

AN ORDINANCE TO AMEND CHAPTER 11 OF THE CITY CODE TO ADD A NEW ARTICLE VI, "ILLICIT DISCHARGE AND CONNECTION TO MS4"

WHEREAS, an estimated 90 percent (90%) of the City's stormwater collection system is a Combined Sewer Overflow (CSO) system and the remaining 10 percent (10%) is a Municipal Separate Storm Sewer System (MS4); and

WHEREAS, the Surface Water Discharges Section of the Division of Water of the Delaware Department of Natural Resources and Environmental Control ("DNREC") has issued to the City of Wilmington (the "City") a MS4 Phase I State Permit WPCC 3063A/96, DE 0051071 (the "MS4 Permit"); and

WHEREAS, in order to comply with the requirements of the MS4 Permit, the City must adopt an ordinance that addresses illicit discharge detection and elimination to stormwater collection infrastructure located within the City; and

WHEREAS, the City is authorized to regulate discharges to the collection system; and

WHEREAS, the City regulates discharges to the CSO system pursuant to Chapter 11, Section 201 (General Sewer Requirements) of the City Code; and

WHEREAS, there is currently no applicable City Code provision that regulates discharges to the MS4 system; and

WHEREAS, the U.S. Environmental Protection Agency ("EPA") has a Model Illicit Discharge Detection and Elimination Ordinance (the "IDDE Ordinance") that establishes methods for controlling the introduction of pollutants into municipal separate storm sewer systems; and

#4027

Sponsor:

Council
Member
Shabazz

WHEREAS, the proposed new Article VI, Illicit Discharge and Connection to MS4, attached hereto as Exhibit “A,” adopts the EPA’s IDDE Ordinance, with minor modifications, in order to comply with the City’s MS4 Permit issued by DNREC; and

WHEREAS, the City Council deems it necessary and proper to adopt this Ordinance in order to comply with the requirements of the MS4 Permit, and also to improve the health, safety, and well-being of the residents of the City by reducing incidents of illegal dumping and illicit discharges by prohibiting certain discharges to the City’s MS4 system and authorizing enforcement measures.

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

SECTION 1. City Code Chapter 11 is hereby amended by adding a new Article VI, Illicit Discharge and Connection to MS4. The new Article VI is attached hereto as Exhibit “A.”

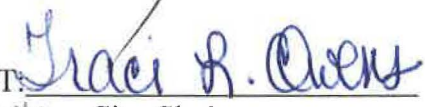
SECTION 2. This Ordinance shall become effective immediately upon its date of passage by the City Council and approval by the Mayor.

First Reading..... March 12, 2015
Second Reading....March 12, 2015
Third Reading..... June 4, 2015

Passed by City Council
June 4, 2015

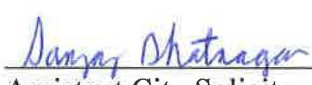


President of City Council

ATTEST: 

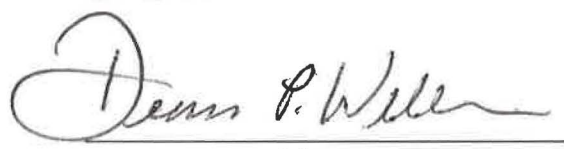
Deputy City Clerk

Approved as to form this 4th day of
March, 2015



Assistant City Solicitor

Approved this 9 day of
June, 2015



Mayor

SYNOPSIS: This Ordinance amends Chapter 11 of the City Code to add a new Article VI, Illicit Discharge and Connection to MS4, in order to bring the City into compliance with DNREC's MS4 permit issued to the City. The new Article VI authorizes the City to investigate suspected discharges, define required abatement measures and schedules, and take appropriate enforcement measures and actions, including penalties for noncompliance.

Exhibit A

ARTICLE VI - ILLICIT DISCHARGE AND CONNECTION TO MS4

Sec. 11-300. PURPOSE/INTENT.

The purpose of this article is to provide for the health, safety, and general welfare of the citizens of City of Wilmington through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This article establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this article are:

- (1) To regulate the contribution of pollutants to the MS4 by storm water discharges by any user.
- (2) To prohibit illicit connections and discharges to the MS4.
- (3) To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this article.

Sec. 11-301. DEFINITIONS.

For the purposes of this article, the following shall mean:

Authorized Enforcement Agency. Employees or designees of the City of Wilmington designated to enforce this article, including but not limited to the Commissioner of Public Works.

Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction Activity. Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of 5,000 square feet. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal Discharge. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Sec. 11-308 of this article.

Illicit Connections. An illicit connection is defined as either of the following:

- a) Any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the storm drain system including but not limited to any conveyances that allow

any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,

b) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial Activity. Activities subject to NPDES Industrial Storm Water Permits as defined in 40 CFR, Section 122.26 (b)(14) and in the State of Delaware *Regulations Governing the Control of Water Pollution*, Section 9.1.01.1.A.

