account Type & Fund       | Institution | Investment Type       | Number of Days | Interest Rate | Interest Receivable | Investment Amount        |
|---------------------------|-------------|-----------------------|----------------|---------------|---------------------|--------------------------|
| <b>LIQUIDITY:</b>         |             |                       |                |               |                     |                          |
| General                   | M&T         | Overnight Repo        | Daily          | 0.01%         | \$ 21.69            | \$ 25,352,186.54         |
| General                   | TD          | ARPA funds*           | 1              | 0.08%         | \$ 61.50            | \$ 27,672,890.21         |
| General                   | TD          | High Yield Checking** | 1              | 0.08%         | \$ 55.56            | \$ 25,000,000.00         |
| General                   | TD          | High Yield Checking   | 6              | 0.08%         | \$ 253.52           | \$ 19,013,985.12         |
| General                   | TD          | High Yield Checking   | 6              | 0.08%         | \$ 66.72            | \$ 5,003,754.58          |
| General                   | TD          | High Yield Checking   | 6              | 0.10%         | \$ 102.97           | \$ 6,177,956.93          |
| <b>SUB-TOTAL:</b>         |             |                       |                |               |                     | <b>\$ 108,220,773.38</b> |
| <b>RESERVE:</b>           |             |                       |                |               |                     |                          |
| General <sup>1</sup>      | TD          | High Yield Checking   | 6              | 0.08%         | \$ 218.09           | \$ 16,356,668.38         |
| <b>SUB-TOTAL</b>          |             |                       |                |               |                     | <b>\$ 16,356,668.38</b>  |
| <b>RESTRICTED:</b>        |             |                       |                |               |                     |                          |
| Capital Project           | TD          | High Yield Checking   | 6              | 0.08%         | \$ 50.59            | \$ 3,794,516.36          |
| Capital Project           | TD          | High Yield Checking   | 6              | 0.08%         | \$ 89.20            | \$ 6,690,056.86          |
| Capital Project           | TD          | High Yield Checking   | 6              | 0.08%         | \$ 550.81           | \$ 41,310,522.86         |
| Water/Sewer               | TD          | High Yield Checking   | 6              | 0.08%         | \$ 43.68            | \$ 3,276,364.37          |
| <b>SUB-TOTAL</b>          |             |                       |                |               |                     | <b>\$ 55,071,460.45</b>  |
| <b>Total Investments</b>  |             |                       |                |               |                     | <b>\$ 179,648,902.21</b> |
| <b>Total Cash on Hand</b> |             |                       |                |               |                     | <b>\$ 10,923,607.74</b>  |
| <b>Grand Total</b>        |             |                       |                |               |                     | <b>\$ 190,572,509.95</b> |

<sup>1</sup> Budget Reserve

\*Restricted use per ARPA US Treasury Guidelines

\*\*Excess funds moved to Investment

CITY TREASURER'S OFFICE

DaWayne Sims, City Treasurer

LOUIS L. REDDING CITY/COUNTY BUILDING • 800 FRENCH STREET • WILMINGTON, DELAWARE • 19801-3537

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# City of Wilmington



## Treasurer's Report (Pensions) October 7, 2021

DaWayne Sims  
City Treasurer

### Cash - Ledger Balance (as of 10/06/2021):

|  |            |    |                   |
|--|------------|----|-------------------|
| Pension Payroll                        | M & T Bank | \$ | 351,097.18        |
| Retiree Healthcare                     | M & T Bank | \$ | 117,753.18        |
| Police Pension                         | M & T Bank | \$ | 19,605.21         |
| Fire Pension                           | M & T Bank | \$ | 17,310.95         |
| Non-Uniform Pension Act of 1990-Plan 3 | M & T Bank | \$ | 326,294.56        |
| Non-Uniform Pension Plan 2             | M & T Bank | \$ | 1,500.00          |
| Old Non-Uniform Pension - Plan 1       | M & T Bank | \$ | 1,592.81          |
| <b>Total Cash on Hand</b>              |            | \$ | <b>835,153.89</b> |

