Town of Dewey Beach
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ORDINANCE NO.

AN ORDINANCE TO AMEND CHAPTER 1, 80 AND 117 OF THE MUNICIPAL CODE OF THE TOWN OF DEWEY BEACH RELATING TO TOWNWIDE NOISE CONTROL

WHEREAS, TBD

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 Chapter 80 Article II of the Code of Ordinances by adding a new § 80-6.1, as follows:

§ 80-6.1 Noise control

A. It shall be unlawful for any person, persons or business entity, partnership or corporation to make, cause or emit any noise or sound which emanates a sound level in excess of 70 dBA during the daily hours from 7:00 a.m. to 10:00 p.m., or 65 dBA during the daily hours of 10:00 p.m. to 7:00 a.m., or 72 dBC without regard for time of day as audible from any location beyond the property boundary of the establishment.

B. The sound levels described hereinabove shall be determined by utilizing a sound-level meter properly calibrated pursuant to standards established by the American National Standards Institute (ANSI). Any trained police officer or Town staff trained in the use of the sound-level meter is authorized to operate the sound-level meter and investigate for the purposes of enforcing this provision upon suspecting or being notified that a noise disturbance is occurring.

C. Specific acts restricted. Not withstanding the other provisions of this article regarding allowed noise levels, the following specific acts are prohibited regardless of the sound level emitted, subject to the exceptions provided in this section.

1) Sound trucks. No amplifier or loud speaker in, upon or attached to a sound truck or other device for amplifying sound shall be operated or permitted to operate within the Town of Dewey Beach for advertising purposes or to attract the attention of the public.

2) It shall be unlawful for any commercial establishment to permit any live entertainment or recorded music on its business premises between the hours of 1:00 a.m. and 7:00 a.m.

3) Direction of amplified sound. It shall be unlawful for any commercial establishment or residence to install, position, direct, or operate any loudspeaker or other sound-

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amplifying device in a manner intended to project amplified music or other entertainment sound into or across any public street, sidewalk, right-of-way, or onto neighboring property. The mere audibility of music or other sound outside a commercial establishment or residence shall not, by itself, constitute a violation of this subsection, provided that such sound complies with all applicable noise limitations.

4) Outdoor amplified sound during restricted hours. It shall be unlawful for any commercial establishment or residence to operate any loudspeaker or other sound-amplifying device outdoors or in a manner that projects amplified music or other entertainment sound beyond the exterior boundaries of the establishment or residence between the hours of 11:00 p.m. and 7:00 a.m.

5) Vehicle and conveyance noise. It shall be unlawful for any person operating or using a motor vehicle, bicycle, rickshaw, or other conveyance to operate or use a loudspeaker or other sound-amplifying device on or from such vehicle or conveyance for the purpose of broadcasting or projecting music or other sound beyond the vehicle or conveyance between the hours of 11:00 p.m. and 7:00 a.m.

D. Exceptions. Unlawful noise does not include noise or sound generated by the following:

1) Cries for emergency assistance and warning calls.

2) Radios, sirens, horns and bells on marine navigation equipment, police, fire, and other emergency vehicles.

3) Parades, fireworks displays and other special events for which a permit has been obtained from the Town within such hours as may be imposed as a condition for the issuance of the permit.

4) Activities on or in a municipal and school athletic facilities and on or in publicly owned property, beaches and facilities, provided that such activities have been authorized by the owner of such property or facilities or its agents.

5) Fire alarms and burglar alarms, prior to the giving of notice and a reasonable opportunity for the owner or tenant in possession of the premises served by any such alarm to turn off the alarm.

6) Religious worship activities, including, but not limited to, bells and organs.

E. Persons responsible. Any person who operates, orders, directs, permits, or is responsible for the operation or maintenance of any device, machine, or equipment that creates noise in violation of this article shall be deemed responsible for violating this article. Such persons may include, but are not limited to, an owner, occupant, tenant, manager, agent, supervisor, or employee of a commercial establishment or residence. Additionally, the owner of any business or commercial establishment, or the owner of any residential property at which a violation occurs, shall be deemed responsible for violating this article if such owner caused, authorized, permitted, or allowed the violation to occur.

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F. Violations and penalties. Violation of this article is a civil offense. Any person, partnership, business entity, or corporation found in violation of this article shall be subject to a fine of $500, together with an order of abatement of the unlawful noise.

Section 2. Amend Chapter 1-16 of the Code of Ordinances as depicted by strikeouts and substitutions depicted below:

DBC

The sound level in decibels determined using the C-weighting network of a sound-level meter.

NOISE DISTURBANCE

A. Any sound that annoys or disturbs a reasonable person of normal sensibilities; or

B. Any sound which is created by the human voice, including but not limited to yelling, shouting, hooting, whistling or singing, at any time so as to annoy or disturb a reasonable person of normal sensibilities; or

~~C.~~ Any sound which is in excess of the allowable noise levels established in ~~§ 85-1301A.~~ § 80-6.1.

Section 3. Amend Chapter 80.13-4 of the Code of Ordinances as depicted by strikeouts and substitutions depicted below:

§ 80-13.4 Disorderly use of a dwelling.

A. 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 police officer.

Commented [KB1]: This section in Civil Offenses refers to disorderly use of a dwelling. Are any changes needed here? This section focuses more on "noise disturbances" vs. DBA/DBC measurements from a sound meter.

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

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

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

C. Violations and penalties.

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

2) The Town may elect, at its option, to take action to evict any person forthwith, having committed a second offense in violation of § ~~85-1301A~~ this section, within any one summer season.

Section 4. Chapter 117, Article II, of the Code of Ordinances of the Town of Dewey Beach, Delaware, is hereby stricken in its entirety, as the provisions governing noise have been relocated to Chapter 80, Civil Offenses.

Commented [KB2]: Chapter 117 is Licensing of Businesses. All mention of noise control would be moved from here to Chapter 80, Civil Offenses. Chapter 117 would still state that business licenses may be suspended if the business is found to be in violation of any ordinance.

Section 5. 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 6. This Ordinance shall take effect immediately upon its passage by a majority vote of the Commissioners of the Town of Dewey Beach.

Adopted by at least a majority of the Commissioners of the Town of Dewey Beach on this -- day of --, 2026.

SYNOPSIS

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Mayor, William Stevens

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Town Manager, Bill Zolper

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