

SUBSTITUTE NO. 1 TO ORDINANCE NO. 26-045

AN ORDINANCE TO AMEND CHAPTER 36 TO INCREASE THE MINIMUM FINE FOR CONSUMING ALCOHOL IN CERTAIN PUBLIC SPACES

**Rev. 1
#0264**

**Sponsor:
Council
Member
Oliver**

WHEREAS, the City Council of Wilmington is committed to preserving the public peace, safety, and quality of life across all neighborhoods, ensuring that public streets, sidewalks, and open spaces remain welcoming and safe for residents and visitors; and

WHEREAS, public consumption of alcohol near sensitive community spaces, such as schools, places of worship, community centers, and package stores, exaggerates public safety concerns, exacerbates quality-of-life complaints, and creates exposure risks for youth and families; and

WHEREAS, schools, places of worship, and community centers serve as vital safe havens for educational, spiritual, and recreational activities that require heightened protection from public disruption and open-container nuisance behavior; and

WHEREAS, areas surrounding package stores frequently experience concentrated pedestrian traffic and localized quality-of-life challenges associated with immediate off-premises alcohol consumption; and

WHEREAS, establishing a designated 300-foot enhanced enforcement buffer, approximately equivalent to an average city block, around these designated community institutions provides clear, reasonable public notice and an easily recognizable boundary for effective municipal law enforcement; and

WHEREAS, increasing the mandatory minimum fine for public alcohol consumption within these designated 300-foot buffer zones creates a targeted, meaningful financial deterrent to curb repeat offenses and protect vulnerable public spaces without altering standard baseline penalties across other municipal areas; and

WHEREAS, the City Council finds that amending Chapter 36, Section 36-66 of the City Code is a necessary and proper exercise of the City's police powers to safeguard public welfare and maintain orderly public spaces.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON
HEREBY ORDAINS:**

SECTION 1. Chapter 36 ("Miscellaneous Offenses and Provisions"), Article III ("Offenses Involving Public Peace and Order") of the City Code is hereby amended by removing the stricken language and adding the underlined language as follows:

Sec. 36-66. - Consumption of alcohol on streets prohibited.

- (a) No person shall drink or consume an alcoholic beverage, or possess, with intent to drink or consume, an open container containing an alcoholic beverage in any public place except at a block party, feast or similar function for which a permit has been obtained. For purposes of this section, the term "public place" shall mean a place to which the public or a substantial group of persons has access, including but not limited to any highway, street, road, sidewalk, parking area, shopping area, place of amusement or playground located within the city and any city park, except that the definition of public place shall not include those premises duly licensed for the sale and consumption of alcoholic beverages on the premises or within their own private property.
- (b) Possession of an open container containing an alcoholic beverage by any person shall create a rebuttable presumption that such person did intend to consume the contents thereof in violation of this section.
- (c) Except as provided in subsection (d), A a conviction of a violation of this section shall be punishable by a fine of not less than \$100.00 and not more than \$500.00; ; or by community service as ordered by the court having jurisdiction; or by both such fine and community service; ; ~~and not more than \$500.00~~ or by both such fine and imprisonment not exceeding five days. The minimum sentence of a \$100.00 fine shall not be subject to suspension or reduction for any reason.
- (d) A conviction of a violation of this section when such violation occurred in a public place that is located within 300 feet of the property of a school, place of worship, community center, or package store shall be punishable by a fine of not less than \$150 and not more than \$500; or by community service as ordered by the court

having jurisdiction; or by both such fine and community service; or by both such fine and imprisonment not exceeding five days. The minimum sentence of a \$150 fine shall not be subject to suspension or reduction for any reason.

- (1) For purposes of this section, "school" means a public or private kindergarten, elementary, secondary, or vocational-technical school, and includes playgrounds, athletic playing fields and other land contained on the school's property.
- (2) For purposes of this section, "place of worship" means a place used by an organized religious group to gather for religious services such as a church, synagogue, temple or mosque.
- (3) For purposes of this section, "community center" means a facility used for recreational, social, educational and cultural activities, open to the public and owned by a public or nonprofit group or agency.
- (4) For purposes of this section, "package store" means an establishment whose principal business is the sale of alcoholic liquors for consumption off the establishment's premises.

SECTION 2. This Ordinance shall become effective immediately upon its passage by City Council and approval by the Mayor.

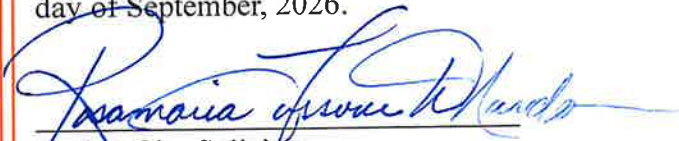
First Reading.....August 27, 2026
Second Reading.....August 27, 2026
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved as to form this 24th
day of September, 2026.


Acting City Solicitor

Approved this ____ day of _____, 2026.

Mayor

SYNOPSIS: This Ordinance amends Chapter 36, § 36-66 entitled “Consumption of alcohol on streets prohibited” to increase the minimum fine for a violation of this section from \$100 to \$150 when such violation occurs in a public place that is located within 300 feet of a school, place of worship, community center, or package store.

FISCAL IMPACT STATEMENT: The Office of Management and Budget has reviewed and analyzed this Ordinance, which amends Chapter 36, § 36-66 to increase the minimum fine associated with consumption of alcohol with 300 feet of a school, place of worship, community center, or package store.

The Wilmington Police Department has indicated that alcohol-related infractions have normally been cited under State code, rather than Chapter 36, § 36-66 of City code. The total number of warrants and summons issued by WPD for infractions under Chapter 36, § 36-66 (and similar State statutes) average less than ten annually. Consequently, while the possibility of increased minimum fines may provide a deterrent to alcohol consumption near the proposed prohibited spaces, additional revenue is expected to be minimal. In addition, the Ordinance is not anticipated to result in any material increase in City expenditures.

In summary, the fiscal impact of the Ordinance is expected to be de minimis.