### Cash Equivalents (as of 10/06/2021) & Investments (Market Value as of October 01, 2021)

| Account Type & Fund       | Institution                | Investment Type | Maturity Date | Interest Rate | Interest Receivable | Investment Amount        |
|---------------------------|----------------------------|-----------------|---------------|---------------|---------------------|--------------------------|
| <b>LIQUIDITY:</b>         |                            |                 |               |               |                     |                          |
| Pension Plan III          | WSFS                       | CD              | 10/25/2021    | 0.01%         | \$ 7.50             | \$ 883,871.48            |
| Fire Pension              | WSFS                       | CD              | 10/25/2021    | 0.01%         | \$ 12.40            | \$ 1,459,893.53          |
| <b>SUB-TOTAL:</b>         |                            |                 |               |               |                     | <b>\$ 2,343,765.01</b>   |
| <b>RESERVE:</b>           |                            |                 |               |               |                     |                          |
| Pension Trust             | Edgar Lomax                |                 |               |               |                     | \$ 27,961,209.00         |
| Pension Trust             | Vanguard Fixed             |                 |               |               |                     | \$ 42,640,432.00         |
| Pension Trust             | Earnest Partners           |                 |               |               |                     | \$ 37,991,375.00         |
| Pension Trust             | Wilmington Trust           |                 |               |               |                     | \$ 44,148,317.00         |
| Pension Trust             | Vanguard Stock Index       |                 |               |               |                     | \$ 16,322,221.00         |
| Pension Trust             | Artisan Global             |                 |               |               |                     | \$ 15,161,127.00         |
| Pension Trust             | Dodge & Cox                |                 |               |               |                     | \$ 15,262,405.00         |
| Pension Trust             | Fidelity Market Index      |                 |               |               |                     | \$ 1,600,000.00          |
| Pension Trust             | Fidelity Total Intl. Index |                 |               |               |                     | \$ 5,000,000.00          |
| Pension Trust             | Fidelity Emerging Market   |                 |               |               |                     | \$ 4,500,000.00          |
| Pension Trust             | Fidelity Bond Index        |                 |               |               |                     | \$ 1,100,000.00          |
| Pension Trust             | AB Global Core             |                 |               |               |                     | \$ 15,000,000.00         |
| Pension Trust             | Hartford Schroder          |                 |               |               |                     | \$ 6,000,000.00          |
| Pension Trust             | Vanguard Global            |                 |               |               |                     | \$ 14,228,429.00         |
| Pension Trust             | MFS Growth                 |                 |               |               |                     | \$ 31,985,586.00         |
| Pension Trust             | Clarion Lyon               |                 |               |               |                     | \$ 10,460,126.00         |
| Pension Trust             | Money Market               |                 |               |               |                     | \$ 2,271,527.00          |
| Pension Trust             | Morgan Stanley             |                 |               |               |                     | \$ 9,770,459.00          |
| Pension Trust             | Vanguard-OPEB              |                 |               |               |                     | \$ 31,743,756.00         |
| <b>SUB-TOTAL</b>          |                            |                 |               |               |                     | <b>\$ 333,146,969.00</b> |
| <b>Total Investments</b>  |                            |                 |               |               |                     | <b>\$ 335,490,734.01</b> |
| <b>Total Cash on Hand</b> |                            |                 |               |               |                     | <b>\$ 835,153.89</b>     |
| <b>Grand Total</b>        |                            |                 |               |               |                     | <b>\$ 336,325,887.90</b> |

### Total Funds under Treasury Management:

|                                |  |  |  |  |  |                          |
|--------------------------------|--|--|--|--|--|--------------------------|
| <b>Total Investments</b>       |  |  |  |  |  | <b>\$ 515,139,636.22</b> |
| <b>Total Cash on Hand</b>      |  |  |  |  |  | <b>\$ 11,758,761.63</b>  |
| <b>Grand Total<sup>1</sup></b> |  |  |  |  |  | <b>\$ 526,898,397.85</b> |

<sup>1</sup> Excludes non-City funds held in trust on behalf of City employees (Mass Mutual)

CITY TREASURER'S OFFICE

DaWayne Sims, City Treasurer

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## **NON-LEGISLATIVE BUSINESS**

Upon a motion of Council Member Cabrera, seconded by Council Member Gray, the following non-legislative resolutions were accepted into the record and motion prevailed:

|             |  |
|-------------|--|
| All Council | Recognize Mikaelyn Austin                              |
| All Council | Sympathy Newark Council Member Sharon Hughes           |
| All Council | Recognize Hurricane Ida First Responders               |
| All Council | Sympathy Robert Maxwell                                |
| Cabrera     | Recognize Delaware Hispanic Awards & Dr. Ronaldo Tello |
| Cabrera     | Recognize National Peace Week                          |
| Cabrera     | Sympathy Morris Lee Simms, Sr.                         |
| Harlee      | Recognize Martin P. Hageman (Downtown Visions)         |
| McCoy       | Recognize I Am My Sister's Keeper's Tea Party          |
| Oliver      | Sympathy Thelma Lorraine Taylor                        |
| Oliver      | Sympathy Marian E. Bleen                               |
| Oliver      | Sympathy Stephan L. Fullman                            |
| Oliver      | Sympathy Michael Jarmon                                |
| Walsh       | Sympathy Richard Mazzio                                |

## **PUBLIC COMMENTS**

At this time, President Congo opened up the floor for public comment and the following individual spoke: Branden Fletcher.

## **LEGISLATIVE BUSINESS**

Council Member Gray did not have any legislation to present this evening.

