



**City of Wilmington
Ordinance & Licensing Committee
Tuesday, September 11, 2018 at 6:00 p.m.**

Location & Time

Council Chamber
Wilmington City Hall
1165 S. Water Street
6:00 p.m. 09/11/2018

**Ordinance & Licensing
Committee Members**

Lisa Butler, Co-Chair
Floyd Combes, Co-Chair
Steve Evans
Kevin Kirwin
Dennis Vice

Agenda

1. Call to Order
2. Approval of the August 14, 2018 Meeting Minutes
3. Review Article 3 – Catfish Days Coordinating Committee per Alderman Butler’s request
4. Review Ordinance No. – Draft 1st Reading – An Ordinance Establishing an Administrative Procedure for Assessing and Determining Claims under PSEBA
5. Review for Possible Revisions Ordinance No. 06-07-05-02 – An Ordinance Establishing a Façade Improvement Grant Program in Commercially and Industrially and Zoned Area
6. Revisit Ordinance No. 14-03-19-02 – An Ordinance to Encourage New Residential Construction and Economic Growth for the Citizens and City of Wilmington
7. Public Comment
(State your full name clearly; limit 5 minutes each per Ordinance 17-10-17-05)
8. Adjournment

*Posting Date
9/7/2018 8:42 AM hh*

DRAFT

**CITY OF WILMINGTON
ORDINANCE & LICENSING COMMITTEE
Tuesday, August 14, 2018, 6:00 p.m.
Wilmington City Hall, Council Chambers
1165 S. Water Street**

In Attendance

Committee Members

Co-Chair, Floyd Combes
Alderman Kevin Kirwin
Alderman Dennis Vice

Members Absent

Co-Chair, Alderman Butler
Alderman Steve Evans - absent

City Officials

Mayor Roy Strong
City Administrator Joie Ziller

The meeting of the Ordinance & Licensing Committee was called to order at 6:05 p.m. by Alderman Butler.

Previous Meeting Minutes – July 10, 2018

The minutes were reviewed. **Alderman Kirwin made a motion and Alderman Vice seconded to accept the July 10, 2018 Committee meeting minutes as written and have them placed on file. Upon voice vote, THE MOTION CARRIED, 4 yes.**

Old Business

Final Review of a DRAFT Ordinance Regulating Food Truck Permits within the City of Wilmington

The Committee reviewed the draft ordinance as prepared by the City Attorney.

Administrator Ziller states that it does not have to be the final review. It has been revised, a little more simplified than the last meeting. She states that the permit fees have to be clarified, and to have an option to have a daily license as well. Todd Friddle the Deputy Fire Chief supplied Ziller with a checklist of the Fire Department inspection and they will not charge a fee. The Mayor states that he does not agree with B on Page 6, strike that out of Draft. Strike C completely. Change F to read: "Food trucks shall Not park". Change G to read: "Food trucks may not operate in a residential zoning district without a permit." Strike I completely. Typo error in O "notify the City of Wilmington IF the food", In 115.83 – Permit Fees, A. Annual License change to \$100 – Jan 1 thru Dec 31.

THE MOTION CARRIED, 4 yes.

This ordinance will be up for final reading at the next City Council meeting on August 21, 2018. Effective September 1, 2018.

Review Article 3 – Catfish Days Coordinating Committee per Alderman Butler’s request

The Committee reviewed the Catfish Days Coordinating Committee as requested by City Alderman Butler. The last time this was looked at was in 1984. Mayor Strong suggests having someone from the Catfish Committee to be involved in the meeting as no one was present at this time. There will be a few people retiring from the Committee. The two people who said that they will be retiring are Celeste Milton and John Persic. Personal Products and Caterpillar both have their shutdowns in July and that is why we have a community celebration then. Administrator Ziller reports that they did confirm a full carnival next year. No one wants to change the date to August, July only. Tuffy will no longer be having mud volleyball.

The committee will discuss this further at the next meeting on August 21, 2018.

Administrator Ziller states that she received information from IDOT in regards to Elion at Adar Ridgeport, they applied for a heliport. They are all zoned I 5. In the definition in I-2, a permitted use is Airports, Heliports and Landing Strips. I-3 says any permitted use in I-2. In I-4 it doesn't say anything, but in I-5 it says any permitted us in I-4. Should there be a text amendment to the definition. Mike Stellino said in March 2017 that the City said it would not be a problem for I-5 to have a heliport seeing how it is ok in I-2. This is not in any minutes. There might need a text amendment to the zoning classification. It has to be inspected by flight safety coordinator to make sure their plan meets all the requirements.

