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ORDINANCE NO _____

AN ORDINANCE TO AMEND CHAPTER 173, TREES, OF THE MUNICIPAL CODE OF THE TOWN OF DEWEY BEACH, DELAWARE TO REVISE PENALTIES FOR VIOLATIONS

WHEREAS, the Town of Dewey Beach Comprehensive Plan calls for protecting and preserving the natural environment in and around Dewey Beach, and;

WHEREAS, the Commissioners wish to ensure that regulations governing removal or destruction of existing trees are clear and consistent, and

WHEREAS, the Commissioners believe that the penalties associated with violations of the provisions of Chapter 173 should be appropriate for achieving the objective of protecting and preserving the natural environment and should be consistent with existing limits on penalties in the Town Charter and Code.

NOW THEREFORE, BE IT ENACTED AND ORDAINED, by the Commissioners of the Town of Dewey Beach, Sussex County, Delaware, in session met, as follows:

Section 1. Amend Section 173-6 of the Municipal Code of Dewey Beach, Delaware by making the highlighted insertions, strikeouts, and substitutions depicted below:

A. A violation of any provision of this chapter is declared to be a civil offense pursuant to Chapter 80 of the Municipal Code of the Town of Dewey Beach, and shall be subject to a minimum assessment of \$500 for each offense.

B. Failure to replace a tree as required in § 173-3 is subject to a fine of \$1,000, ~~increasing to \$3,000 if not paid within 60 days of the notice of violation.~~ If the fine is not paid within 30 days of the notice of the violation, and the tree has not been replaced, a second fine of \$1,000 will be imposed. A new fine of \$1,000 shall be imposed for each successive 30-day period until the tree is replaced. ~~Failure to replace a tree as required within one year of the notice of violation will incur an additional fine of \$3,000, increasing by \$3,000 for each additional year that the tree is not replaced.~~

C. Any person who violates this chapter by improperly removing or destroying a tree shall be subject to a fine of ~~\$3,000~~ \$1,000 and shall be required to replace such tree with a tree of comparable size and a comparable species selected from the Delaware Department of Agriculture list of recommended trees. ~~Fines~~ If a fine for improper removal or destruction ~~that remains~~ unpaid after 30 days from the notice of violation, and the tree has not been replaced or scheduled for replacement as agreed with the Town Building Official, a second fine of \$1,000 shall be imposed ~~shall incur an additional \$3,000 penalty. A new~~

35 ~~fine of \$1,000 shall be imposed for each successive 30-day period until the tree is replaced or a schedule~~
36 ~~for replacement has been agreed to with the Town Building Official. Failure to replace the tree as~~
37 ~~required within a one-year period, as determined by the Town Building Official, shall incur an additional~~
38 ~~\$3,000 penalty, increasing by \$3,000 for each additional year that the tree is not replaced.~~

39 D. Any unpaid fines for violations of this chapter shall be satisfied before any future licenses or permits
40 may be issued to the property owner of the subject property.

41 **Section 2.** Severability. If any provision of this Ordinance shall be deemed or held to be invalid or
42 unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not affect any
43 other provision of this Ordinance which may be given effect without such invalid or unenforceable
44 provision, and to this end, the provisions of this Ordinance are hereby declared to be severable.

45
46 **Section 3.** This Ordinance shall take effect April 12, 2024. Adopted by at least a majority vote of all
47 Commissioners of the Town of Dewey Beach on April 12, 2024.

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49 SYNOPSIS

50 This Act revises penalties for violations of Chapter 173, Trees, of the Municipal Code.

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55 Mayor, William Stevens

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59 Town Manager, Bill Zolper