Council Member Darby presented and called for the first and second reading Ordinance No. 21-047 (Agenda #0096) entitled:

### **AN ORDINANCE TO ENACT A TEMPORARY MORATORIUM ON WATER SERVICE DISCONNECTIONS**

**FISCAL IMPACT:** The fiscal impact of a water service disconnection moratorium is projected to reduce water/sewer revenue collections by approximately \$282,000 per month. This is based on the effects of a similar moratorium due to COVID 19 between March 2020 and May 2021, which resulted in a loss of \$4.2 million over the period. This was due to the prohibition of water disconnection as a primary enforcement tool for payment. A similar moratorium could potentially cost the City \$1.7 million in reduced revenues over 6 months.

The above-referenced Ordinance was given two separate readings by title only and upon a motion of Council Member Darby, seconded by Council Member McCoy, the Ordinance was received, recorded and referred to the Finance & Economic Development Committee meeting. Motion prevailed.

Council Member Oliver presented and called for the first and second reading Ordinance No. 21-048 (Agenda #0097) entitled:

AN ORDINANCE TO AMEND CHAPTER 4 OF THE CITY CODE TO ELIMINATE (I) LICENSING REQUIREMENTS FOR STATIONARY ENGINEERS AND FIREMEN, (II) ATTENDANT AND INSPECTION REQUIREMENTS FOR POWER BOILERS, FIRED PRESESURE VESSELS AND INSTALLATIONS USING NUCLEAR FUEL, AND (III) THE BOARD OF EXAMINING ENGINEERS

**FISCAL IMPACT STATEMENT:** This Ordinance has no anticipated fiscal impact.

The above-referenced Ordinance was given two separate readings by title only and upon a motion of Council Member Darby, seconded by Council Member Dixon, the Ordinance was received, recorded and referred to the Public Works & Transportation Committee. Motion prevailed.

Council Member Oliver presented and called for the third and final reading Ordinance No. 21-037 (Agenda #0082) entitled:

AN ORDINANCE TO AMEND CHAPTER 34 OF THE CITY CODE REGARDING BED BUG EXTERMINATION AND TREATMENT

Council Member Oliver presented a **Substitute** (Rev. 2) in lieu of that Ordinance:

AN ORDINANCE TO AMEND CHAPTER 34 OF THE CITY CODE REGARDING BED BUG EXTERMINATION AND TREATMENT

**FISCAL IMPACT STATEMENT:** The projected fiscal impact of this Ordinance is negligible. The City is choosing to use a pre-prepared brochure published by the United States EPA for distribution to Tenants.

**POLICY STATEMENT:** The resurgence of bed bugs has created significant concern in the pest management industry and in society overall. The spread of bed bug infestations is a burden on the resources of Wilmington residents, property owners and health and social services providers in both the public and private sectors. In a time of fiscal austerity, cities should choose strategies that are both cost-efficient and highly effective.

Smart, dedicated action can prevent the spread of bed bugs, thereby saving money and preventing waste in the long term. Municipalities across the country are creating and/or strengthening legislation on this issue. Examples of such proactive local jurisdictions include Philadelphia, Chicago, Jersey City, San Francisco, New York City, Boston, Cincinnati and Detroit. The goal of these regulations is not to overburden landlords, but to raise the bar and ensure to the extent possible that landlords are responsible stewards of their properties, working with the municipality to ensure safe, clean and healthy neighborhoods.

Upon a motion of Council Member Oliver, seconded by Council Member Dixon, the Substitute Ordinance was before the Council for its consideration. Motion prevailed. Council Member Oliver spoke on the purpose of the Ordinance.

President Congo requested the Clerk to call for the roll.

The above-referenced **Substitute** Ordinance was read for the third and final time and was adopted by title and section recurring to the Enacting Clause and was passed by the following Yea and Nay Roll Call Vote: Yeas, Council Members Gray, Darby, Oliver, Harlee, B. Fields, McCoy, Johnson, N. Field, Cabrera, Dixon and Spadola, and Council President Congo. Total, twelve. Nays, none. Absent, Council Member Walsh. Total, one.

President Congo declared the **Substitute** Ordinance **adopted**.

Upon a motion of Council Member Harlee, seconded by Council Member Dixon, Council dissolved into the Committee of the Whole for the purpose of holding a public hearing on Ordinance No. 21-040. Motion prevailed.

**PUBLIC HEARING - ORDINANCE NO. 21-040**  
**AN ORDINANCE TO AMEND CHAPTER 48 OF THE CITY CODE REGARDING USES PERMITTED IN THE W-4 (WATERFRONT RESIDENTIAL/COMMERCIAL) ZONING DISTRICT AND PARKING LOT LANDSCAPING REQUIREMENTS FOR ALL WATERFRONT ZONING DISTRICTS**

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President Congo requested the Clerk read the Affidavit of Publication.

