

SUBSTITUTE NO. 1 TO ORDINANCE NO. 21-024

**AN ORDINANCE TO AMEND CHAPTER 5 OF THE CITY CODE TO
REQUIRE BUYERS OF RESIDENTIAL RENTAL PROPERTY TO PAY
BUSINESS LICENSE FEES AT PROPERTY SETTLEMENT**

Rev. 1
#0057

Sponsor:

Council
Member
Darby

Co-Sponsor:

Council
Member
Johnson

WHEREAS, Section 5-34 of the City Code provides that, "No person shall engage in any business, profession, pursuit or calling or perform any act in connection therewith or preparatory thereto until a license is first obtained in accordance with the provisions of this article; provided, that no license shall be required for any person or entity described in subsection (c) of section 44-107;" and

WHEREAS, owners of real property located within the City limits who lease or rent their property or a unit within their property are deemed to operate a business under the application of Chapter 5, and shall be required to comply with all license requirements provided therein; and

WHEREAS, in order to increase compliance with business license requirements among owners of rental property, and to streamline the process for investor-owners to obtain a business license, Wilmington City Council believes it is necessary and proper to require buyers of residential rental property to certify the use of the property as a rental and pay applicable business license fees at settlement of the property.

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

SECTION 1. Chapter 5 of the City Code is hereby amended by adding Section 5-37.1 and the underlined language as follows:

Sec. 5-37.1 - Business License at Property Settlement

- (a) License Fee Paid at Property Settlement. Every buyer of residential real property located within city limits, who intends to lease or rent the property or a unit within the property for residential purposes, shall be required to certify the use of the

property as a rental property, complete a business license application or, if applicable, revise the information contained in an existing business license and rental registration to account for the newly acquired property and pay the applicable business license fee, as specified by Section 5-101, at the settlement or closing on that property.

(1) Certify Use as a Rental Property. Every buyer of residential real property in the city of Wilmington shall be required to execute a Certificate of Use form, certifying whether the property is or will be leased or rented. Such certificate shall be completed at the property settlement and subsequently filed with the Commissioner of Licenses and Inspections, and shall state the following information under oath:

- a. The name and address of the buyer.
- b. The property address.
- c. The intended use of the property, e.g., owner-occupied, rental property, investment property.
- d. The number of rental units within the property, if applicable.
- e. Any intended or anticipated changes to the number of units within the property, if applicable.
- f. Current occupancy status of the property. If the property is unoccupied, the buyer shall provide the date of expected occupancy.
- g. Such other information as the Commissioner of Licenses and Inspections may require.

(2) Payment of License Fee. The appropriate license fee for the rental property shall be included in the closing costs of the property. The fee shall be paid by the buyer at settlement and placed in escrow by the settlement attorney.

(3) Submission of Forms. The settlement attorney shall send the Certificate of Use form, a completed business license application or a revised business license and rental registration form, if applicable, and the business license fee to the Department of Licenses and Inspections.

- a. By submitting the forms referenced in subsection (a)(3) above, the settlement attorney shall not be held liable for false or inaccurate statements made therein by the buyer, nor shall the settlement attorney be liable for failing to submit such forms.

(4) Compliance with All Code Provisions. Submission of the Certificate of Use form does not relieve a property owner from complying with all requirements of the city code applicable to the intended use of the property, including but not limited to the requirements of Chapter 34 (Housing) and Chapter 48 (Zoning), nor does it render a proposed illegal use of the property legal.

- (b) Informational Brochure for Rental Properties. Upon receipt of a business license application submitted pursuant to this section, the Department of Licenses and Inspections shall provide the new property owner with a brochure containing the following information, if ascertainable:
- a. Publicly accessible sources explaining the legal requirements and obligations of landlords.
 - b. Publicly available sources relating to landlord training programs and organizations.
 - c. City of Wilmington requirements relating to rental inspections.
 - d. Contact information for relevant personnel within the Department of Licenses and Inspections.
 - e. Such other information as the Commissioner of Licenses and Inspections determines would be beneficial to the property owner.
- (c) Informational Brochure for Unoccupied Properties. If a Certificate of Use form submitted pursuant to this section indicates the property is unoccupied, the Department of Licenses and Inspections shall provide the new property owner with a brochure containing information relating to the city's legal requirements for vacant properties, including but not limited to vacant property registration and registration fee requirements and a vacant property registration form.
- (d) The Department of Licenses and Inspections and the Department of Finance may develop and implement rules, policies, and procedures to carry out this Section.

SECTION 2. This Substitute 1 to Ordinance No. 21-024 shall be effective one year from the date of approval by the Mayor.

First Reading..... May 6, 2021
Second Reading..... May 6, 2021
Third Reading..... August 25, 2022

Passed by City Council,

President of City Council

ATTEST: _____

City Clerk

Approved this ____ day of _____, 2022.

Mayor

SYNOPSIS: This Substitute 1 to Ordinance No. 21-024 amends Chapter 5 of the City Code by adding Section 5-37.1 to require buyers of residential rental properties located within city limits to complete a business license application and pay business license fees at settlement. Substitute 1 to Ordinance No. 21-024 also requires the Department of Licenses and Inspections to provide the new property owners with an informational brochure providing guidance for landlords and owners of vacant properties. The purpose of Substitute 1 to Ordinance No. 21-024 is to increase enforcement and compliance with business license requirements among owners of rental property, and to streamline the process for investor-owners to obtain business licenses.

FISCAL IMPACT: The fiscal impact of this Substitute 1 to Ordinance No. 21-024 cannot accurately be determined because the number of property transfers and rate of compliance is too speculative.

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