

**AN ORDINANCE TO AMEND CHAPTER 45 OF THE CITY CODE TO
REGULATE THE DEPARTMENT OF FINANCE’S ABILITY TO FILE
MONITIONS ACTIONS AND FORECLOSE ON CUSTOMERS WHO ARE
OWNER-OCCUPANTS**

#0046

Sponsor:

**Council
Member
Darby**

WHEREAS, *Wilm. C. (Rel. Laws)* § 4-181, derived from 36 Del. L. ch. 143, § 1, sets forth the process for the City to file a monitions action, against a property owner for unpaid assessments; and

WHEREAS, *Wilm. C.* §§ 45-53 and 45-54 allow the City to collect stormwater and sewerage fees from residents and non-residents served by the City’s sanitary sewer system; and

WHEREAS, *Wilm. C.* § 45-175 allows the City to collect water usage bills from residents and non-residents served by the City’s water supply; and

WHEREAS, *Wilm. C.* § 45-176 creates interest, penalties, and costs for unpaid water, stormwater, and sewerage bills; and

WHEREAS, collectively, these fees, interest, penalties, and costs are assessments for which the City may file motions actions; and

WHEREAS, if the unpaid assessments are not paid within twenty days of the sheriff’s return of posting the monition, § 4-181 allows the City to file a foreclosure action against that property owner; and

WHEREAS, delinquent fees disproportionately affect low-income residents; and

WHEREAS, many City utility customers continue to suffer from the economic harm caused by the pandemic and, more recently, inflation; and

WHEREAS, there are alternative ways to obtain payment of unpaid utility bills, including the City’s Utility assistance program, without resorting to selling homeowners’ property; and.

WHEREAS, the City should use monitions action as the last possible step in obtaining payment for a debt; and

WHEREAS, in 2024, the Department of Finance promulgated rules outlining when it would file monitions actions for debts; and

WHEREAS, the Department of Finance may adopt new, more lax rules in the future; and

WHEREAS, *Wilm. C. (Charter)* § 2-305 gives City Council the ability to modify a department's duties; and

WHEREAS, City Council deems it necessary and proper to codify the Department of Finance's rules to prohibit it from foreclosing owner-occupied properties whose arrearages only include water, sewerage, and/or stormwater fees, interest, penalties, and costs.

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

SECTION 1. Chapter 45 of the City Code is hereby amended by adding a new Section 45-9 thereto containing the underlined language to read as follows:

Sec. 45-9. – Owner-Occupant Utility-Only Foreclosure Prohibition.

(a) Definitions.

- a. Owner-Occupant. A residential property occupied by the owner on the utility account. This section does not apply to commercial, nonprofit, or rental properties.
- b. Utilities. Utilities, in this Section, shall be defined to include all related fees, interest, penalties, and costs, as described in sections 45-53, 45-54, 45-175, and 45-176 of the city code.

(b) Delinquency Notices

- a. Upon delinquency, the owner-occupant will receive a notice of delinquency, via regular and certified mail, thirty (30) days after the due date for payment. The notice will apprise the account owner of the delinquency and provide available payment plan options.

- b. If no response is made, after sixty (60) days of delinquency, the department of finance will mail a second notice via regular and certified mail to the account owner, again advising them of the delinquency and available options to bring the account current.
 - c. If there is no response within five (5) days of the account owner's receiving the second notice, a disconnection warning under section 45-86(7) will be sent via regular and certified mail indicating that the water service may be terminated within fifteen (15) days. Water service will be returned once the owner-occupant responds.
- (c) Monitions actions.
- a. The city may file a monitions action, as defined in Wilm. C. (Rel. Laws) § 4-181, on owner-occupants with utility-account delinquencies, to secure a lien against the property, only under the following conditions:
 - i. The account has been delinquent for more than 365 days; and
 - ii. The account is more than \$7,500.00 in arrears; and
 - iii. One of the following
 - 1. The owner-occupant has exhausted all available payment plans and assistance programs; or
 - 2. The owner-occupant has not responded to the city's delinquency notices.
- (d) Sheriff Sales. The city may not send utility-account only delinquencies to sheriff sale.
- (e) Exemption. The city may file exercise its rights under Section 4-181 if the owner-occupant accrues a delinquency by reasons in section 45-86(a)(1)–(3), (5), (6), (8), (9), or (10).

SECTION 2. Chapter 45 of the City Code is hereby amended by renumbering certain reserved sections thereof by deleting the stricken language and adding the underlined language to read as follows:

Secs. ~~45-710~~ – 45-30. – Reserved.

SECTION 3. This Ordinance shall become effective on July 1, 2025.

First Reading.....May 1, 2025
Second Reading.....May 1, 2025
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ____ day of _____, 2025.

Mayor

SYNOPSIS: This Ordinance amends Chapter 45 of the City Code to prohibit the Department of Finance from foreclosing on owner-occupied residential properties which receive City utilities, and whose debts consist solely of unpaid water, sewerage, and stormwater fees, interest, penalties, and costs. This Ordinance shall become effective on July 1, 2025.

FISCAL IMPACT STATEMENT: The fiscal impact of this Ordinance cannot be precisely quantified.

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