Public Comment

No public comment was made at this time.

Adjournment

With no further business before the Committee, Alderman Kirwin made a motion and it was seconded by Alderman Combes to adjourn. Upon voice vote, THE MOTION CARRIED unanimously and the meeting was adjourned at 6:48 p.m.

Respectfully submitted,

Hayley Henke
Executive Secretary

Article 3. - Catfish Days Coordinating Committee

34.50 - Celebration recognized—Committee established.

- (A) There is hereby recognized and declared to be a Catfish Days celebration in the city, and the period of Wednesday immediately preceding the first Sunday in August through the first Sunday in August is declared to be the recognized and official time for conducting such celebration.
- (B) There is hereby established a committee of not less than five nor more than 15 to be members hereafter known as the Catfish Days coordinating committee who shall be appointed by the mayor. Such committee shall not have any power to bind or obligate the city but its duty shall be to coordinate all activities and events during Catfish Days and issue festival activity permits for scheduled activities.

(Ord. 873, passed 3-15-83)

34.51 - Definitions.

For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"Beer garden." Any area outside of or adjoining any place of business licensed as a Class A, Class C, Class D, or Class E licensee under the provisions of Chapter 112 of this code used for the purpose of selling or serving alcoholic liquor; provided that only the type of alcoholic liquor permitted on the licensed premises shall be allowed in the "beer garden."

"Catfish Days coordinating committee." The officially designated and appointed committee whose function shall be to define, approve, and coordinate scheduled events for Catfish Days.

"Festival activity permit." A permit issued by the Catfish Days coordinating committee indicating that the activity or event is a scheduled activity.

"Outside entertainment." Any musical performance or musical program that is given out of doors, in a tent, or other temporary building.

"Scheduled activity." An activity or event that has been properly and timely scheduled with the Catfish Days coordinating committee.

"Unapproved activity." An activity or event that has not been properly and timely scheduled or approved by the Catfish Days coordinating committee.

(Ord. 873, passed 3-15-83; Am. Ord. 906, passed 4-17-84)

34.52 - Activity approval—Permits—Fees.

All scheduled activities shall be submitted to the Catfish Days coordinating committee for its approval before March 31 of the year of the celebration. The Catfish Days coordinating committee shall report all scheduled activities to the city council on or before the second regular meeting of the council in April of the year of such celebration. Any activity or event not approved by the Catfish Days coordinating committee or properly or timely scheduled shall be an unapproved activity and shall not be entitled to recognition or sanction as a Catfish Days event. In addition, such unapproved activity shall be responsible and pay for or reimburse the city for the cost of security, crowd control, traffic control, and adequate sanitation facilities. No permits required from the city shall be issued to any unapproved activity until the cost of security, crowd control, traffic control, and adequate sanitation facilities is paid. The Catfish Days coordinating committee shall set its own fees for scheduled events and activities. The committee shall pay to the city general fund a sum to be set by resolution to defray expenses of the city in connection with Catfish Days.

(Ord. 873, passed 3-15-83; Am. Ord. 906, passed 4-17-84)

34.53 - Regulation of outside entertainment.

No outside entertainment shall be allowed during Catfish Days Celebration week except during the hours of 12:00 p.m. through 11:30 p.m. on Wednesday and Thursday; between the hours of 12:00 p.m. on Friday and 1:30 a.m. the following Saturday; between the hours of 12:00 p.m. on Saturday and 1:30 a.m. the following Sunday; and between the hours of 12:00 p.m. on Sunday until 9:00 p.m. on that same Sunday.

(Ord. 906, passed 4-17-84) Penalty, see Section 10.99

34.54 - Regulation of beer gardens.

- (A) Conditions of operation. No beer garden shall be operated during Catfish Days Celebration week except upon the following conditions:
- (1) The area operated as a beer garden shall be adequately fenced with a snow fence no less than four feet high.
 - (2) The beer garden shall have one or more entrances or gates not to exceed four in number, of not more than five feet in width each.
 - (3) No person under the age of 21 years shall enter a beer garden, except in cases where a beer garden is selling food; and in that event a person under the age of 21 years, when accompanied by his parents or legal guardian, may enter the beer garden with the parent or legal guardian and remain there with the parent or legal guardian until 9:00 p.m. After 9:00 p.m., no person under the age of 21 years shall be allowed in the beer garden. It shall be the responsibility of the owner, operator, and employees of the beer garden to enforce the time limits set above and to remove persons under the age of 21 years from the beer garden after 9:00 p.m.