Municipal Separate Storm Sewer System (MS4). The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned by the City of Wilmington and designed or used for collecting or conveying storm water, and that is not intended to be used for collecting or conveying sewage.

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit. means a permit issued by State of Delaware that authorizes the discharge of pollutants to waters of the State, under prescribed conditions, pursuant to Section 6 of the Delaware *Regulations Governing the Control of Water Pollution*, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-Storm Water Discharge. Any discharge to the storm drain system that is not composed entirely of storm water.

Person. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm Drainage System. Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets,

gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Storm Water. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Storm Water Management Plan. A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Storm Water, Storm Water Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

Wastewater. Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

Waters of the State. All water, on the surface and under the ground, wholly or partially within, or bordering the State of Delaware or within its jurisdiction, as defined in the Delaware *Regulations Governing the Control of Water Pollution*, Section 9.1.01.0.

Sec. 11-302. APPLICABILITY.

This article shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the City of Wilmington.

Sec. 11-303. RESPONSIBILITY FOR ADMINISTRATION.

The City of Wilmington shall administer, implement, and enforce the provisions of this article. Any powers granted or duties imposed upon the City of Wilmington as the authorized enforcement agency may be delegated in writing by the Commissioner of Public Works to persons or entities acting in the beneficial interest of or in the employ of the City of Wilmington.

Sec. 11-304. COMPATIBILITY WITH OTHER REGULATIONS.

This article is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this article are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

Sec. 11-305. SEVERABILITY.

The provisions of this article are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this article or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this article.

Sec. 11-306. MINIMUM STANDARDS.

The standards set forth herein and promulgated pursuant to this article are minimum standards; therefore this article does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

SEC. 11-307. DISCHARGE PROHIBITIONS.

11-307.1. Prohibition of Illegal Discharges.

No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants, other than storm water. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

a) The following discharges are exempt from discharge prohibitions established by this article: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground waters, ground water infiltration, uncontaminated pumped ground water, foundation or footing drains, air conditioning condensation, water from crawl space pumps, noncommercial washing of vehicles, natural flows from riparian habitats and wetlands, dechlorinated swimming pool discharges (less than one ppm chlorine), firefighting activities, street cleaning water, and any other water source not containing pollutants.

b) Discharges specified in writing by the City of Wilmington as being necessary to protect public health and safety.

c) Discharges associated with dye testing, however this activity requires written notification to the City of Wilmington prior to the time of the test.

d) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency (EPA) or the Delaware Department of Natural Resources (DNREC), provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

11-307.2. Prohibition of Illicit Connections.

a) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

c) A person is considered to be in violation of this article if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

d) Improper connections in violation of this article must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the City of Wilmington.

e) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of

that property upon receipt of written notice of violation from the City of Wilmington requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the City of Wilmington in a form specified by the City of Wilmington.

11-308. WATERCOURSE PROTECTION.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

11-309. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES – NOTICE OF INTENT (NOI).

a) Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City of Wilmington prior to the allowing of discharges to the MS4.

b) The operator of a facility, including construction sites, required to have an NPDES permit to discharge storm water associated with industrial activity shall submit a copy of the Notice of Intent (NOI) to the City of Wilmington at the same time the operator submits the original Notice of Intent to the EPA as applicable.

c) The copy of the Notice of Intent may be delivered to the City of Wilmington either in person or by mailing it to:

Notice of Intent to Discharge Storm Water
Commissioner of Public Works
City of Wilmington
Louis L. Redding City/County Building
800 French Street
Wilmington, DE 19801-3537

d) A person is in violation of this article if the person operates a facility that is discharging storm water associated with industrial activity, including construction, without having submitted a copy of the Notice of Intent to do so to the City of Wilmington.

11-310. COMPLIANCE MONITORING

11-310.1. Right of Entry: Inspection and Sampling.

The City of Wilmington shall be permitted to enter and inspect facilities subject to regulation under this article as often as may be necessary to determine compliance with this article.

a) If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the City of Wilmington.

b) Facility operators shall allow the City of Wilmington ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

c) The City of Wilmington shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the City of Wilmington to conduct monitoring and/or sampling of the facility's storm water discharge.

d) The City of Wilmington has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.

e) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the City of Wilmington and shall not be replaced. The costs of clearing such access shall be borne by the operator.

f) Unreasonable delays in allowing the City of Wilmington access to a permitted facility is a violation of a storm water discharge permit and of this article. A person who is the operator of a facility with an NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the City of Wilmington reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this article.

11-310.2. Search Warrants.

If the City of Wilmington has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this article or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City of Wilmington may seek issuance of a search warrant from any court of competent jurisdiction.

