

SUBSTITUTE NO.1 TO ORDINANCE NO. 21-021

AN ORDINANCE TO AMEND CHAPTER 4 OF THE CITY CODE TO PROVIDE FOR CIVIL FINES FOR OWNERS OF VACANT PROPERTIES WHO FAIL TO REGISTER THEM

**Rev. #1
#0034**

WHEREAS, a purpose of this legislation is to improve the housing stock of Wilmington through effective enforcement of the City Code; and

Sponsor:

WHEREAS, City Council believes maintaining a complete list of all the vacant properties in the City of Wilmington with information about their ownership is essential to understand the scope of the city’s vacancy problem and develop strategies to address it; and

**Council
Member
Darby**

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

WHEREAS, City Council believes subjecting owners of vacant properties that fail to pay 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 vacant properties that fail to comply with the registration requirements of Chapter 4; Section 120.0. Annual registration of vacant buildings and registration fees; and

WHEREAS, City Council deems it necessary and proper to amend Chapter 4 of the City Code to effectuate these changes;

NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS that Chapter 4 of the City Code, Subchapter 2 – Building Code, Sec. 4-27 INTERNATIONAL BUILDING CODE 2018, *Section 120.0 Annual registration of vacant buildings and registration fees*, is amended as follows:

SECTION 1: The following deletion is made to subpart (a)

Section 120.0 Annual registration of vacant buildings and registration fees.

- (a) *Purpose.* The purpose of this section requiring the registration of all vacant buildings, including dwellings that are subject to chapter 34 as referenced below, and the payment of registration fees is to assist the city government, particularly the department of licenses and inspections (DLI) in protecting the public health, safety and welfare, to monitor the number of vacant buildings in the city, ~~particularly those that are located in the downtown business district (from Second to 16th, and Walnut to West Streets),~~ to assess the effects of the condition of those buildings on nearby businesses and the neighborhoods in which they are located, particularly in light of fire safety hazards and unlawful, temporary occupancy by transients, including illicit drug users and traffickers, and to require of the owners of such vacant buildings their registration and the payment of related fees, and to promote substantial efforts to rehabilitate such vacant buildings. The provisions of this section are applicable to the owners of such vacant buildings as set forth herein and are in addition to and not in lieu of any and all other applicable provisions of this chapter, the health and sanitation code, and any other applicable provisions of the Wilmington City Code.

SECTION 2: The underlined portions are added to subpart (b)(3)

Section 120.0 Annual registration of vacant buildings and registration fees.

(b) *Definitions and applicability; registration statement and fees.*

(3) *Registration statement and fees; local agent.* If none of the persons listed, as above, is shown at an address within the state, the registration statement also shall provide the name and address of a person who resides within the state and who is authorized to accept service of process on behalf of the owners and who shall be designated as a responsible, local party or agent, both for purposes of notification in the event of an emergency affecting the public health, safety or welfare and for purposes of service of any and all notices or registration statements as herein authorized and in connection herewith. Registration shall be required for all vacant buildings, whether vacant and secure, vacant and open, vacant and boarded, or occupancy ready and shall be required whenever any building has remained vacant for 45 consecutive days or more. In no instance shall the registration of a vacant building and the payment of registration fees be construed to exonerate the owner, agent or responsible party from responsibility for compliance with any other building code or housing code requirement. One registration statement may be filed to include all vacant buildings of the owner so registering. The owner of the vacant property as of November 1 of each calendar year shall be responsible for the payment of the non-refundable registration fee, except as provided in subsection (d) below and buildings deemed "occupancy ready" by the DLI and actively for sale or lease that shall be exempt from imposition of the annual registration fee. However,

buildings deemed "occupancy ready" by the DLI shall only be exempt from imposition of the annual registration fee for no more than 2 consecutive billing cycles. Except as provided in subsection (d) ~~subsection (b)(3)(A)~~ below, said fee shall be billed by the DLI and based on the duration of the vacancy as determined by the following scale:

- (i.) No fee for properties that are vacant for less than one year;
- (ii.) \$500.00 for properties that are vacant for at least one year but less than two years;
- (iii.) \$1,000.00 for properties that are vacant for at least two years but less than three years;
- (iv.) \$2,000.00 for properties that are vacant for at least three years but less than five years;
- (v.) \$3,500.00 for properties that are vacant for at least five years but less than ten years; and
- (vi.) \$5,000.00 for properties that are vacant for at least ten years, plus an additional \$500.00 for each year in excess of ten years.

(A) The vacant registration fee billed to a housing provider meeting the criteria for non-profit organizations as defined by Section 501(c)(3) of the Internal Revenue Code and who receives a vacant building directly from the city or who receives public funds from the city for the acquisition, rehabilitation or redevelopment of a vacant building shall not be based on the duration of the vacancy prior to the non-profit housing provider receiving the vacant building from the city or receiving the funds from the city, but rather from the time it received the vacant building or funds from the city. This provision shall be retroactive to May 1, 2003.

SECTION 3: The following addition is made to subpart (d)

Section 120.0 Annual registration of vacant buildings and registration fees.

(d) Exceptions. ~~This~~ The fees in this section shall not apply to any building owned by the United States, the state, the city, nor to any of their respective agencies or political subdivisions. The exemption provided in this subsection is from payment of the vacant property registration fee, but not from the requirement of registering a vacant property.

SECTION 4: The following deletion is made to subpart (e)

Section 120.0 Annual registration of vacant buildings and registration fees.

(e) Violations; penalties.

(1) The failure or refusal for any reason of any owner, or agent of an owner acting on behalf of the owner, ~~to register a vacant building or~~ to pay any fees required to be paid pursuant to the provisions of this section, within 30 days after they become due, shall constitute a violation punishable upon conviction thereof by a fine in the amount of not less than \$100.00 nor more than \$500.00 for each failure or refusal to register, or for each failure or refusal to pay a required vacant building fee, as applicable. In such cases, whenever the minimum fine of \$100.00 is imposed, it shall not be subject to suspension or reduction for any reason.

SECTION 5: Subparts (f) and (g) are added, and will read as follows:

Section 120.0 Annual registration of vacant buildings and registration fees.

(f) Failure to Register

(1) Penalties. The failure or refusal for any reason of any owner, or agent of an owner acting on behalf of the owner, to register or properly re-register a vacant building shall be assessed administrative penalties in the amount of five hundred dollars (\$500.00). Failure to register vacant unit(s) within thirty (30) days of receiving the five hundred dollars (\$500.00) penalty shall result in a ten dollar (\$10.00) per calendar 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 vacant property registration requirement of this section or of any rule or regulation adopted pursuant thereto, he shall give notice of such violation or alleged violation to the person responsible thereof. Such notice shall:

(i) Be put in writing;

(ii) Include a description of the real estate sufficient for identification;

(iii) Include a statement of the violation(s) and why the notice is being issued;

(v) Allow at least 30 days from the date of such notice for the property to be registered.

(vi) The notice of violation shall be served upon the owner, operator, and 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, other address(es) that have been designated for the receipt of property tax bills for such property, the last known address of the property owner if different from the before-mentioned addresses, and 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 his 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 Section 120.0 (f) (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.

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

SECTION 6: This Ordinance shall become effective six months after the passage of this Ordinance by City Council and approval by the Mayor.

First Reading.....April 1, 2021
Second Reading.....April 1, 2021
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ____ day of _____, 2022.

Mayor

SYNOPSIS: The Ordinance approves the institution of civil penalties on property owners who fail comply with the registration requirements for vacant properties.