- (4) No person under the age of 21 years shall be allowed to consume, purchase, or possess any alcoholic liquor in a beer garden. It shall be the responsibility of the owner, operator, and employees of the beer garden to enforce this age provision by providing a responsible person or persons to check and establish the age of each person consuming alcoholic liquor within the beer garden.
 - (5) Any violation of this section, state law, or other local ordinance, or any disorder, fighting, or lewd operations will result in the suspension of the beer garden license for the day of that violation, in addition to any other penalty as provided by law.
 - (6) Each beer garden shall provide and maintain such number of portable sanitary facilities as may be required by the Catfish Days coordinating committee.
 - (7) All beer gardens shall obtain a license to operate and pay the fee as hereinafter specified in division (B) below.
- (B) Permits and permit fees for beer gardens. Any business licensed as a Class A, Class C, Class D, or Class E licensee under the provisions of Chapter 112 of this code, desiring to operate a beer garden during Catfish Days, shall obtain a beer garden license, as follows:
- (1) An application shall be made at least 30 days prior to Catfish Days Celebration to the local liquor commissioner on a form acceptable to the commissioner, and the form shall be completed by the applicant.
 - (2) The applicant shall agree to pay, within five days after the close of Catfish Days, a permit fee calculated as follows:
 - (a) For each day's operation between 12:00 p.m. and 6:00 p.m., a fee of \$35 shall be charged for each entrance or gate to the beer garden.
 - (b) For each day's operation between 6:00 p.m. and the closing hour, the fee shall be \$90 for each entrance or gate to the beer garden.
 - (c) The applicant shall agree that the fee above provided, if not paid within five days after the close of Catfish Days, will be added to the amount due and payable for applicant's Class A, Class C, Class D, or Class E license when the same is next due for renewal.
 - (d) No charge or fee shall be charged for any exit used solely as an emergency exit.

(Ord. 906, passed 4-17-84) Penalty, see Section 10.99

34.55 - Mud volley ball participants to shower in designated areas.

Mud volley ball participants shall shower or clean-up only in areas designated for their use. No participant shall leave the volley ball area, except to go to and from the shower or clean-up area.

(Ord. 906, passed 4-17-84) Penalty, see Section 10.99

ORDINANCE NO. – DRAFT 1st Reading

AN ORDINANCE ESTABLISHING AN ADMINISTRATIVE PROCEDURE FOR ASSESSING AND DETERMINING CLAIMS UNDER PSEBA

WHEREAS, the legislature granted non-home rule municipalities the broad authority to pass all ordinances and make all rules and regulations proper or necessary, to carry into effect the powers granted to municipalities (65 ILCS 5/1-2-1); and

WHEREAS, the Public Safety Employee Benefits Act (“PSEBA” or “Act”) was enacted in 1997 to provide free health insurance benefits when a “full-time law enforcement, correctional or correctional probation officer, or firefighter, who . . . suffers a catastrophic injury or is killed in the line of duty” (820 ILCS 320/10(a)); and

WHEREAS, In *Englum v. The City of Charleston*, 2017 IL App (4th) 160747 (2017), the Court found that non-home rule municipalities have the authority to enact an ordinance establishing a local administrative procedure to determine eligibility for PSEBA benefits; and

WHEREAS, the City has the authority to establish this administrative procedure pursuant to the Illinois Municipal Code including 65 ILCS 5/10-4-1 and 65 ILCS 5/1-2-1; and

WHEREAS, as a result of the decision in *Englum*, the City now determines it necessary and proper to adopt an ordinance establishing an administrative procedure for assessing and determining claims under PSEBA.

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

SECTION 1: AMENDMENT

The Wilmington Code of Ordinances is hereby amended to adopt and include CHAPTER 47 – PUBLIC SAFETY EMPLOYEE BENEFITS in TITLE III - ADMINISTRATION, as stated below:

CHAPTER 47—Public Safety Employee Benefits

47.01—PURPOSE.

The purpose of this ordinance is to provide a fair and efficient method for determining the eligibility of a full-time law enforcement officer for the benefits enumerated under Public Safety Employee Benefits Act (“PSEBA” or “Act”) through an administrative process, including if necessary, an administrative hearing.

