

SUBSTITUTE NO. 1 TO ORDINANCE NO. 23-018

AN ORDINANCE TO AMEND CHAPTER 34 OF THE CITY CODE TO ALLOW RESIDENTIAL TENANTS IN CITY PROPERTIES TO DEPOSIT WITHHELD RENT IN A CITY-HELD ESCROW ACCOUNT

**Rev. 1
#0296**

WHEREAS, the State of Delaware Landlord-Tenant Code allows tenants to withhold rent from landlords if certain conditions exist; and

Sponsor:

WHEREAS, tenants who withhold rent may need a secure place to deposit it; and

**Council
Member
McCoy**

WHEREAS, the City wants to protect tenants (and landlords) by providing a safe, neutral place to deposit withheld rent; and

Co-Sponsors:

WHEREAS, City Council deems it necessary and appropriate to amend Chapter 34 of the City Code to establish a voluntary rent escrow program.

**Council
Members
Harlee
Cabrera**

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

SECTION 1. Chapter 34 of the City Code is hereby amended by deleting Sections 34-151 through 34-195 in their entirety.

SECTION 2. Chapter 34 of the City Code is hereby amended by adding in a new Section 34-151 to read as follows:

Sec. 34-151. – Voluntary Rent Escrow Program.

- a) There is hereby authorized a voluntary rental escrow program for residential tenants to deposit withheld rent with the City to serve as evidence of funds in landlord-tenant actions.
- b) The Department of Licenses and Inspections shall develop an affidavit consistent with this Section.
- c) Eligibility. To be eligible to use this section, a tenant must:
 - (1) Be a residential tenant currently occupying a rental property; and
 - (2) Within the limits of the City of Wilmington; and
 - (3) Have not yet received a written notice that rent is late; and

- (4) Have sent their landlord a written request to make repairs; and
- (5) Given the landlord a reasonable time period, as defined in 25 Del. C. § 5307, in which to make repairs, unless:
 - a. There is a lack of hot water, heat, water, electricity, or conditions exist that materially deprives a tenant of a substantial part of the benefit of the tenant's bargain, as defined in 25 Del. C. § 5308, wherein the landlord has forty-eight (48) hours to make repairs.

d) Tenants' Obligations

- (1) Fill out an affidavit with the Department of Licenses and Inspections; and
- (2) Bring lease and all written notices provided to the Landlord; and
- (3) Bring the money to be withheld in escrow.
 - a. The amount of money withheld cannot exceed 2/3 of the monthly rent.
- (4) The Tenant shall continue to put money into escrow until:
 - a. A Court adjudicates the matter; or
 - b. The landlord and tenant submit a joint affidavit certifying the release of funds.

e) City's Obligations

- (1) Maintain copies of the affidavit and provide them upon sufficient notice; and
- (2) Deposit the funds in an escrow account with an established local bank; and
- (3) Provide the tenant a receipt verifying the deposit; and
- (4) Sending notice to the landlord, which counts as notice to protect against retaliatory acts under 25 Del. C. 5516; and
- (5) Coordinate inspections of the rental property in accordance with the City Code; and
- (6) Refer the offending landlord to the Law Department for prosecution under Chapter 34 of the City Code.

f) Fund Release

- (1) The City will release the funds upon receiving:
 - a. A Court Order; or
 - b. A joint affidavit signed by the landlord and the tenant certifying the release of funds

SECTION 3. Chapter 34 of the City Code is hereby amended by renumbering Section 34-196 as Section 34-152, and making Sections 34-153 through 34-230 reserved as follow:

Sec. 34-152. – **Rights of tenants and landlord not affected.**

Secs. 34-153—34-230. – **Reserved.**

SECTION 4. This Ordinance shall become effective 30 days after an employee is assigned to manage the Escrow Accounts, and an Escrow Agreement is set up with a local financial institution.

First Reading.....May 4, 2023
Second Reading.....May 4, 2023
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ____ day of _____, 2023.

Mayor

SYNOPSIS: This Ordinance amends Chapter 34 of the City Code to establish a voluntary escrow program for tenants living in City properties.

FISCAL IMPACT STATEMENT: This Ordinance's fiscal impact should be *de minimis*.

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