The City Clerk read the Affidavit of Publication. Upon a motion of Council Member Harlee, seconded by Council Member McCoy, the Affidavit of Publication was made a part of the record. Motion prevailed.

*Note: The Affidavit of Publication is attached herein as an insert from Page 9 through Page 10.*





**The News Journal**  
**Media Group**

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## AFFIDAVIT OF PUBLICATION

# of Affidavits 1

**This is not an invoice**

**State of Delaware**  
**New Castle County**

Personally appeared **The News Journal**

Of the **The News Journal Media Group**, a newspaper printed, published and circulated in the State of Delaware, who being duly sworn, depose and saith that the advertisement of which the annexed is a true copy, has been published in the said newspaper 1 times, once in each edition dated as follows :

09/22/2021 A.D 2021

*Gail Wilczewski*

Sworn and subscribed before me, this 22 day of  
September, 2021

*Melanie C Altz*

Ad Number: 0004921050

Legal notification printed at larger size for affidavit.



Notice of time and place of a public hearing before Wilmington City Council on Ordinance No. 21-040, which proposes to amend Chapter 48 of the Wilmington City Code.

In accordance with the enactment of Delaware General Assembly Senate Bill 94, members of the public will be allowed to participate in the public hearing either in person in the Council Chambers, 1st floor, City/County Building, 800 N. French Street, Wilmington, Delaware or virtually on October 7, 2021 at 6:30 p.m. before Wilmington City Council, sitting as a Committee of the Whole, for the purpose of considering Ordinance No. 21-040 entitled:

AN ORDINANCE TO AMEND CHAPTER 48 OF THE CITY CODE REGARDING USES PERMITTED IN THE W-4 (WATERFRONT RESIDENTIAL/COMMERCIAL) ZONING DISTRICT AND PARKING LOT LANDSCAPING REQUIREMENTS FOR ALL WATERFRONT ZONING DISTRICTS

The instructions to access the public hearing virtually will be included on the agenda for the October 7, 2021 Council meeting.

Ordinance No. 21-040 was introduced in City Council at a regular meeting held on July 8, 2021 and received 1st & 2nd readings at that time. Resolution No. 21-042, adopted at the September 16, 2021 City Council meeting, directs that a public hearing on Ordinance No. 21-040 be held by City Council on October 7, 2021 at 6:30 p.m. and directs the President of City Council and the Wilmington City Clerk to give public notice of said hearing in the manner and form required by the Zoning Enabling Act and the Wilmington City Code. Ordinance No. 21040 proposes to amend the existing Wilmington Zoning Code.

This notice is given pursuant to the provisions of Sec. 48-51 of the Wilmington City Code providing that the Wilmington Zoning Code may be amended after a public hearing is held, at which time interested property owners and citizens may have an opportunity to be heard in favor of or in opposition to the proposed amendment.

The text and report of the City Planning Commission related to this proposed amendment may be requested by contacting the City Clerk's Office at (302) 576-2144 from 8:30 a.m. to 4:30 p.m., except on Saturdays, Sundays, and holidays.

By direction of City Council  
ERNEST M. CONGO II, President  
9/22-NJ

City Clerk  
MARIBEL SEIJO

0004921050-01

President Congo requested the Clerk read the Planning Commission Report.

The City Clerk read the Planning Commission Report. Upon a motion of Council Member Harlee, seconded by Council Member McCoy, the Planning Commission was made a part of the record. Motion prevailed. The Planning Commission's Report constituting the recommendation to City Council are further reflected in the videotape of the October 7, 2021 City Council meeting and public hearing, which is incorporated herein by reference.

Mr. Matthew Harris (Senior Planner II) did a presentation, which is reflected in the videotape of the October 7, 2021 City Council meeting and public hearing, which is incorporated herein by reference.

Council Member Johnson raised questions and Mr. Harris responded. Council Member McCoy made comments and raised a question and Mr. Harris responded. Council Member B. Fields raised a question and Mr. Harris responded. Council Member Harlee made comments and Mr. Harris made comments as well.

At this time, President Congo opened up the floor for anyone from the public to speak for or against the proposed ordinance; however, nobody desired the privileged of the floor.

Upon a motion of Council Member Harlee, seconded by Council Member McCoy, Council returned to the Regular Order of Business. Motion prevailed.

Council Member Darby made comments and stated she was in opposition of the legislation.