47.02—DEFINITIONS.

For the purpose of this Ordinance, the following terms will have the following meanings.

Catastrophic injury. An injury resulting in a line of duty disability pension as defined by the Illinois Supreme Court in *Bremer v. City of Rockford* 2016 IL 119889 (2016) or any subsequent decisions rendered by the Illinois Supreme Court.

Gainful work. Full- or part-time activity that actually is compensated or commonly is compensated.

Injury. A traumatic physical wound (or a traumatized physical condition of the body) directly and proximately caused by external force (such as bullets, explosives, sharp instruments, blunt objects, or physical blows), chemicals, electricity, climatic conditions, infectious disease, radiation, virii, or bacteria, but does not include—

- (1) Any occupational disease; or
- (2) Any condition of the body caused or occasioned by stress or strain.

47.03—APPLICATION PROCEDURE.

A. Full time law enforcement officers, or family member(s) of an injured or deceased full time law enforcement officer, (“Applicant”) must file a full and complete PSEBA application in writing within thirty (30) days of filing a pension claim with the City (the “PSEBA Application”. The City shall notify Applicant if the PSEBA Application is incomplete and Applicant shall have five (5) days to remedy their application.

B. A complete PSEBA application includes the following:

1. The name of the Applicant, date of hire, detailed information regarding the incident from which the claim arises (the “incident”), including information relating to how the injury was sustained in the line of duty (date, time, place, nature of injury, and other factual circumstances surrounding the incident giving rise to said claim);
2. The Applicant’s firsthand knowledge detailing how the injury/death qualifies the applicant for benefits under the Act;
3. A signed and sufficient medical authorization release which authorizes the collection of information related to the incident including, but not limited to, disability pension proceedings, worker’s compensation records, and medical records and specifies the name and address for pertinent health care provider(s);
4. A signed and sufficient general information release specifying the name and signature of the Applicant or her/his authorized representative along with legal proof of said representation and name and signature of witness authorizing the collection of information pertinent to the review and analysis of the PSBEA Application;
5. The name(s) and addresses of witnesses to the incident;
6. The name(s) and addresses of witnesses the Applicant intends to call at the PSEBA hearing;
7. Information and supporting pension documentation filed with the Police Pension Board;
8. Information supporting the PSEBA eligibility requirements; and

9. Other sources of health insurance benefits currently enrolled in or received by the Applicant and/or family members if the Applicant is deceased.
- C. The PSEBA application must be submitted to the City Administrator in its entirety.
- D. The PSEBA Application must be sworn and notarized to certify the truthfulness of the content of the information. A review of the application shall not occur until the application is complete.
- E. On the date that the PSEBA application is deemed complete by the City, the completed application shall then be submitted to the City as the Preliminary Record, and a copy of the same shall be date stamped and provided to the Applicant.
- F. Upon receipt of a complete PSEBA Application, the City shall set the matter for an administrative hearing before a hearing officer to make a determination on whether to grant the Applicant PSEBA benefits based on the applicable law and the evidence presented at the administrative hearing.
- G. The Applicant will be given written notice of the date for the scheduled administrative hearing to be served not less than ten (10) days prior to the commencement of the hearing. If the Applicant, upon receiving written notice of the administrative hearing, cannot attend said date, the Applicant must contact the hearing officer in writing within seven (7) days after being served. The hearing officer shall establish an alternative hearing date which is within thirty (30) days of the original hearing date. Failure to appear at the administrative hearing shall result in denial of PSEBA benefits.

47.04—ADMINISTRATIVE HEARING OFFICER.

The administrative hearing shall be scheduled and conducted by a hearing officer whose authority and limitations are as follows:

A. Authority of the hearing officer. The hearing officer shall have all of the authorities granted to her/him under law relative to the conduct of an administrative hearing, including the authority to:

1. Preside over City hearings involving PSEBA;
2. Administer oaths;
3. Hear testimony and accept evidence that is relevant to the issue of eligibility under PSEBA;
4. Issue subpoenas to secure attendance of witnesses and the production of relevant papers or documents upon the request of the parties or their representatives;
5. Rule upon objections in the admissibility of evidence;
6. Preserve and authenticate the record of the hearing and all exhibits in evidence introduced at the hearing; and
7. Issue a determination based on the evidence presented at the hearing, the determination of which shall be in writing and shall include a written finding of fact, decision and order.

