

SUBSTITUTE NO. 1 TO ORDINANCE NO. 25-022

AN ORDINANCE TO AMEND CHAPTERS 3, 4, 5, 13, 34, 44, AND 45 OF THE CITY CODE TO STANDARDIZE THE PROCEDURE FOR THE APPLICATION OF PAYMENTS OF FEES, CIVIL FINES, CIVIL PENALTIES, AND TAXES DUE AND OWING TO THE CITY

**Rev. 1
#0049**

Sponsor:

**Council
Member
Harlee**

WHEREAS, Section 45-176(e) of the City Code sets forth the procedure for how the City applies payments of unpaid water, sewer, and stormwater charges made by customers; and

WHEREAS, the Department of Finance would like to standardize the procedure for the application of payments of unpaid fees, civil fines, civil penalties, and taxes due and owing to the City to match the procedure set forth in City Code Section 45-176(e), with the exception of payment of bills for civil fines incurred pursuant to chapters 3 or 13 of the City Code for which the thirty-day period from the date of citation has not elapsed; and

WHEREAS, the standardized procedure will only apply to payments for fees, civil fines, civil penalties, and taxes for which partial payments are already permitted and should not be construed as permitting partial payments in other circumstances; and

WHEREAS, in order to make the procedure for the application of payments uniform, it is necessary to amend Chapters 3, 4, 5, 13, 34, 44, and 45 of the City Code; and

WHEREAS, in light of the foregoing, City Council deems it necessary and appropriate to amend Chapters 4, 5, 13, 34, 44, and 45 of the City Code as described above and set forth below.

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

SECTION 1. Chapter 3 of the City Code is hereby amended by amending Section 3-11 thereof by deleting the stricken language and adding the underlined language to read as follows:

Sec. 3-11. - Accumulation of dog, cat, pigeon or other animal or domestic bird fecal matter; appeals; state of mind; application of payments.

(g) Application of payments. Unless otherwise provided, when a payment is made toward unpaid civil fines or civil penalties incurred pursuant to chapter 3 of this Code, such payment shall be applied to the account in the order of:

- (1) Any bill for civil fines incurred pursuant to chapters 3 or 13 of this Code for which the thirty-day period from the date of citation has not elapsed;
- (2) The oldest unpaid bill incurred pursuant to chapters 3, 4, 5, 13, or 34 of this Code, with the exception of the bills set forth in subsection (1) above;
- (3) Penalty; and
- (4) Interest, if applicable.

SECTION 2. Chapter 4 of the City Code is hereby amended by amending Subchapter I (In General) thereof by adding a new Section 4-4 and renumbering the Reserved sections by deleting the stricken language and adding the underlined language to read as follows:

SUBCHAPTER 1. - IN GENERAL

Sec. 4-4. Application of payments.

Unless otherwise provided, when a payment is made toward unpaid vacant property registration fees, civil fines, or civil penalties incurred pursuant to chapter 4 of this Code, such payment shall be applied to the account in the order of:

- (a) Any bill for civil fines incurred pursuant to chapters 3 or 13 of this Code for which the thirty-day period from the date of citation has not elapsed;
- (b) The oldest unpaid bill incurred pursuant to chapters 3, 4, 5, 13, or 34 of this Code, with the exception of the bills set forth in subsection (a) above;
- (c) Penalty; and
- (d) Interest, if applicable.

Secs. 4-45 – 4-25. – Reserved

SECTION 3. Chapter 5 of the City Code is hereby amended by amending Section 5-55 thereof by deleting the stricken language and adding the underlined language to read as follows:

Sec. 5-55. - Delinquencies; penalties; application of payments.

- (h) Unless otherwise provided, when a payment is made toward unpaid fees, civil fines, or civil penalties incurred pursuant to chapter 5 of this Code, such payment shall be applied to the account in the order of:
- (1) Any bill for civil fines incurred pursuant to chapters 3 or 13 of this Code for which the thirty-day period from the date of citation has not elapsed;
 - (2) The oldest unpaid bill incurred pursuant to chapters 3, 4, 5, 13, or 34 of this Code, with the exception of the bills set forth in subsection (1) above;
 - (3) Penalty; and
 - (4) Interest.

SECTION 4. Chapter 13 of the City Code is hereby amended by amending Article I (In General) thereof by adding a new Section 13-10 and renumbering the Reserved sections by deleting the stricken language and adding the underlined language to read as follows:

ARTICLE I. - IN GENERAL

Sec. 13-10. Application of payments.