### **RETURN TO REGULAR ORDER OF BUSINESS**

President Congo requested the Clerk to read the following committee report:

| <b>Community Development &amp; Urban Planning Committee Members</b> | <b>Present</b> | <b>Absent w/ Leave</b> | <b>Absent w/out Leave</b> |
|---|----------------|------------------------|---------------------------|
| Maria D. Cabrera, Chair   | ✓              |                        |                           |
| Nathan Field, Vice Chair  | ✓              |                        |                           |
| Yolanda M. McCoy  | ✓              |                        |                           |
| Bregetta A. Fields  | ✓              |                        |                           |
| James Spadola   |                | ✓                      |                           |
| Shané N. Darby  | ✓              |                        |                           |
| Ernest "Trippi" Congo II, Ex-Officio                                | ✓              |                        |                           |

President and Members of Council of  
The City of Wilmington

September 9, 2020

Ladies and Gentlemen:

We, your Community Development & Urban Planning Committee by  
**Virtual Meeting with anchor location**, to who was referred **Ordinance No. 21-040**  
entitled:

AN ORDINANCE TO AMEND CHAPTER 48 OF THE CITY CODE  
REGARDING USES PERMITTED IN THE W-4 (WATERFRONT  
RESIDENTIAL/COMMERCIAL) ZONING DISTRICT AND  
PARKING LOT LANDSCAPING REQUIREMENTS FOR ALL  
WATERFRONT ZONING DISTRICTS

Have given this Ordinance careful study and recommend Council vote on  
it accordingly.

Respectfully submitted, Members of  
Community Development & Urban Planning Committee

Upon a motion of Council Member Harlee, seconded by Council Member  
McCoy, the Report was received, recorded and filed. Motion prevailed.

President Congo asked the Clerk if there were any Findings.

The City Clerk read the following Findings:

#### **MEMORANDUM**

**TO:** The Honorable Ernest “Trippi” Congo II, President of City Council  
The Honorable Members of City Council

**FROM:** Elizabeth D. Power, Senior Assistant City Solicitor

**CC:** Daniel T. Walker, City Council Chief of Staff  
Maribel Seijo, City Clerk  
Tanya Washington, Mayor’s Office Chief of Staff  
Herbert M. Inden, Director of Planning  
Gwinneeth Kaminsky, Planning Manager  
Matthew Harris, Senior Planner II  
Robert M. Goff, Jr., City Solicitor

**DATE:** October 6, 2021

**RE:                   City Council Findings Supporting the Enactment of Ordinance No. 21-040 to Amend Chapter 48 of the City Code Regarding Uses Permitted in the W-4 (Waterfront Residential/Commercial) Zoning District and Parking Lot Landscaping Requirements for All Waterfront Zoning Districts**

Enclosed please find a copy of the findings (the “Findings”) prepared in connection with Council’s scheduled public hearing on October 7, 2021 regarding the above-referenced zoning ordinance (the “Ordinance”). The Findings supplement the record of the City Planning Commission and its report, as well as the record of the Council’s public hearing, and the Law Department advises their inclusion in the record as a means of complying with Delaware Court decisions that involve zoning ordinances of County governments, but the principles of which apply to Wilmington, as well.

In this instance, the Findings support the provisions of the Ordinance. The Findings and the Ordinance reflect the recommendations approved by the City Planning Commission at its regular meeting following its public hearing on May 18, 2021. At that meeting, the Planning Commission approved its Resolution No. 5-21 (as amended), which recommended the amendments proposed in the Ordinance. The enclosed Findings support those recommendations.

Should you have any questions regarding this matter, please do not hesitate to contact me.

**FINDINGS SUPPORTING THE ENACTMENT OF ORDINANCE NO. 21-040**

City Council makes the following findings (the “Findings”) regarding the proposed zoning code (the “Zoning Code”) amendments that are the subject of Ordinance No. 21-040 (the “Ordinance”).

Proposed Zoning Code Action:

An Ordinance to Amend Chapter 48 of the City Code Regarding Uses Permitted in the W-4 (Waterfront Residential/Commercial) Zoning District and Parking Lot Landscaping Requirements for All Waterfront Zoning Districts

1.       The proposed definition of “drive through facility” contained in Section 1 of the Ordinance is necessary to establish what constitutes a “drive through facility” for the purpose of prohibited uses in the W-4 (Waterfront Residential/Commercial) zoning district (the “W-4 District”).
2.       The prohibition of drive through facilities as matter of right uses in the W-4 District contained in Section 2 of the Ordinance is appropriate because drive through facilities encourage land use patterns that are auto oriented, which is not compatible with the W-