B. Hearing officer. The Mayor, with the advice and consent of the City Council, is hereby authorized to appoint a person to hold the position of hearing officer for each hearing on PSEBA benefits that shall come before this City. In making said selection, the following information should be considered, at a minimum:

1. The individual's ability to comply with the job description as set forth herein; and
2. The individual must be an attorney licensed to practice law in the State of Illinois and have knowledge of and experience in employment and labor law, general civil procedure, the rules of evidence, and administrative practice.

47.05—ADMINISTRATIVE HEARING.

The system of administrative hearings for the determination of eligibility for benefits under PSEBA shall be initiated by the City after the submission of a full and complete PSEBA application. An administrative hearing shall be held to adjudicate and determine whether the Applicant is eligible for benefits under PSEBA. If the Applicant is found eligible, the benefits shall be consistent with the Act.

- A. Record. The City shall ensure that all hearings are attended by a certified court reporter and a transcript of all proceedings shall be made by said certified court reporter and, if requested, a copy be provided to the Applicant within twenty-eight (28) days of the date of the administrative hearing.
- B. Procedures. The City and the Applicant shall be entitled to representation by counsel at said administrative hearing and present witnesses, testimony and documents, may cross-examine opposing witnesses, and may request the issuance of subpoenas to compel the appearance of relevant witnesses or the production of relevant documents.
- C. Evidence. The Illinois Rules of Evidence shall apply to the extent practicable unless, by such application, the Hearing Officer determines that application of the rule would be an injustice or preclude the introduction of evidence of the type commonly relied upon by a reasonably prudent person in the conduct of her or his affairs. Such determination shall be in the sole discretion of the Hearing Officer. The Hearing Officer must state on the record her or his reason for that determination.
- D. Final Determination. A written determination by the hearing officer of whether the petitioning Applicant is eligible for the benefits under PSEBA shall constitute a final

administrative determination for the purpose of judicial review under the common law writ of certiorari.

E. Burden of Proof. At any administrative hearing, the Applicant shall have the obligation and burden of proof to establish that the Applicant is eligible and qualified to receive PSEBA benefits. The standard of proof in all hearings conducted under this Ordinance shall be by the preponderance of the evidence.

F. Administrative Records. All records pertaining to the administrative process shall be held in a separate file under the Applicant's name with the City.

SECTION 2: SEVERABILITY

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

SECTION 3: REPEALER

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 _____, 2018 with ____ members voting aye, ____ members voting nay, the Mayor voting _____, with ____ members abstaining or passing and said vote being:

John Persic, Jr.	_____	Kevin Kirwin	_____
Floyd Combes	_____	Dennis Vice	_____
Fran Tutor	_____	Lisa Butler	_____
Steve Evans	_____	Frank Studer	_____

Approved this _____ day of _____, 2018

Roy Strong, Mayor

Attest:

Joie Ziller, Deputy City Clerk

ORDINANCE NO. 06-07-05-02

AN ORDINANCE ESTABLISHING A FAÇADE IMPROVEMENT GRANT PROGRAM IN
COMMERCIALY AND INDUSTRIALLY ZONED AREAS WITHIN THE CITY OF
WILMINGTON, ILLINOIS.

ORDINANCE NO. 06-07-05-02

AN ORDINANCE ESTABLISHING A FAÇADE IMPROVEMENT GRANT PROGRAM IN
COMMERCIALY AND INDUSTRIALLY ZONED AREAS WITHIN THE CITY OF
WILMINGTON, ILLINOIS.

WHEREAS, The City of Wilmington seeks to promote economic development and business retention within the community through assistance programs and incentives which encourage improvements to property; and

WHEREAS, The City of Wilmington seeks to implement this Façade Improvement Grant Program to commercially and industrially zoned properties within the City of Wilmington; and

WHEREAS, The City of Wilmington has appropriated funds to undertake this program;

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

Section one: That a Façade Improvement Grant Program is hereby established for commercially zoned areas in the City of Wilmington in accordance with the guidelines established in Exhibit A.

Section Two: This ordinance shall be in full force and effect from and after its passage, approval and publication in the manner provided by law.

Section Three: All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed.

Section Four: The City Clerk shall certify to the adoption of this ordinance and cause the same to be published in pamphlet form.

PASSED AND APPROVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WILMINGTON, WILL COUNTY, ILLINOIS ON THIS 5th DAY OF July, 2006.

