

AN ORDINANCE TO AMEND CHAPTER 13 OF THE CITY CODE TO INCREASE CIVIL PENALTIES FOR COMMERCIAL ESTABLISHMENTS COMMITTING HEALTH AND SANITATION VIOLATIONS

#0155

Sponsor:

Council
Member
Oliver

Co-Sponsor:
Council
Member
Spadola

WHEREAS, Article 1 of Chapter 13 of the Wilmington City Code promulgates rules to ensure public areas remain nuisance-free; and

WHEREAS, Chapter 13 utilizes fines to deter health and sanitation violations; and

WHEREAS, civil fines were implemented on a one-size-fits-all basis; and

WHEREAS, current civil fines for health code violations have a disparate impact on residential homeowners; and

WHEREAS, larger fines for apartment buildings and commercial establishments will further Chapter 13's goal of reducing nuisance in the City of Wilmington.

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

SECTION 1. Section 13-1 of the Wilmington City Code is hereby amended by inserting the following underlined language:

Apartment Building means any existing structure or group of structures containing four or more dwelling units for the purpose of multifamily occupancy.

SECTION 2. Section 13-2 of the Wilmington City Code is hereby amended by inserting the following underlined language:

Sec. 13-2. Civil Penalties.

- (a) Except in cases where it is otherwise provided by law or by the city charter, other provisions of this Code or by ordinance, any owner of a property who fails to comply with any of the provisions of this chapter or the rules and regulations of the department of licenses and inspections, or who is the owner

of the property on which such non-compliance exists, or who shall oppose or impede an officer or authorized agent or employee of the department of licenses and inspections or the department of public works in the execution of his or her duties under this chapter, shall be subject to and liable for a civil penalty in the amount of \$50.00 (residential) or \$250.00 (apartment buildings and commercial establishments). This civil penalty shall be doubled if not paid within 30 calendar days from the date of the citation.

- (c) Pursuant to title 25, chapter 29 of the Delaware Code, any civil penalty imposed pursuant to this chapter shall give rise to a lien. Any unpaid amount of such civil penalty shall be added to the city property tax billings for the property which was the subject of the citation. Each 24-hour period that the condition giving rise to the initial citation continues will be subject to a separate citation and an additional civil penalty in the amount of \$50.00 (residential) or \$250.00 (apartment buildings and commercial establishments).

SECTION 2. Section 13-4 of the Wilmington City Code is hereby amended by deleting the following stricken through language and inserting the following underlined language:

Sec. 13-4. Littering.

- (a) Every sidewalk or footway between the curb stone and the building line along any of the public streets in the city in front of lots whereon is erected any dwelling house, office, place of business, railing, fence, stone or brick wall, or permanent structure of any kind, or in front of any vacant lots, and every

public or private alley shall at all times be kept free of any garbage, rubbish, refuse, trash or other offensive materials, except for garbage, rubbish, refuse, and trash properly contained and placed on the sidewalk for regularly or specially scheduled refuse collection. The owner of any property or ground abutting on such sidewalk or footway or alley who fails to remove such garbage, rubbish, refuse, trash or other offensive materials shall be subject to, and liable for, a civil penalty in the amount of \$50.00 (residential) or \$250.00 (apartment buildings and commercial establishments), except that an owner of any property from which a business licensed as retailer of edible commodities is operated shall be subject to, and liable for, a civil penalty in the amount of ~~\$150.00~~ \$250.00.

SECTION 3. Section 13-7 of the Wilmington City Code is hereby amended by inserting the following underlined language:

Sec. 13-7. Storage and disposal of garbage and rubbish.

- (a) Every dwelling, dwelling unit, apartment building, and commercial establishment shall have adequate facilities and containers for the storage and disposal of garbage and rubbish, the type and location of which are approved by the enforcement officer. Garbage and rubbish shall be stored and disposed of in separate containers.
- (b) Rubbish storage and disposal. No dwelling, dwelling unit, apartment building, or commercial establishment shall be deemed to comply with the requirements of this section relating to rubbish storage and disposal unless the following requirements are met:

(1) *Outdoor storage.* Rubbish placed outdoors for storage or disposal must be placed in one or more rubbish storage containers meeting the requirements of subsection (d) of this section. The owner of apartment buildings and commercial establishments, upon request, must provide proof to the Department of Licenses and Inspections that adequate trash pick-up is scheduled regularly.

(c) Garbage storage and disposal. No dwelling, dwelling unit, apartment building, or commercial establishment shall be deemed to comply with the requirements of this section relating to garbage storage and disposal unless the following requirements are met:

(e) Garbage containers. Each dwelling, dwelling unit, apartment building, and commercial establishment having no other method acceptable to the commissioners of licenses and inspections and of public works, such as incinerators and/or grinders in accordance with subsection (c)(1) of this section, shall have an adequate number of containers to accommodate all garbage placed outdoors for storage or disposal. Such containers shall be metal or plastic, shall have a capacity of not less than 15 gallons nor more than 100 gallons, shall be flytight, watertight, rodentproof and non-flammable, and shall be covered with tightly-fitting and watertight metal or plastic lids. The owner of a residential property, whether owner-occupied or occupied by others as a rental property, shall be responsible for providing at least one

container for the disposal and storage of garbage meeting the requirements of this subsection for each individual dwelling unit. If deemed necessary by the department of licenses and inspections, the owner of the property may be required to provide more than one such container for each dwelling unit.

SECTION 4. This Ordinance shall become effective immediately upon passage by City Council and signed by the Mayor.

First Reading.....April 7 , 2022
Second Reading.....April 7 , 2022
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ____ day of _____, 2022.

Mayor

SYNOPSIS: This Ordinance establishes increased penalties for apartment buildings and commercial establishments. It also fixes a typographical error in Section 13-4(a).

FISCAL IMPACT: This Ordinance will provide approximately \$200,000 in additional revenue to the City based on projections of fines issued to apartment buildings and commercial establishments.

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