4 District that is designed to be multi modal with a pedestrian emphasis.

3. The limitation of light industrial uses, both as matter of right uses and uses permitted with Zoning Board of Adjustment approval in the W-4 District, to 5,000 square feet contained in Section 2 of the Ordinance is appropriate because the primary purpose of the W-4 District is the development of residential, commercial, and office spaces and industrial uses over 5,000 square feet are inconsistent with such purpose.
4. The prohibition of outdoor storage as a use permitted with Zoning Board of Adjustment approval in the W-4 District contained in Section 2 of the Ordinance is appropriate because the primary purpose of the W-4 District is the development of residential, commercial, and office spaces and outdoor storage is inconsistent with such purpose.
5. The requirement that all new parking lots in all waterfront districts comply with the Zoning Code's parking lot landscaping requirements contained in Section 3 of the Ordinance is appropriate because it will advance the City's resiliency goals, such as stormwater capture, increasing tree canopy, and reducing the heat island effect associated with surface parking lots.
6. The proposed amendments to the Zoning Code contained in the Ordinance: (i) reflect and encourage mixed use development and (ii) encourage land use patterns consistent in an urban context.
7. The proposed amendments to the Zoning Code contained in the Ordinance support the goals contained in the Citywide comprehensive plan entitled "Wilmington 2028: A Comprehensive Plan for Our City and Communities".
8. The proposed amendments to the Zoning Code contained in the Ordinance are consistent with the recommendation of the University of Delaware's Institute for Public Administration's report entitled "*City of Wilmington Waterfront Zoning Review, Best Practices in Comparable Cities.*"

### **CONCLUSION**

This concludes the set of Council's Findings for the proposed amendments to the Zoning Code that are the subject of the Ordinance. The Ordinance incorporates the recommendations of the City Planning Commission regarding the proposed amendments

to the Zoning Code, which were approved at the Planning Commission meeting on May 18, 2021 and contained in its Resolution 5-21 (as amended).

Upon a motion of Council Member Harlee, seconded by Council Member McCoy, the Findings were made a part of the record. Motion prevailed.

Council Member Harlee presented and called for the third and final reading Ordinance No. 21-040 (Agenda #0086) entitled:

AN ORDINANCE TO AMEND CHAPTER 48 OF THE  
CITY CODE REGARDING USES PERMITTED IN THE  
W-4(WATERFRONT RESIDENTIAL/COMMERCIAL)  
ZONING DISTRICT AND PARKING LOT LANDSCAPING  
REQUIREMENTS FOR ALL WATERFRONT ZONING  
DISTRICTS

**FISCAL IMPACT STATEMENT:** This Ordinance has no anticipated fiscal impact.

Upon a motion of Council Member Harlee, seconded by Council Members McCoy and Oliver, the Ordinance was before the Council for its consideration. Motion prevailed. Council Member Harlee made comments.

President Congo reminded the Council Members when voting, they will need to state their reason for their vote. President Congo requested the Clerk to call for the roll.

The above-referenced Ordinance was read for the third and final time and was adopted by title and section recurring to the Enacting Clause and was passed by the following Yea and Nay Roll Call Vote: Yeas, Council Members Gray – yes, I’ve experience the example of Concord Pike so I’m in support of the ordinance, thank you, yes; Oliver – yes, based on the Findings; Harlee – So, I am definitely a yes, based on the Findings and the people that live in that area, they were notified. I think it’s very important that the people that live in different communities where there is work being done or if there’s any kind of issues or any kind of concerns, if the people in that particular area are supportive of what is going on, I think that is a good reason for me to support this legislation as well as conversations are always going on down at the Riverfront. The majority of the workers down at the Riverfront are brown and black people at all of the different areas that are down there that thriving businesses, the majority of them are brown and black people and I’m really happy about that and my answer is yes; B. Fields – my answer yes, one, based on the Findings and secondly, if Councilwoman Harlee has done her due diligence in her district to talk to her constituents and find out if this is something that they want within their district and she is their representative for that particular district, then I will, then I am in agreement with what she says her constituents want. So, my answer is yes, thank you; McCoy – yes, based on the Findings and the information shared at the public hearing; Johnson – yes, based on the Findings and also similar to Council Member Fields. I do believe in trusting the rep.

for that district, so, you know, Council Member Harlee has talked to the community and done her work, I've stated this for years on Council that you know, each district that a Councilmember has done the work in the community and is engaged, I trust that member and I won't second guess their support of this initiative and that's the community support, thank you; N. Field – yes, for basically the same logic that my colleague have laid out, so, yes; Cabrera – I'm voting yes, based on the Findings and for the security reasons in terms of public safety or pedestrians, thank you; Dixon – yes, based on the Findings; and Spadola – yes, based on the Findings; and Council President Congo – yes, based on the Findings. Total, eleven. Nays, none. Present, Council Member Darby –present and I kind of already stated why but I can't be in support of much happening in the Riverfront when we're not having real conversations about what's going on. We talk about zoning, we talk about all these things, but nobody is having conversations about local hire and building down there, are people living down there (inaudible) outlet, but we want to make sure our riverfront looks pretty, don't we? But we're not having conversations about other development in the City. So, I'm present. Total, one. Absent, Council Member Walsh. Total, one.

President Congo declared the Ordinance **adopted**.

Council Members B. Fields, McCoy and Johnson did not have any legislation to present this evening.

