



TOWN OF DEWEY BEACH

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ORDINANCE NO. _____

AN ORDINANCE TO AMEND §117-12, VIOLATIONS AND PENALTIES, §167-16, PAYMENT OF TAX, AND §167-18, VIOLATIONS AND PENALTIES, OF THE CODE OF THE TOWN OF DEWEY BEACH, TO CLARIFY THE PENALTIES FOR FAILING TO OBTAIN AND POST A BUSINESS LICENSE AND TO SPECIFY REQUIREMENTS FOR PAYMENT AND PENALTIES FOR FAILURE TO PAY ACCOMMODATIONS TAXES.

WHEREAS, all businesses are required to obtain and post a business license before conducting business in the Town; and

WHEREAS, to ensure that the penalty for failure to obtain and post a business license is equitably assessed; and

WHEREAS, it is believed that some residential rental properties in the town have not been remitting accommodations tax payments as required; and

WHEREAS, the Commissioners of the Town of Dewey Beach wish to require documentation to support accommodations tax payments and to establish a penalty for failure to provide required documentation; and

WHEREAS, to ensure the penalty for late payment of accommodations taxes is reasonable.

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 § 117-12. Violations and penalties, of the Code of Ordinances of Dewey Beach, by striking paragraph B as follows:

§ 117-12. Violations and penalties.

A. Any person, firm, corporation, or business entity conducting ongoing business operations in Dewey Beach that fails to obtain and post its annual business license according to the schedule in § 117-6 shall have committed a civil offense pursuant to Chapter 801 of the Municipal Code of Dewey Beach and shall be subject to a fine of \$500. [Amended 5-10-1997 by Ord. No. 371; 8-13-2004 by Ord. No. 515; 12-6-2008 by Ord. No. 636 cont'd; 2-12-2011 by Ord. No. 683; 12-8-2012 by Ord. No. 6992; 1-14-2017 by Ord. No. 735]

~~**B.** For the purposes of this article, each day that a business or occupation is carried on, prosecuted, conducted or engaged in without a proper license having been obtained shall constitute a separate offense.~~

Section 2. Amend §167-16. Payment of Tax, of the Code of Ordinances of Dewey Beach, as depicted by strikeouts and underlined insertions:

§ 167-16. Payment of tax.

A. Payment of the accommodations tax shall be the responsibility of the provider of the accommodations. The

Town shall promulgate ~~a form or return~~ an Accommodations Tax Payment form that shall be used by the provider of the accommodations to calculate the amount of accommodations tax due.

B. Accommodations taxes due on accommodations provided between October 1 and March 31 of the year shall be remitted to the Town by April 15, or on the next business day if the 15th is not on a business day. Accommodations taxes due on accommodations provided between April 1 and September 30 of the year shall be remitted to the Town by October 15, or on the next business day if the 15th is not on a business day.

Section 3. Amend § 167-18. Violations and penalties, of the Code of Ordinances of the Town of Dewey Beach as depicted by strikeouts and underlined insertions:

§ 167-18. Violations and penalties

A. Any violation of this article is declared to be a civil offense pursuant to Chapter 80 of the Municipal Code of the Town of Dewey Beach.

B. ~~The assessment for violating this article shall be 10%~~ Failure to provide a completed copy of the Accommodations Tax Payment form shall be subject to a \$200 penalty. Late or unpaid taxes shall be subject to an assessment of 1.5% per month, charged on the original amount of the accommodations tax due. Subject to the Town providing notice by certified mail to the provider of the accommodations, and a sixty-day period from such notification to pay unpaid taxes, any accommodations taxes unpaid after 90 days from the date the taxes are due shall constitute a first lien against all real estate of the taxpayer situated within the Town limits. The Town may collect the tax due by an action of debt in any court of competent jurisdiction, or such other procedure permitted by law.

Section 4. If any provisions of this Ordinance shall be deemed or held to be invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not affect any other provision of this Ordinance which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Ordinance are hereby declared to be severable.

Section 5. This Ordinance shall take effect immediately upon its passage by a majority vote of the Commissioners of the Town of Dewey Beach. Enacted this 20th day of May 2022.

William Stevens, Mayor

Bill Zolper, Town Manager

SYNOPSIS

This Act amends §117.12, §167-16, and §167-18 to ensure equitable assessment of penalties associated with operating a business without a license, establish requirements for documentation supporting accommodations tax payments, provide a penalty for failure to submit such documentation, and clarify the penalty for late payment of accommodations taxes.