

**SUBSTITUTE NO. 1 TO ORDINANCE NO. 06-016**

**AN ORDINANCE TO AMEND CHAPTER 34 OF THE CITY CODE  
REGARDING THE INSPECTION OF RENTAL DWELLINGS.**

Rev. #2  
#2583

Sponsor:

Council  
Member  
Freel

Co-Sponsors:

Council  
President  
Blunt

Council  
Members  
Kelley  
Shabazz  
Ignudo  
Griffiths  
Bolden  
Brown

WHEREAS, the Department of Licenses and Inspections conducts an average of 1200 housing inspections each month; and

WHEREAS, this Council deems it necessary to amend Section 34 of the City Code regarding the inspection of rental properties.

**THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:**

**SECTION 1.** Section 34-45 is hereby amended by deleting the under-stricken language in brackets and by adding the underlined language to read as follows:

**SEC. 34-45. Inspections of rented or leased dwellings or buildings for residential occupancy ~~[prior to lease or rental, or installment sales]~~, to include installment sales; no warranty of condition.**

(a) Inspection ~~[prior to lease or]~~ of a rental [of a] dwelling or building. Any person who leases or rents any dwelling or any dwelling unit shall ~~[, prior to such leasing or renting]:~~

(1) Cause the same to be inspected by the Commissioner of Licenses and Inspections, or his designee every two (2) years for each dwelling or building consisting of five (5) or fewer units. An initial rental inspection shall be required for each such dwelling or building consistent with a rental inspection schedule set by the Commissioner of Licenses and Inspections. The two (2) year period referenced in this subsection shall be calculated based upon the rental inspection schedule set by the Commissioner of Licenses and Inspections. Inspections of dwellings or buildings required under this subsection may consist of a random sampling of units in the dwelling or building as determined by the Commissioner of Licenses and Inspections or his designee. The purpose of all rental inspections shall be enforcement of the provisions of the Wilmington City Code concerning life safety items which include, but are not limited to: smoke/carbon monoxide detectors, heating sources, hot water sources, electrical systems, sanitary disposal sources, water damage, roofs and means of egress and ingress.

(2) ~~[Cause any violations of this chapter, which may be cited as a result of such pre-rental inspection, to be corrected prior to permitting any tenant or lessee or any other person to occupy such dwelling or dwelling unit.] Cause the same to be inspected by the Commissioner of Licenses and Inspections, or his designee every five (5) years for each dwelling or building consisting of six (6) or more units. An initial rental inspection shall be required for each such dwelling or building consistent with a rental inspection schedule set by the Commissioner of~~

Licenses and Inspections. The five (5) year period referenced in this subsection shall be calculated based upon the rental inspection schedule set by the Commissioner of Licenses and Inspections. Inspections of dwellings or buildings required under this subsection may consist of a random sampling of units in the dwelling or building as determined by the Commissioner of Licenses and Inspections or his designee. The purpose of all rental inspections shall be enforcement of the provisions of the Wilmington City Code concerning life safety items which include, but are not limited to: smoke/carbon monoxide detectors, heating sources, hot water sources, electrical systems, sanitary disposal sources, water damage, roofs and means of egress and ingress.

(3) With the exception of the initial rental inspection, a waiver of a subsequent rental inspection required under subsections (1) and (2) above may be granted by the Commissioner of Licenses and Inspections if all the following conditions are present:

- a. The dwelling or building has no outstanding violations of the building, housing, sanitation, vegetation, animal, zoning or licensing provisions of the Wilmington City Code at the time the waiver is requested;
- b. The property owner and/or property manager has not been convicted of, or pled guilty or no contest to, or assessed a civil penalty for any violations of the building, housing, sanitation, vegetation, animal, zoning or licensing provisions of the Wilmington City Code within the applicable two (2) or five (5) year period preceding the waiver request;
- c. The dwelling or building has not been the subject of a notice declaring said dwelling or building to be unfit for human habitation by the Department of Licenses and Inspections within the applicable two (2) or five (5) year period preceding the waiver request;
- d. The property owner and, if applicable, the property manager, is properly registered and licensed by the Department of Licenses and Inspections;  
and
- e. The property owner and, if applicable, the property manager, are in good standing with regard to any City of Wilmington financial obligations.