8 ALDERMAN voting aye, _____ ALDERMEN voting nay,
_____ ALDERMEN abstaining, _____ ALDERMEN absent

the MAYOR voting aye _____, voting nay _____, not voting _____.

AYE PLESE

AYE GILMOUR

AYE ORR

AYE HERMES

AYE HOPPE

AYE JOHNSTON

AYE STRONG

AYE MIETZNER

James Johnston, City Clerk

APPROVED this 5th day of July, 2006.

Roy Strong, Mayor

(SEAL)
ATTEST:

James Johnston, City Clerk

Exhibit A
FAÇADE IMPROVEMENT
GRANT PROGRAM

CITY OF WILMINGTON
FAÇADE IMPROVEMENT GRANT PROGRAM
AGREEMENT

THIS AGREEMENT, entered into this _____ day of _____, _____, between the City of Wilmington, Illinois (hereinafter referred to as the "City") and the following designated OWNER(S)/LESSEE(S), to wit:

Owner(s)/Lessee(s)' Name _____

Address: _____

City: _____ State: _____ Zip Code: _____

Name of Business: _____

Project Address(es): _____

Property Identification Number(s): _____

WITNESSETH

WHEREAS, the City has established a Façade Improvement Grant Program for application within commercially and industrially zoned areas of the City; and

WHEREAS, said Façade Improvement Grant Program is administered by the City and is funded from General Revenues for purposes of control and prevention of blight, dilapidation and deterioration of structures in commercial and industrial area, also including landscaping and surfacing of parking areas which must include the installation of curb and gutter in commercial areas which are currently not paved or where gravel is present; and

WHEREAS, pursuant to said Program the City has agreed to participate, subject to its sole discretion, in sharing the cost of façade improvements to commercial and industrial establishments up to a maximum of one-half (1/2) of the approved contract cost of such improvements, but in no event shall the total City participation in any single grant exceed Five Thousand Dollars (\$5,000) for construction and architectural cost; and

WHEREAS, the façade improvement costs and architectural fees which are eligible for City participation include all labor, materials, equipment and other contract items necessary to the proper execution and completion of the work as designated from the design drawings approved by the City, provided that reimbursement for architectural fees shall be limited to One Thousand Dollars (\$1,000); and

WHEREAS, the OWNER(S)/LESSEE(S)' property is located within the commercially or industrially zoned area and the OWNER(S)/LESSEE(S) desire(s) to participate in the Façade Improvement Grant Program pursuant to the terms and provisions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreement obtained herein, the City and OWNER(S)/LESSEE(S) do hereby agree as follows:

SECTION ONE: INCORPORATION OF RECITALS – The above recitals are made a part of this Agreement and are incorporated herein.

SECTION TWO: COST SHARING – The City shall share in the eligible façade improvement costs and architectural fees for the OWNER(S)/LESSEE(S)' property up to \$ _____ or one-half (1/2) of the actual costs and fees, whichever is less. In no case shall the amount paid to the OWNER(S)/LESSEE(S) exceed the amount specified in this Agreement or in the contractor's or architect's statements.

SECTION THREE: DESIGN APPROVAL – No façade improvement work shall be undertaken until the design therefor has been submitted to and approved by the City's Building Department. Design drawings and specifications shall be attached hereto as Exhibit IV. Following approval, the OWNER(S)/LESSEE(S) shall contract for the work and shall commence and complete all such work within one hundred eighty (180) days from the date of such approval.

SECTION FOUR: REVIEW OF PROJECT – The City Administrator or his/her designee shall periodically review the progress of the contractor's work on the façade improvement pursuant to this Agreement. Such inspections shall not replace any required permit inspection by City Inspectors. All work which is not in conformance with the approved drawings and specifications shall be immediately remedied by the OWNER(S)/LESSEE(S) and deficient or improper work shall be replaced and made to comply with the approved drawings, specifications and terms of the Agreement.

SECTION FIVE: DOCUMENTATION REQUIREMENTS – Upon completion of the façade improvement and upon its final inspection and approval by the Building Department, the OWNER(S)/LESSEE(S) shall submit to the City a properly executed and notarized contractor statement and architect fee statement showing the full cost of the work as well as each separate component amount due to the contractor and each and every subcontractor involved in furnishing labor, materials or equipment in the work. In addition, the OWNER(S)/LESSEE(S) shall submit to the City proof of payment of the contract cost pursuant to the contractor's and architect's statements.

