

**AN ORDINANCE TO AMEND CHAPTER 5 OF THE CITY CODE TO
PROVIDE FOR CIVIL FINES FOR OWNERS OF RENTAL PROPERTIES
WHO FAIL TO SECURE A BUSINESS LICENSE TO OPERATE A
RESIDENTIAL RENTAL PROPERTY**

#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 that ensuring that all rental units in the City of Wilmington are licensed, is essential to providing oversight of rental housing and enforcement of applicable housing codes; and

WHEREAS, City Council believes criminal penalties have not been sufficiently effective in deterring violations of the City Code provisions relating to licensing requirements for rental properties; and

WHEREAS, City Council believes subjecting owners of rental properties that fail to comply with the licensing requirements for rental dwelling units to civil fines will have a more deterrent effect on this unlawful conduct; and

WHEREAS, City Council deems it necessary and proper to authorize the Department of Licenses and Inspections to impose civil fines upon owners of rental dwelling units that fail to comply with the licensing requirements of Chapter 5, Sec. 5-92. - Rental dwelling units; and

WHEREAS, City Council deems it necessary and proper to amend Chapter 5 of the City Code to effectuate these changes;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON that Chapter 5 of the City Code is hereby amended by adding the following sections (j) and (k) to Chapter 5 Sec. 5-92. - Rental dwelling units, which will read as follows:

Sec. 5-92. - Rental dwelling units.

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(j) Failure to Secure a Rental Business License, Administrative Penalties

(1). Notwithstanding any other provisions of this chapter, property owners who fail to properly register, or re-register, a rental unit will be subject to a civil penalty. The total amount of the penalty shall be five hundred dollars (\$500.00). Failure to register, or re-register, rental unit(s) within ten (10) days of receiving the five hundred dollar (\$500.00) civil penalty shall result in a ten dollar (\$10.00) per day penalty for each unit thereafter not properly registered. The per unit penalty shall accumulate on a daily basis until such penalty is paid.

(2) *Notice of violation—Contents, service.* 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 the rental property registration requirement of this section or of any rule or regulation adopted pursuant thereto, the commissioner shall give notice of such violation or alleged violation to the person responsible thereof. Such notice shall:

- (i) Be put in writing; and
- (ii) Include a description of the real estate sufficient for identification; and
- (iii) Include a statement of the violation(s) and why the notice is being issued; and
- (iv) Allow at least 30 days from the date of such notice for the property to be registered; and
- (v) The notice of violation shall be served upon the owner, operator, and/or property manager, if applicable. Such notice shall be deemed to be properly served

by mailing a copy thereof by certified mail, return receipt requested, to the property address, or other address(es) that have been designated for the receipt of property tax bills for such property, or the last known address of the property owner if different from the before-mentioned addresses, and/or the address of the property manager, if applicable. If the notice is returned "undeliverable" or circumstances otherwise indicate that service has not been effected, service shall be made by posting a copy of the notice of violation in a conspicuous place on or about the dwelling affected by the notice. The commissioner of the department of licenses and inspections may, in his or her discretion, require such notice to be served by delivering a copy thereof personally to such owner or such operator or by leaving a copy thereof at the owner's usual residence in the presence of someone in the residence of suitable age and discretion who shall be informed of the contents thereof, as the circumstances may require;

(3) *Administrative appeal.* The owner, operator or property-manager may appeal the notice to the board of license and inspection review. The appeal shall be in writing and filed within thirty (30) days after the issuance of the violation. Any appeal to the board of license and inspection review shall be accompanied at the time of filing with a fee of \$50.00, which will be refunded upon a successful appeal. The board of license and inspection review shall hear and decide appeals in accordance with its duly prescribed and promulgated rules, regulations and procedures.

(4) Any owner, operator or property manager, as the case may require, who does not appeal the notice and does not perform the act or acts required under the notice, or who unsuccessfully appeals the notice and does not perform the act or acts required under

the notice within the prescribed time period is in violation of this section and may be issued a civil fine pursuant to subsection (j) (1).

(5) Pursuant to 25 Del. C. Ch. 29, any fines imposed for violations of this section 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.

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 Ordinance approves the institution of civil penalties on property owners who fail to properly register, or re-register, a rental unit within the City of Wilmington.