

ORDINANCE TO AMEND CHAPTERS 3 AND 13 OF THE WILMINGTON CITY CODE TO PROVIDE FOR A REFUND OF ADMINISTRATIVE FEES IN INSTANCES OF SUCCESSFUL APPEALS OF ALLEGED VIOLATIONS INCURRED THEREUNDER

#4695

Sponsor:

**Council
Member
Congo**

Co-Sponsor:

**Council
President
Shabazz**

WHEREAS, the purpose of this legislation is to amend Sections 3-11(e) and 13-3 of the Wilmington City Code (the “Code”) by revising those Code sections to provide for a refund of the \$15.00 administrative fee incurred thereunder in instances where the alleged violator has appealed the civil penalty assessed and had such civil penalty reversed, revoked, or vacated by the written decision of the Commissioner of Licenses and Inspections (or his or her designee); and

WHEREAS, Sections 3-11(e) and 13-3 of the Code both currently provide, in part, “The owner of a property aggrieved by any civil penalty imposed pursuant to this chapter may appeal to the commissioner of licenses and inspections by sending a detailed written explanation of the grounds for the appeal, along with a mandatory non-refundable administrative filing fee of \$15.00 to the commissioner of licenses and inspections within 21 business days of the date of the citation.”; and

WHEREAS, City Council believes refunding the administrative fee to parties that have had the civil penalties reversed, revoked or vacated by a written decision of the Commissioner of Licenses and Inspections (or his or her designee) is reasonable; and

WHEREAS, City Council deems it necessary and appropriate to amend Chapters 3 and 13 of the Code to effectuate the aforementioned change.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON

HEREBY ORDAINS:

SECTION 1. Chapter 3 of the Wilmington City Code is hereby amended by amending Section 3-11(e) thereof to add the underlined language and remove the stricken language as follows:

Sec. 3-11. - Accumulation of dog, cat, pigeon or other animal or domestic bird fecal matter.

...

(e) Appeals. The owner of a property aggrieved by any civil penalty imposed pursuant to this chapter may appeal to the commissioner of licenses and inspections by sending a detailed written explanation of the grounds for the appeal, along with a mandatory ~~non-refundable~~ administrative filing fee of \$15.00 to the commissioner of licenses and inspections within 21 business days of the date of the citation. The commissioner of licenses and inspections or his or her designee shall issue a written decision affirming, modifying, reversing, revoking or vacating the civil penalty within 45 calendar days of receipt of the written explanation of the grounds for the appeal. Such decision shall be final. If the written decision reverses, revokes or vacates the civil penalty, the \$15.00 administrative filing fee shall be refunded. Each citation received must be appealed separately. Any appeal to the commissioner of licenses and inspections shall act as a stay of the citation and civil penalty until a final decision on the appeal has been rendered. If during the pendency of the appeal additional citations are issued and civil penalties imposed regarding the same matter under appeal, the civil penalty shall be voided.

SECTION 2. Chapter 13 of the Wilmington City Code is hereby amended by amending Section 13-3 thereof to add the underlined language and remove the stricken language as follows:

Sec. 13-3. - Appeals.

The owner of a property aggrieved by any civil penalty imposed pursuant to this chapter may appeal to the commissioner of licenses and inspections by sending a detailed written explanation of the grounds for the appeal, along with a mandatory ~~non-refundable~~ administrative filing fee of \$15.00, to the commissioner of licenses and inspections within 21 business days of the date of the citation. The commissioner of licenses and inspections or his or her designee shall issue a written decision affirming, modifying, reversing, revoking or vacating the civil penalty within 45 calendar days of receipt of the written explanation of the grounds for the appeal. Such

decision shall be final. If the written decision reverses, revokes or vacates the civil penalty, the \$15.00 administrative filing fee shall be refunded. Each citation received must be appealed separately. Any appeal to the commissioner of licenses and inspections shall act as a stay of the citation and civil penalty until a final decision on the appeal has been rendered. If during the pendency of the appeal additional citations are issued and civil penalties imposed regarding the same matter under appeal, the civil penalty shall be voided.

SECTION 3. This Ordinance shall become effective on January 1, 2020.

First Reading.....August 22, 2019
Second Reading.....August 22, 2019
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ____ day of _____, 2019.

Mayor

SYNOPSIS: This Ordinance amends Sections 3-11(e) and 13-3 of the Wilmington City Code by revising those sections to provide for a refund of the administrative fee incurred thereunder in instances where the alleged violator has appealed the civil penalty and had such civil penalty reversed, revoked, or vacated by a written decision of the Commissioner of Licenses and Inspections (or his or her designee).

FISCAL IMPACT STATEMENT: The fiscal impact of this Ordinance will be negligible as the decrease in revenue to the City as a result thereof is estimated at less than \$400 annually.

