

SUBSTITUTE NO. 1 TO ORDINANCE NO. 20-007

**AN ORDINANCE TO AMEND CHAPTER 34 OF THE CITY CODE REGARDING
THE INSPECTIONS OF RENTED OR LEASED DWELLINGS OR BUILDINGS FOR
RESIDENTIAL OCCUPANCY**

**Rev. 1
#4772**

Sponsors:

**Council
Members
Guy
Turner**

WHEREAS, the City Code has long included provisions related to the mandatory inspection, by the Department of Licenses and Inspections, of rental dwellings and rental dwelling units; and

WHEREAS, the objective of these provisions is to take measures to protect and promote the health and safety of those residing in Wilmington, while also endeavoring to ensure that the City's housing stock remains strong.

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

SECTION 1. Chapter 34 of the City Code is hereby amended by deleting the stricken language and adding the underlined language as follows:

Sec. 34-45. – Inspections of ~~rented or leased~~ dwellings prior to lease or rental, or ~~buildings for residential occupancy, to include~~ installment sales; no warranty of condition.

(a) Inspection prior to lease of a rental dwelling ~~or building~~. Any person who leases or rents any dwelling or any dwelling unit, as defined in this Chapter, shall, prior to such leasing or renting:

(1) Cause the same to be inspected by the Commissioner of Licenses and Inspections, or his or her designee; and every two years for each dwelling or building consisting of five or fewer units. An initial rental inspection shall be required for each such dwelling or building consistent with a rental inspection schedule set by the commissioner of licenses and inspections. The two year period referenced in this subsection shall be calculated based upon the rental inspection schedule set by the commissioner of licenses and inspections. Inspections of dwellings or buildings required under this subsection may consist of a random sampling of units in the dwelling or building as determined by the commissioner of licenses and inspections or his designee. The purpose of all rental inspections shall be enforcement of the provisions of the City Code concerning life safety items which include, but are not limited to: smoke/carbon monoxide detectors, heating sources, hot water sources, electrical systems,

sanitary disposal sources, water damage, roofs and means of egress and ingress;

- (2) Cause any violations of this Chapter, which may be cited as a result of such pre-rental inspection, to be corrected prior to permitting any tenant or lessee or any other person to occupy such dwelling or dwelling unit. Cause the same to be inspected by the commissioner of licenses and inspections, or his designee every five years for each dwelling or building consisting of six or more units. An initial rental inspection shall be required for each such dwelling or building consistent with a rental inspection schedule set by the commissioner of licenses and inspections. The five-year period referenced in this subsection shall be calculated based upon the rental inspection schedule set by the commissioner of licenses and inspections. Inspections of dwellings or buildings required under this subsection may consist of a random sampling of units in the dwelling or building as determined by the commissioner of licenses and inspections or his designee. The purpose of all rental inspections shall be enforcement of the provisions of the City Code concerning life safety items which include, but are not limited to: smoke/carbon monoxide detectors, heating sources, hot water sources, electrical systems, sanitary disposal sources, water damage, roofs and means of egress and ingress.
- (3) With the exception of the initial rental inspection, a waiver of a subsequent rental inspection required under subsections (1) and (2) above may be granted by the commissioner of licenses and inspections if all the following conditions are present:
- a. The dwelling or building has no outstanding violations of the building, housing, sanitation, vegetation, animal, zoning or licensing provisions of the City Code at the time the waiver is requested;
 - b. The property owner and/or property manager has not been convicted of, or pled guilty or no contest to, or assessed a civil penalty for any violations of the building, housing, sanitation, vegetation, animal, zoning or licensing provisions of the City Code within the applicable two or five-year period preceding the waiver request;
 - c. The dwelling or building has not been the subject of a notice declaring said dwelling or building to be unfit for human habitation by the department of licenses and inspections within the applicable two or five-year period preceding the waiver request;
 - d. The property owner and, if applicable, the property manager, is properly registered and licensed by the department of licenses and inspections; and e. The property owner and, if applicable, the property manager, are in good standing with regard to any city financial obligations.