Council Member N. Field presented and called for the first and second reading Ordinance No. 21-049 (Agenda #0098) entitled:

AN ORDINANCE TO AMEND CHAPTER 37 OF THE  
CITY CODE TO ENSURE PRIVATELY OWNED  
OFFICIAL TRAFFIC CONTROL DEVICES ARE  
REMOVED WITHIN A REASONABLE TIME AFTER  
THE COMPLETION OF A CONSTRUCTION PROJECT

**FISCAL IMPACT STATEMENT:** This Ordinance has no anticipated fiscal impact.

The above-referenced Ordinance was given two separate readings by title only and upon a motion of Council Member N. Field, seconded by Council Member Johnson, the Ordinance was received, recorded and referred to the Public Works & Transportation Committee. Motion prevailed.

Council Members Cabrera and Dixon did not have any legislation to present this evening.

Council Member Spadola presented and called for the third and final reading Ordinance No. 21-044 (Agenda #0090) entitled:



AN ORDINANCE TO AMEND CHAPTER 2 OF THE  
CITY CODE TO REQUIRE ANNUAL ETHICS  
TRAINING AND TO REVISE THE PROCEDURE  
TO AMEND THE CITY ETHICS REQUIREMENTS

Council Member Spadola presented a **Substitute** (Rev. 1) in lieu of that  
Ordinance:

AN ORDINANCE TO AMEND CHAPTER 2 OF THE  
CITY CODE TO REQUIRE ANNUAL ETHICS  
TRAINING

**FISCAL IMPACT STATEMENT:** This Substitute Ordinance has no anticipated fiscal  
impact.

Upon a motion of Council Member Spadola, seconded by Council  
Member Dixon, the **Substitute** Ordinance was before the Council for its consideration.  
Motion prevailed. Council Member Spadola spoke on the purpose of the legislation and  
made comments. Council Members Gray, Johnson, McCoy, B. Fields, Harlee, Darby and  
Cabrera made comments. President Congo made comments and requested to be added as  
a co-sponsor. Council Member Oliver made comments.

Upon a motion of Council Member Oliver, seconded by Council Member  
Dixon, the following floor amendment was made as such:

On Page 3, Section 2 (d):

- Strike section (d) in its entirety where it states: Certification transparency.  
The ethics commission shall provide on its city webpage a list of those  
elected officials who have complied with the ethics training requirement.

**ON THE QUESTION ON THE AMENDMENT**

Council Member Gray: I have to agree with Councilwoman Harlee and  
Darby that this really isn't necessary to publish the people's name who have taken the  
ethics training. But maybe Councilman Spadola and I come from law enforcement and  
even though people are adults, they lie, they cheat, and just because they're elected  
officials, they're still people and that doesn't mean they don't do those things. And, if as  
stated, no one is going to look it, then what's the problem. Several times it was stated  
that no one is really interested in this information and they're not going to look at it.  
Well, if that's true, then what's the difference that it's out there? I just really think, and I  
agree with, also Councilwoman Cabrera, that in private industry, the forty (40) years,  
however long people have worked in private industry, they can take you behind the door  
and fire you or they can sanction your pay, or they can take some other action against you  
for not doing what they want you do. They can't do that to us as elected officials. So, I  
really think that I really think, we do need to have some incentive for people to take it. If  
you don't take it, I don't think any of us are going to around and say, did you take it?

Did you take it? No. But it's something we're supposed to do and there's no other way to verify that the person has done it. So, if you don't think anyone is going to be interesting in it, then there's no problem with the names being published and I don't think it's childish. I think it's more that we come from law enforcement, and we know that no matter what you mandate or ask people to do, if there's no check on, and really if there's no punishment, at least a third of the people are not going to do it. It's a third will do it, a third won't do it and a third will be in the middle, you'll have to encourage them. So, I really do not support this motion at all. Thank you.

President Congo: Thank you and you brought up a good point that I wanted to address Councilwoman Gray. So, as we are giving our opinion on other Councilmember's legislation, let's please be mindful to be respectful about their opinion and their legislation and not use any demeaning words. Just appreciate that across the board. Thank you. Again, we're speaking to the amendment. Councilman Spadola.

Council Member Spadola: Thank you Council President. I do not support the amendment. A correction, this is not a public shaming list. This is a list of people that have taken the training. Those comments were probably more relevant prior to changing but based on feedback about people that didn't want the shaming, I made it a, you know, a commendation list. You took the training, congrats. And the reason that I think that's important, Councilwoman Cabrera nailed it, if an employee doesn't do it, HR will handle them and fire them if need be. For us, there's no other recourse other than the voters in 2024 and this is a way for the voters to see if a, you know, if they want to elect a member who took the ethics training, they can check the list. It's up to them. And this is, you know, I think the big thing we're all missing here, this is asking transparency of ourselves. It's easy for us to ask other people to be transparent, I'm asking us to be transparent of ourselves. Thank you.