A waiver must be requested by the owner of the property, or if applicable, the property manager, each time a rental inspection is required. A request for waiver must be in writing and on a form provided by the Department of Licenses and Inspections.

(4) If the dwelling unit is unoccupied at the time of the rental inspection, cause any violations cited during the rental inspection to be corrected prior to permitting any tenant or lessee or any other persons to occupy such dwelling or dwelling unit. If the dwelling unit is occupied at the time of the rental inspection, cause any violations cited during the rental inspection to be corrected within the time period designated by the Commissioner of the Department of Licenses and Inspections or his designee, and cause the dwelling unit to be re-inspected upon correction of the violation(s).

The provisions of this section shall apply to the lease or rental of any dwelling or dwelling unit whether it is to be leased to the current tenant or to a new tenant and whether the same is to be done by the current owner or a new owner. In any instance in which a tenant remains in possession during a change in ownership by sale, exchange or any other transfer, the rental [~~prerental~~] inspection requirements of this chapter shall be applicable and shall be given full force and effect, and any violations cited shall be corrected within a reasonable period of time as shall be determined at the sole discretion of the Commissioner of Licenses and Inspections or his designees.

~~[(b) *Transitional provisions.* The provisions of this section shall apply to leases or rentals, made on and after July 17, 1989, whether such leasing or rental is a new lease or rental or a releasing or a rental. Any lease or rental regarding which there are outstanding violations cited under the provisions in effect prior to July 17, 1989, shall be governed by those provisions until final disposition or until an inspection is conducted pursuant to the provisions of this section, following which this section shall be fully applicable.]~~

~~[(c)]~~ (b) *Installment sales.* Whenever any person sells any dwelling, dwelling unit, building, [~~hotel~~] or rooming house in the City in which there is a retention of title by the seller and a deferred installment payment plan is set forth in the contract or lease agreement, the seller shall comply with the inspection requirements of subsection (a) of this section and the provisions of section 34-43 shall not be applicable to any such seller of property who is subject to the provisions of this subsection.

~~[(d)]~~ (c) *Disclaimer of warranty of condition.* Nothing contained in this section shall be construed as any manner of warranty or guarantee by the City or by its agent, the Department of Licenses and Inspections, that any particular property at any particular time fully complies with the provisions of this chapter and all rules and regulations adopted pursuant thereto or that any violations of this chapter and the rules and regulations adopted pursuant thereto cited by the Department of Licenses and Inspections are necessarily the only violations existing in or upon a particular property at any particular time or that corrections of violations of this chapter and any rules and regulations adopted pursuant thereto which have been cited by the Department of Licenses and Inspections are necessarily full and complete corrections such that no other violations exist in or upon any particular property at any particular time.

~~[(e)]~~ (d) *Fee.*

~~[(1) Any person who leases or rents any dwelling or any dwelling unit in willful violation of this section shall pay \$25.00 for any inspection or re-inspection required under this section, in addition to any other penalty provided for such violation.]~~

~~[(2)]~~ (1) If more than one re-inspection is necessary to determine compliance with any violation cited during the initial rental inspection, an additional fee in the amount of \$25.00 will be assessed for each re-inspection, commencing with a second re-inspection. Said re-inspection fee may be waived for good cause shown at the discretion of the [~~Inspector~~] Code Enforcement Officer.

**SECTION 2.** This ordinance shall become effective July 1, 2006.

First Reading . . . . March 9, 2006  
Second Reading . . . March 9, 2006  
Third Reading. . . . April 6, 2006

Passed by City Council, April 6, 2006

Theodore Blunt  
President of City Council

Attest: Maribel Ruiz  
City Clerk

Approved as to form this  
10<sup>th</sup> day of April, 2006

Romania Vasquez  
Assistant City Solicitor

Approved this 10<sup>th</sup> day of APRIL, 2006.

John M. Blunt  
Mayor

**SYNOPSIS:** This Ordinance amends Chapter 34 of the City Code regarding the elimination of pre-rental inspections and the institution of rental inspections every two (2) years for buildings with five (5) or fewer dwelling units, and every five (5) years for buildings with six (6) or more dwelling units.