11-311. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES (BMPs).

The owner or operator of such activity, operation, or facility shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise that is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional

structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a storm water management plan (SWMP) as necessary for compliance with requirements of the NPDES permit.

11-312. NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the City of Wilmington in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of Wilmington within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least five years. Failure to provide notification of a release as provided above is a violation of this article.

11-313. VIOLATIONS, ENFORCEMENT, AND PENALTIES.

11-313.1. Violations.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. Any person who has violated or continues to violate the provisions of this article, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law. In the event the violation constitutes an immediate danger to public health or public safety, the City of Wilmington is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The City of Wilmington is authorized to seek costs of the abatement as outlined in 11-317.

11-313.2. Warning Notice.

When the City of Wilmington finds that any person has violated, or continues to violate, any provision of this article, or any order issued hereunder, the City of Wilmington may serve upon that person a written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in this subsection shall limit the authority of the City of Wilmington to take any action, including emergency action or any other enforcement action, without first issuing a Warning Notice.

11-313.3. Notice of Violation.

Whenever the City of Wilmington finds that a person has violated a prohibition or failed to meet a requirement of this article, the City of Wilmington may order compliance by written notice of violation to the responsible person. The Notice of Violation shall contain:

- (1) The name and address of the alleged violator;
- (2) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
- (3) A statement specifying the nature of the violation;
- (4) A description of the remedial measures necessary to restore compliance with this article and a time schedule for the completion of such remedial action;
- (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- (6) A statement that the determination of violation may be appealed to the City of Wilmington by filing a written notice of appeal within ten days of service of notice of violation; and
- (7) A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator. Such notice may require without limitation:
 - (a) The performance of monitoring, analyses, and reporting;
 - (b) The elimination of illicit connections or discharges;
 - (c) That violating discharges, practices, or operations shall cease and desist;
 - (d) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property
 - (e) Payment of a fine to cover administrative and remediation costs; and
 - (f) The implementation of source control or treatment BMPs.

11-313.5. Compensatory Action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this article, the City of Wilmington may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

11-313.6. Suspension of MS4 Access.

a) Emergency Cease and Desist Orders. When the City of Wilmington finds that any person has violated, or continues to violate, any provision of this article, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the City of Wilmington may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:

- (1) Immediately comply with all ordinance requirements; and
- (2) Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the City of Wilmington may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The City of Wilmington may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the City of Wilmington that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this article. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the City of Wilmington within two days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

b) Suspension due to Illicit Discharges in Emergency Situations. The City of Wilmington may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the City of Wilmington may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

c) Suspension due to the Detection of Illicit Discharge. Any person discharging to the MS4 in violation of this article may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The City of Wilmington will notify a violator of the proposed termination of its MS4 access. The violator may petition the City of Wilmington for a reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the City of Wilmington .

11-313.7. Civil Penalties.

In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within two days, or such greater period as the City of Wilmington shall deem appropriate, after the City of Wilmington has taken one or more of the actions described above, the City of Wilmington may impose a penalty not less than \$1,000.00 nor more than \$10,000.00 (depending on the severity of the violation) per violation, for each day the violation remains unremedied after receipt of the notice of violation.

11-313.8. Criminal Prosecution.

Any person that has violated or continues to violate this article shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of not less than \$2,500.00 nor more than \$25,000 per violation per day and/or imprisonment for a period of time not to exceed one year. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

11-314. APPEAL OF NOTICE OF VIOLATION.

Any person receiving a Notice of Violation may appeal the determination of the City of Wilmington. The notice of appeal must be received within ten days from the date of the Notice of Violation. Hearing on the appeal before the Commissioner of Public Works or his/her designee shall take place within 30 days from the date of receipt of the notice of appeal. The decision of the Commissioner of Public Works or designee shall be final.

11-315. ENFORCEMENT MEASURES AFTER APPEAL.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within ten days of the decision of the Commissioner of Public Works authority upholding the decision of the City of Wilmington, then representatives of the City of Wilmington shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

11-316. COST OF ABATEMENT OF THE VIOLATION.

Within ten days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within ten days. If the amount due is not paid within a timely manner as determined by the decision of the Commissioner of Public Works or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the City of Wilmington by reason of such violation. The liability shall be paid in not more than three equal payments. Interest at the rate of five percent per annum shall be assessed on the balance beginning on the 30th day following discovery of the violation.

11-317. VIOLATIONS DEEMED A PUBLIC NUISANCE.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this article is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

11-318. REMEDIES NOT EXCLUSIVE.

The remedies listed in this article are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City of Wilmington to seek cumulative remedies. The City of Wilmington may recover all attorney's fees court costs and other expenses associated with enforcement of this article, including sampling and monitoring expenses.