The City shall, within thirty (30) days of receipt of the contractor's statement and proof of payment, issue a check to the OWNER(S)/LESSEE(S) consistent with Section Two above.

SECTION SIX: FAILURE TO COMPLETE THE WORK – If the OWNER(S)/LESSEE(S) or his/her contractor fail to complete the façade improvement work provided for herein conformity with the plans, specifications and all terms of this Agreement, the Agreement shall terminate and the financial obligation on the part of the City shall cease and become null and void.

SECTION SEVEN: UNRELATED IMPROVEMENTS – Nothing herein is intended to limit, restrict or prohibit the OWNER(S)/LESSEE(S) from undertaking any other work in or about the subject premises which is unrelated to the façade improvement provided for in this Agreement.

SECTION EIGHT: AGREEMENT APPLICABLE TO FUTURE OWNERS – This Agreement shall be binding upon the City of Wilmington and upon the OWNER(S)/LESSEE(S) and its/their successors to said property for a period of five (5) years from and after the date of completion and approval of the façade improvement provided herein. It shall be the responsibility of the OWNER(S)/LESSEE(S) to inform any subsequent owner(s) and/or lessee(s) of this Agreement.

SECTION NINE: MAXIMUM GRANT AWARDS – Nothing in this Agreement shall prohibit a business or property owner from applying for more than one Grant. However, a Five Thousand Dollar (\$5,000) total limitation shall apply to all Façade Improvement Grant Program awards made to a single building and/or lot within any five (5) year period. For the purpose of calculating the five (5) year period, the date of the last City payment shall be considered the start of the five (5) year period.

SECTION TEN: INDEMNIFICATION – In the event that the City is made a party defendant in any litigation arising out of this Agreement or any development activities contemplated hereunder, the OWNER(S)/LESSEE(S) agree to defend and hold harmless the City and its Agents (including but not limited to its Mayor, City Council, officers, officials, employees, staff, agents and representatives and their respective representatives, successors, assignees and heirs), individually and collectively, from any suits and from any claims, demands, setoffs or other actions including but not limited to judgments arising therefrom. The obligation of the OWNER(S)/LESSEE(S) hereunder shall include and extend to payment of reasonable attorney's fees for the representation of the City and its Agents in such litigation and includes expenses, court costs and fees; it being understood that the OWNER(S)/LESSEE(S) shall have the right to employ all such attorneys to represent the City and its Agents in such litigation, subject to the approval of the Corporate Authorities of the City, which approval shall not be unreasonably withheld. The OWNER(S)/LESSEE(S) shall have the right to appeal to courts of appellate jurisdiction any judgment taken against the City or its Agents in this respect, and the City shall join in any such appeal taken by the OWNER(S)/LESSEE(S).

SECTION ELEVEN: PERFORMANCE OF AGREEMENT – It is agreed that the parties hereto may in law or equity, by suit, mandamus or any other proceeding, including specific performance, enforce or compel the performance of this Agreement, which shall include the right of the parties to recover a judgment for monetary damages against each other, provided, however, that the OWNER(S)/LESSEE(S) shall not have a right to recover a judgment for monetary damages against any Agent of the City for any breach of any of the terms of this Agreement. The City reserves the right to maintain an action to recover damages or any sums which OWNER(S)/LESSEE(S) have agreed to pay pursuant to this Agreement and which have become due and remain unpaid.

SECTION TWELVE: EXHIBITS – It is agreed that Exhibits I through VII shall be considered part of this Agreement.

SECTION THIRTEEN: DISPLAY OF CITY FUNDING PROMOTIONAL MATERIAL – The OWNER(S)/LESSEE(S) shall be required to prominently display a poster identifying the property as receiving City funding. The poster will be provided by the City and shall be displayed from the date the application is approved to no less than thirty (30) days after final approval and reimbursement is made.

SECTION FOURTEEN: COMPLIANCE WITH CITY ORDINANCES – At the time of reimbursement and throughout the term of this Agreement, the land use and signage under the control of the OWNER(S)/LESSEE(S) shall be in conformance with zoning and sign code provisions. All development activities related to this Agreement shall be in conformance with all applicable City ordinances, policies, rules and regulations.

IN WITNESS THEREOF, the parties hereto have executed this Agreement on the date first appearing above.

