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ORDINANCE NO _____

AN ORDINANCE TO AMEND CHAPTER 85-1301A, DISORDERLY USE OF A DWELLING, OF THE MUNICIPAL CODE OF THE TOWN OF DEWEY BEACH, DELAWARE TO REVISE THE PROCEDURE AND PENALTIES FOR RESIDENCES IN VIOLATION OF THIS SECTION

WHEREAS, the Town of Dewey Beach recognizes excessive noise in residential areas as a serious concern affecting the quality of life for residents and visitors; and

WHEREAS, current legislation classifies a violation of the disorderly dwelling ordinance as a criminal offense, specifically a Class B misdemeanor; and

WHEREAS, the Dewey Beach Police has recommended that, while noise ordinance violations should be addressed with the appropriate civil penalty, such violations should not constitute a criminal offense.

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 §85-1301A of the Code of Ordinances as depicted by highlighted insertions, strikeouts, and substitutions depicted below:

§ 85-1301A Disorderly use of a dwelling.

1. Any person or persons, acknowledging responsibility as the owner, occupant, renter, tenant, resident, leaseholder, lessee, or other person having responsibility and present within a dwelling unit shall be guilty of disorderly use of a dwelling if:
 - 1) Any person makes or generates or continues to make or generate any noise disturbance as defined in this section, or any loud and raucous sound, so as to cause unreasonable annoyances and/or disturbance to other persons of normal sensitivities living or located on adjacent parcels or in adjacent dwelling units, upon receipt of a registered police complaint, once being warned to cease and desist such noise disturbance.
 - 2) Any person makes or generates or continues to make or generate any noise disturbance, as defined in this section, or any loud and raucous sound, so as to cause unreasonable annoyances and/or disturbance to other persons of normal sensitivities and audible from 50 feet or more from the property boundary of the dwelling unit, with or without a complaint if the noise disturbance, loud and raucous sound or unreasonable annoyances and/or disturbance is committed within the presence of a peace officer.

41 3) Any person makes or generates or continues to make or generate any noise
42 disturbance, as defined in this section, or operates a sound amplifier, or any electronic
43 equipment which emanates sound, so as to be audible from any location, upon an
44 adjacent parcel or an adjacent dwelling unit or from any location beyond the property
45 boundary, at a sound level higher than the permitted decibel levels, as defined in this
46 section, between the regulated hours of the day, as herein defined in this section. The
47 sound level described hereinabove shall be determined by a ~~Dewey Beach police officer~~
48 utilizing a properly calibrated sound-level meter, calibrated pursuant to standards
49 established by the American National Standards Institute, ~~and operated by an officer~~
50 ~~who has been certified by ANSI to operate the sound-level meter.~~ Any trained police
51 officer or Town staff trained in the use of the sound-level meter is authorized to operate
52 the sound-level meter and investigate for the purposes of enforcing this provision upon
53 suspecting or being notified that a noise disturbance is occurring.

54 4) Any person present within a dwelling unit creates a substantial risk of physical injury to
55 himself and/or other persons either directly or indirectly while occupying a dwelling unit
56 or upon the balconies, decks, stairs, porches and roof(s) thereof.

57 2. Copies of this section to be provided to tenants. Owners and agents of rented or leased
58 dwelling units shall provide a copy of this section to the tenant or tenants of each dwelling
59 unit located within the Town of Dewey Beach at the time of executing a lease for said unit.

60 3. ~~Penalty—Class B misdemeanor.~~ Violations and penalties. ~~Any person found guilty of violating~~
61 ~~a provision of this section shall be fined not less than \$300 nor more than \$500 for the first~~
62 ~~offense. Subsequent convictions within one year may be fined up to double the previous~~
63 ~~fine for conviction.~~

64 1) Violation of this section is a civil offense. Any person found in violation of this
65 section shall be subject to a fine of \$250.

66 2) Dewey Beach licensing violation. Any owner, or any agent of an owner or either or
67 both, of a dwelling unit located within Dewey Beach may be subject to termination
68 of a rental license and/or the real estate agent's business license. Subsequent to
69 two violations of § 85-1301A, associated with a particular address, within 365 days
70 of the previous violation, notwithstanding that the occupant so charged with a
71 violation, the owner of the dwelling unit and/or the real estate agent of record for
72 the owner shall be notified by the Town Manager, by certified mail within 10 days,
73 excluding Saturday and Sunday, of each violation of an occupant or persons present
74 within the dwelling unit charged with the violation. The notification, procedural, and
75 appeal rules associated with the suspension and/or revocation of a business license
76 shall be as set forth in the Code of the Town of Dewey Beach.

77 3) The Town may elect, at its option, in addition to the license suspension or
78 revocation, to take action to evict any person forthwith, having committed a second
79 offense in violation of § 85-1301A, within any one summer season.

80 4. ~~Dewey Beach licensing violation. Any owner, or any agent of an owner or either or both, of a~~
81 ~~dwelling unit located within Dewey Beach may be subject to termination of a rental license~~

82 and/or the real estate agent's business license. Subsequent to two convictions of § 85-
83 1301A, associated with a particular address, within 365 days of the previous conviction,
84 notwithstanding that the occupant so charged with a violation, the owner of the dwelling
85 unit and/or the real estate agent of record for the owner shall be notified by the Town
86 Manager, by certified mail within 10 days, excluding Saturday and Sunday, of each
87 conviction of an occupant or persons present within the dwelling unit charged with the
88 violation. The notification, procedural, and appeal rules associated with the suspension
89 and/or revocation of a business license shall be as set forth in the Code of the Town of
90 Dewey Beach.

91 5. Civil penalty. The Town may elect, at its option, in addition to the license suspension or
92 revocation, to take action to evict any person forthwith, so convicted of a second offense in
93 violation of § 85-1301A, within any one summer season.

94 Disorderly use of a dwelling a Class B misdemeanor.

95
96 **Section 2.** If any provisions of this Ordinance shall be deemed or held to be invalid or unenforceable for
97 any reason whatsoever, then such invalidity or unenforceability shall not affect any other provision of
98 this Ordinance which may be given effect without such invalid or unenforceable provision, and to this
99 end, the provisions of this Ordinance are hereby declared to be severable.

100
101 **Section 3.** This Ordinance shall take effect immediately upon its passage by a majority vote of the
102 Commissioners of the Town of Dewey Beach.

103
104 Adopted by at least a majority of the Commissioners of the Town of Dewey Beach on this -- day of --,
105 2025.

106
107 SYNOPSIS

108
109 This Act amends the Town Code to align with recently-adopted Ordinance 845-2024 by revising the
110 provisions regarding who is authorized to operate a sound-level meter. Additionally, it modifies the
111 penalty for violations of this section from a Class B misdemeanor to a civil infraction, punishable by a
112 fine of \$250.

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117 Mayor, William Stevens

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121 Town Manager, Bill Zolper
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