

SUBSTITUTE NO. 2 TO ORDINANCE NO. 21-007

AN ORDINANCE TO AMEND CHAPTERS 5 AND 34 OF THE CITY CODE TO REQUIRE NOTICE AND AN OPPORTUNITY TO APPEAL VIOLATIONS RELATED TO THE FAILURE TO OBTAIN A BUSINESS LICENSE TO OPERATE A RESIDENTIAL RENTAL DWELLING UNIT PRIOR TO IMPOSITION OF A CIVIL FINE

**Rev. 2
#0021**

Sponsor:

**Council
Member
Darby**

WHEREAS, a purpose of this legislation is to promote safe and healthy housing for City of Wilmington residents who rent, through effective enforcement of the City Code; and

WHEREAS, City Council believes the licensure of all persons engaged in the business of renting residential property in the City of Wilmington and the registration of rental dwelling units are essential to providing oversight of rental housing and enforcement of applicable housing codes; and

WHEREAS, the City Code does not require the Department of Licenses and Inspections to provide a written violation notice to a person unlawfully operating a business without the required license prior to instituting the appropriate legal proceeding, prosecution or fine; and

WHEREAS, City Council believes it appropriate to provide a person engaged in the business of renting residential property and who has failed to obtain a rental dwelling unit business license, or failed to register a rental dwelling unit, with written notice, an opportunity to appeal and an opportunity to voluntarily comply prior to imposing the civil fine provided for in Chapter 34, section 34-86; and

WHEREAS, City Council deems it necessary and proper to amend Chapters 5 and 34 of the City Code to effectuate these changes.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON:

SECTION 1: Chapter 5 of the City Code is hereby amended by adding the following subsections (j) and (k) to Chapter 5 Sec. 5-92. - Rental dwelling units, which shall read as follows:

Sec. 5-92. - Rental dwelling units.

....

(j) Notice, Right to Appeal and Penalty

(1) Notice of violation — Contents, service, appeals. Whenever the commissioner of the department of licenses and inspections or his designee determines that there has been a violation, or that there are reasonable grounds to believe that there has been a violation, of this section or of section 5-34, the commissioner shall give notice of such violation to the responsible person consistent with the provisions of chapter 34, section 34-38 as it relates to the contents of the notice, service and the ability to appeal.

(2) Penalty. Notwithstanding any other provision of this chapter, an owner of a rental dwelling unit who fails to obtain a rental dwelling unit business license, or who fails to properly register a rental dwelling unit, or who fails to comply with any provision of this section shall be subject to a civil fine as set forth in chapter 34, section 34-86(c).

(3) Pursuant to 25 Del. C. Ch. 29, any fines imposed for violations of this section or of section 5-34 shall give rise to a lien(s). The unpaid amounts of such fines may be added to local property tax billings for the property which was the subject of said violation.

(k) The remedies available to the City and the commissioner of Licenses and Inspections under this chapter are cumulative and not exclusive.

SECTION 2: Chapter 34 of the City Code is hereby amended by deleting the stricken language and adding the underlined language to read as follows:

Sec. 34-39. - Same—When not required.

Notwithstanding any other provision of this chapter to the contrary, whenever any person fails to obtain a rental inspection of any dwelling, habitation or living unit as required by the provisions of section 34-45(a), or the limitation of occupancy notification required by section 34-86, ~~a rental dwelling unit business license as required by chapter 5 or fails to register a rental dwelling unit as required by section 5-92,~~ no notice of such violations shall be required before civil fines are imposed or legal proceedings, actions or prosecutions are brought.

SECTION 3: This Substitute No. 2 to Ordinance No. 21-007 shall become effective on July 1, 2021.

First Reading..... February 18, 2021
Second Reading..... February 18, 2021
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ____ day of _____, 2021.

Mayor

SYNOPSIS: This Substitute 2 to Ordinance No. 21-007 requires the Department of Licenses and Inspections to provide a person engaged in the business of renting residential property and who has failed to obtain a rental dwelling unit business license, or failed to register a rental dwelling unit, with written notice, an opportunity to appeal and an opportunity to voluntarily comply prior to imposing the civil fine provided for in Chapter 34, section 34-86.