OWNER(S)/LESSEE(S)

CITY OF WILMINGTON

Program Participant

MAYOR

DATE: _____

DATE: _____

Property Owner

ATTEST: _____
CITY CLERK

DATE: _____

DATE: _____

EXHIBITS TO BE SUBMITTED

EXHIBIT I	PROOF OF OWNERSHIP
EXHIBIT II	EXECUTED LEASE
EXHIBIT III	COPY OF APPLICATION
EXHIBIT IV	RENOVATION PLANS
EXHIBIT V	CONTRACTOR'S AGREEMENT
EXHIBIT VI	ARCHITECT'S AGREEMENT (IF APPLICABLE)

Applicant name: _____

File Number: _____

CITY OF WILMINGTON
FAÇADE IMPROVEMENT
GRANT PROGRAM

APPLICATION

Project Address(es): _____

Building Owner: _____ Year Purchased: _____

Store/Company Name: _____

Name of Tenant: _____ Lease Expiration Date: _____

Applicant Name: _____

Applicant Business Address: _____

Applicant Business Phone: _____ Home Phone: _____

Applicant Email: _____

Number of Store Fronts: _____

Total Anticipated Cost: \$ _____

Total Anticipated Grant Request: \$ _____

Description of proposed improvements:*

*Attach elevations of proposed improvements (if available)

Applicant name: _____

File Number: _____

PHOTOGRAPH OF STORE FRONT PRIOR TO IMPROVEMENTS BEING MADE

(place 5" X 7" – or larger – photograph here)

Applicant name: _____

File Number: _____

I, _____, hereby make application to the City of Wilmington for a Façade Improvement Grant in the anticipated amount of \$ _____. I understand that my application must be approved by the City prior to any work being performed. I have read a copy of the Façade Improvement Grant Program Agreement, and if approved, I understand that all work performed is subject to development, building, zoning, permit and Agreement provisions.

Applicant Signature

Date

Building Owner

Date

Please return completed application to:

City Administrator
City of Wilmington
1165 South Water Street
Wilmington, IL 60481

If you need assistance with the application and/or have any questions regarding this program, please contact the City Administrator at 815/476-2175.

Applicant name: _____

ORDINANCE NO. 14-03-19-02

AN ORDINANCE TO ENCOURAGE NEW RESIDENTIAL CONSTRUCTION AND ECONOMIC GROWTH FOR THE CITIZENS AND CITY OF WILMINGTON

WHEREAS, there are currently approximately 200 vacant residentially zoned platted lots in the City of Wilmington; and

WHEREAS, the current economic climate is unfavorable to, and hindering the completion of, construction on these currently platted residential lots in the City of Wilmington; and

WHEREAS, in order to obtain a building permit to commence construction on any of these lots one must first pay various impact and connection fees to the City; and

WHEREAS, these impact and connection fees can easily exceed \$12,000 or more and oftentimes cause the construction of a residential structure to be problematical or cost prohibitive; and

WHEREAS, it is believed that waiving the various impact and connection fees for the next thirty residential building permits for currently platted lots in the City of Wilmington would be a catalyst for residential construction and economic growth for the City of Wilmington and its citizens.

WHEREAS, it has been planned and agreed that representatives of the City of Wilmington together with representatives of local taxing bodies will meet to further discuss the balancing of the need for economic growth with the imposition of needed impact fees.

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

SECTION 1: WAIVER OF IMPACT FEES

That the City of Wilmington hereby waives the collection of all impact fees set forth in Chapters 152.60, 152.61, and 160, for the next thirty residential building permits for currently existing residentially zoned lots in the City of Wilmington.

SECTION 2: WAIVER OF CONNECTION FEES

That the City of Wilmington hereby waives the collection of all connection fees, but not meter costs, for the next thirty residential building permits for currently existing residentially zoned platted lots in the City of Wilmington.

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: EFFECTIVE DATE

This Ordinance shall be in full force and effect upon its passage and approval in the manner required by law.

PASSED this 19th day of March, 2014 with 6 members voting aye, 0 members voting nay, the Mayor voting, with members abstaining or passing and said vote being:

John Persic, Jr.	<u>absent</u>	Kevin Kirwin	<u>Aye</u>
Larry Hall	<u>Aye</u>	Kirby Hall	<u>Aye</u>
Fran Tutor	<u>Aye</u>	Joe VanDuyne	<u>Aye</u>
Helen Hoppe	<u>absent</u>	Frank Studer	<u>Aye</u>

Approved the 19th day of March, 2014



Attest:

J. Marty Orr
J. Marty Orr, Mayor

Judith Radosevich
Judith Radosevich, City Clerk