President Congo: Alright, thank you. Councilwoman Harlee.

Council Member Harlee: Oh, yes, thank you Mr. President. And again, as I had said earlier, every Councilmember completed the ethics training and there was no set requirement to have done by a certain time. So, it's almost like, ok, everybody completed it. So, it's just like what's the impetus for having the extra layer when, I can see if we all did not complete the training. I'm not going to beat a dead horse, but again, unless there is some other reason as to why it was added to the legislation, like I said, everybody completed it, there was no set date, and we all did what we were supposed to do. We were responsible, we handled it and all the things that we're talking about as it relates to what the means on the website, we already did it. So, like again, I'm not going to beat a dead horse, but again, we complied, we were 100% and there was no deadline and we still completed it, and everyone can say that. So, if this is, you know, how the majority of the Councilmembers' feel, then, so be it. But that's basically the way that I feel. Great legislation and if the majority feel as though it should be posted on the website then that's what it is.

President Congo: Thank you. Councilwoman Dixon. Again, we're speaking to the amendment. Councilwoman Dixon.

Council Member Dixon: Thank you Mr. President. I'm in agreeance with the amendment. Only, and I guess my question to this would be too, and I asked this of the sponsor at one point in time as well, is if we're talking about elected officials and that also means it accounts for the Mayor of the City as well as our Treasurer if we're going to display names regarding elected. And, then also, if there are city employees are also going to be taken the training, are their names supposed to be listed as well? I understand that's its going to be HR who takes responsibility for that component of it, but I also don't think that the basis of having it up there and having it because of the voters in 2024, does not also speak as far as to why that should be (inaudible) transparency. So, if we wanted transparency, we could do that on our own. On our own website and just say, transparent wise this is the individuals who have done 100 completion every year. So, that doesn't have to be legislated. But I'm also in agreeance if everybody wants to be on there and list it, then that's fine. I'm ok with it but I'm also ok coming out. So, thank you.

President Congo: Thank you and I did see a couple Councilmembers' raise hand, but I don't anymore. So, if there are no more comments, again, we're going to vote on the amendment presented by Councilwoman Oliver.

President Congo requested the Clerk do a Roll Call on the Amendment.

#### **ROLL CALL ON THE AMENDMENT**

Upon a motion of Council Member Oliver, seconded by Council Member Dixon, the proposed amendment on the above-referenced Substitute Ordinance was defeated by the following Yea and Nay Roll Call Vote: Yeas, Council Members Darby, Oliver and Dixon. Total, three. Nays, Council Members Gray, Johnson, N. Field, Cabrera and Spadola, and Council President Congo. Total, six. Present, Council Members Harlee, B. Fields and McCoy. Total, three. Absent, Council Member Walsh. Total, one.

President Congo declared the **amendment defeated**.

Council Member Spadola made final comments.

For clarity, Council Member Oliver requested that the Clerk repeat the tally of the vote and the City Clerk repeated the count of the vote.

For further clarity, President Congo provided the privilege of the floor to Parliamentarian John Hawley who provided clarity on the count of the vote, and it was duly noted by President Congo, the proposed amendment was defeated.

### **ACTUAL VOTE ON THE SUBSTITUTE ORDINANCE**

The above-referenced **Substitute** Ordinance was read for the third and final time and was adopted by title and section recurring to the Enacting Clause and was passed by the following Yea and Nay Roll Call Vote: Yeas, Council Members Gray, Oliver, Harlee, B. Fields, Johnson, N. Field, Cabrera, Dixon and Spadola, and Council President Congo. Total, ten. Nays, none. Present, Council Members Darby and McCoy. Total, two. Absent, Council Member Walsh. Total, one.

President Congo declared the Substitute Ordinance **adopted**.

### **PETITIONS AND COMMUNICATIONS**

Council Members and Council President spoke on the following: affordable housing; announcements of community events throughout the city; Wilmington Police Officer incident, injustice and the need to change laws; announcement of Fall Leaf Collection schedule; announcements of civic association meetings; Senate Bill 149 and series of workshops; grants for small businesses; congratulations expressed to the Delaware Hispanic Awards Recipients; HBCU Week; announcement of upcoming Public Safety Committee meeting; congratulations expressed to Council's Chief of Staff Daniel Walker being honored as part of this year's Delaware Business Times 2021 Top 40 Under 40 class; and including but not limited to, all members of Council will be back fully in Chambers for the next Council meeting.

### **ADJOURNMENT**

Upon a motion of Council Members Dixon and Gray, seconded by Council Member B. Fields, Council adjourned at 8:45 p.m. Motion prevailed.

Attest: Maribel Seijo  
Maribel Seijo, City Clerk