A waiver must be requested by the owner of the property, or if applicable, the property manager, each time a rental inspection is required. A request for waiver must be in writing and on a form provided by the department of licenses and inspections.

- (4) ~~If the dwelling unit is unoccupied at the time of the rental inspection, cause any violations cited during the rental inspection to be corrected prior to permitting any tenant or lessee or any other persons to occupy such dwelling or dwelling unit. If the dwelling unit is occupied at the time of the rental inspection, cause any violations cited during the rental inspection to be corrected within the time period designated by the commissioner of the department of licenses and inspections or his designee, and cause the dwelling unit to be re-inspected upon correction of the violation(s).~~

The provisions of this section shall apply to the lease or rental of any dwelling or dwelling unit whether it is to be leased to the current tenant or to a new tenant and whether the same is to be done by the current owner or a new owner. In any instance in which a tenant remains in possession during a change in ownership by sale, exchange or any other transfer, the pre-rental inspection requirements of this Chapter shall be applicable and shall be given full force and effect, and any violations cited shall be corrected within a reasonable period of time as shall be determined at the sole discretion of the Commissioner of Licenses and Inspections.

- (b) Transitional provisions. The provisions of this section shall apply to all leases or rentals, whether such leasing or rental is a new lease or rental or the renewal of an existing lease or rental.
- (c) *Installment sales.* Whenever any person sells any dwelling, dwelling unit, hotel, building or rooming house in the city wherein there is a retention of title by the seller and a deferred installment payment plan is set forth in the contract or lease agreement, the seller shall comply with the inspection requirements of subsection (a) of this section and the provisions of section 34-43 shall not be applicable to any such seller of property who or which is subject to the provisions of this subsection.
- (d) *Disclaimer of warranty of condition.* Nothing contained in this section shall be construed as any manner of warranty or guarantee by the city or by its agent, the Department of Licenses and Inspections, that any particular property at any particular time fully complies with the provisions of this chapter and all rules and regulations adopted pursuant thereto or that any violations of this chapter and the rules and regulations adopted pursuant thereto cited by the Department of Licenses and Inspections are necessarily the only violations existing in or upon a particular property at any particular time or that corrections of violations of this Chapter and any rules and regulations adopted pursuant thereto which have been cited by the Department of Licenses and Inspections are necessarily full and complete corrections such that no other violations exist in or upon any particular property at any particular time.
- (e) *Fee.*

(1) Any person who leases or rents any dwelling or any dwelling unit in willful violation of this section shall pay \$25.00 for any inspection or re-inspection required under this Section, in addition to any other penalty provided for such violation.

(2) If more than one re-inspection is necessary to determine compliance with any violation cited during the initial rental inspection, an additional fee in the amount of \$25.00 will be assessed for each re-inspection, commencing with a second re-inspection. Said re-inspection fee may be waived for good cause shown at the discretion of the code enforcement officer.

(f) *Purpose.* The purpose of all rental inspections shall be enforcement of the provisions of the City Code concerning life safety items which include, but are not limited to: smoke/carbon monoxide detectors, lead exposure, heating sources, hot water sources, electrical systems, sanitary disposal sources, water damage, roofs and means of egress and ingress.

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

First Reading.....February 6, 2020
Second Reading.....February 6, 2020
Third Reading.....December 10, 2020

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this _____ day of _____, 2020

Mayor

SYNOPSIS: This Substitute Ordinance amends Section 34-45 of the City Code to require inspections of dwellings and dwelling units by the Department of Licenses and Inspections prior to the lease or rental of any such unit. This Ordinance also imposes a \$25 fee for any inspection required when there has been a willful violation of this Section.

FISCAL IMPACT: Currently, Section 34-45 requires any dwelling or dwelling unit in a dwelling or building consisting of five or fewer units to be inspected every two years, and every dwelling or dwelling unit in a building with six or more units to be inspected every five years. This Ordinance requires pre-rental inspections of all dwellings and dwelling units prior to the lease, rental, or renewal of an existing lease agreement of such unit. The projected fiscal impact of this Ordinance, determined based on an estimated 15,000 rental units with a vacancy rate of 25%, is an annual cost of \$541,000.

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