Unless otherwise provided, when a payment is made toward unpaid civil fines or civil penalties incurred pursuant to chapter 13 of this Code, such payment shall be applied to the account in the order of:

- (a) Any bill for civil fines incurred pursuant to chapters 3 or 13 of this Code for which the thirty-day period from the date of citation has not elapsed;
- (b) The oldest unpaid bill incurred pursuant to chapters 3, 4, 5, 13, or 34 of this Code, with the exception of the bills set forth in subsection (a) above;
- (c) Penalty; and
- (d) Interest, if applicable.

Secs. 13-101 - 13-35. - Reserved

SECTION 5. Chapter 34 of the City Code is hereby amended by amending Section 34-37 thereof by deleting the stricken language and adding the underlined language to read as follows:

Sec. 34-37. - Violations and penalties generally; application of payments.

(f) Unless otherwise provided, when a payment is made toward unpaid civil fines incurred pursuant to this chapter, such payment shall be applied to the account in the order of:

- (1) Any bill for civil fines incurred pursuant to chapters 3 or 13 of this Code for which the thirty-day period from the date of citation has not elapsed;
- (2) The oldest unpaid bill incurred pursuant to chapters 3, 4, 5, 13, or 34 of this Code, with the exception of the bills set forth in subsection (1) above;
- (3) Penalty, if applicable; and
- (4) Interest.

SECTION 6. Chapter 44 of the City Code is hereby amended by amending Section 44-34 thereof by deleting the stricken language and adding the underlined language to read as follows:

Sec. 44-34. - Penalties and interest from July 1, 1990 through June 30, 2019; penalties and interest beginning July 1, 2019; waiver of penalties and interest; application of payments.

(d) Application of payments. Unless otherwise provided, when a payment is made toward unpaid property taxes, such payment shall be applied to the account in the order of:

- (1) The oldest unpaid bill incurred pursuant to chapter 44 of this Code;
- (2) Penalty; and
- (3) Interest.

SECTION 7. Chapter 44 of the City Code is hereby amended by amending Section 44-115 thereof by deleting the stricken language and adding the underlined language to read as follows:

Sec. 44-115. - Interest, penalties and costs; waiver of penalties and interest; application of payments.

- (g) *Waiver of interest and penalty only.* The director of finance, or his authorized agent, shall be authorized to waive interest or penalty, or both, in whole or in part under the following circumstances only:

The director of finance may promulgate rules and regulations deemed necessary to administer the provisions of this subsection, subject to approval by the administrative board.

- (h) *Application of payments.* Unless otherwise provided, when a payment is made toward unpaid earned income taxes, such payment shall be applied to the account in the order of:

- (1) The oldest unpaid bill incurred pursuant to chapter 44 of this Code;
- (2) Penalty; and
- (3) Interest.

SECTION 8. Chapter 45 of the City Code is hereby amended by amending Section 45-176 thereof by deleting the stricken language and adding the underlined language to read as follows:

Sec. 45-176. - Water, sewer, and stormwater charges; interest, penalties and costs; waiver of penalties and interest; application of payments; limitation of actions.

- (e) *Application of payments.* Unless otherwise provided, when a ~~partial~~ payment is made toward ~~the payment of~~ unpaid water; sewer system, or stormwater charges, such payment shall be applied to the account in the order of:

- (1) The oldest unpaid bill incurred pursuant to chapter 45 of this Code;
- (2) Penalty; and
- (3) Interest.

- (g) Waiver of penalties and interest. The director of finance or the director's authorized agent shall be authorized to waive, in whole or in part, interest, or penalties, or both which are owed in connection with unpaid water facilities charges or water usage charges, or sewer system charges, or stormwater charges, or any combination thereof ("water or sewer system charges"), imposed pursuant to the provisions of this article and article II of this chapter, under the following circumstances only:

SECTION 9. This Substitute Ordinance shall be deemed effective as of its date of passage by City Council and approval by the Mayor.

First Reading May 22, 2025
Second Reading May 22, 2025
Third Reading

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ____ day of _____, 2025.

Mayor

SYNOPSIS: This Substitute Ordinance amends Chapters 3, 4, 5, 13, 34, 44, and 45 of the City Code to standardize the procedure for the application of payments made by customers for unpaid fees, civil fines, civil penalties, and taxes that are due and owing to the City. In addition, as a housekeeping matter, this Ordinance corrects typographical errors located in City Code Sections 44-115(g) and 45-176(e) and adds clarifying language to the titles of various sections and subsections of the City Code.

FISCAL IMPACT STATEMENT: This Ordinance has no anticipated negative fiscal impact.

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