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3 **ORDINANCE NO. \_\_\_\_**  
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5 **AN ORDINANCE TO AMEND CHAPTER 80 CIVIL OFFENSES TO INCLUDE THE**  
6 **POSSESSION AND USE OF A PERSONAL QUANTITY OF MARIJUANA, OR DRUG**  
7 **PARAPHERNALIA RELATED TO A PERSONAL QUANTITY OF MARIJUANA, AS A**  
8 **CIVIL OFFENSE. ALSO AMEND CHAPTER 85, POSSESSION OF DRUG**  
9 **PARAPHERNALIA TO BRING THE CRIMINAL OFFENSES OF THE TOWN OF**  
10 **DEWEY BEACH INTO RELATIVE CONFORMITY WITH STATE OF DELAWARE.**  
11

12 **WHEREAS**, the State of Delaware decriminalized possession or use of a personal use  
13 quantity of marijuana, without aggravating circumstances, and classified it as a civil offense,  
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15 **WHEREAS**, the State of Delaware also decriminalized the possession of drug  
16 paraphernalia related to a personal use quantity of marijuana,  
17

18 **WHEREAS**, under the statutes of the State of Delaware a person charged with a civil  
19 violation for possession or use of a personal use quantity of marijuana may not also be charged  
20 with possession of drug paraphernalia;  
21

22 **WHEREAS**, the Commissioners of the Town of Dewey Beach desire to keep Town  
23 ordinances in relative conformity with the statutes of the State of Delaware;  
24

25 **BE IT ENACTED AND ORDAINED**, by the Commissioners of the Town of Dewey  
26 Beach, Sussex County, Delaware, in session met, as follows:  
27

28 **Section 1.** Amend Chapter 80 Civil Offenses to add section 13A to read as follows:  
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30 “§ 80-13A Personal Use Quantity of Marijuana

- 31 (a) Any person who knowingly or intentionally possesses, uses, or consumes a  
32 personal use quantity of marijuana as defined in Title 16, Section 4701 of the  
33 Delaware Code, shall be assessed a civil penalty of \$200, and the marijuana shall  
34 be forfeited, provided that the violation constitutes a civil offense under Title 16,  
35 Section 4764 of the Delaware Code.  
36 (b) Any person who uses or possesses drug paraphernalia as defined in Chapter 85-  
37 4771 of the Dewey Beach Code for the use or possession of a personal use  
38 quantity of marijuana shall be assessed a civil penalty of \$200, except that any  
39 person charged under (a) of this section shall not also be charged with this  
40 offense if in possession of drug paraphernalia pertaining to the use of  
41 marijuana.”  
42

43 **Section 2.** Amend Section 85-4771 by striking § 4771 (a) in its entirety and by  
44 substituting in lieu thereof the following:  
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46 “(a) It is unlawful for any person to use, or possess with intent to use, any drug  
47 paraphernalia, except that any person charged under § 4764 (a), (b), or (d) of the Uniformed  
48 Controlled Substances Act of Delaware, or assessed a civil penalty under § 4764(c) of the

49 Uniform Controlled Substances Act of Delaware, or assessed a civil penalty under § 80-13A of  
50 the Dewey Beach Code shall not also be charged with this offense if in possession of drug  
51 paraphernalia pertaining to the use of marijuana.”  
52

53 **Section 3.** If any provision of this Ordinance shall be deemed or held to be invalid or  
54 unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not affect  
55 any other provision of this Ordinance which may be given effect without such invalid or  
56 unenforceable provision, and to this end, the provisions of this Ordinance are hereby declared to  
57 be severable.  
58

59 **Section 4.** This Ordinance shall take effect immediately upon its adoption by a majority  
60 vote of the Commissioners of the Town of Dewey Beach.

61 Adopted by at least a majority of the Commissioners of the Town of Dewey Beach on  
62 July 8, 2016  
63

64  
65  
66 \_\_\_\_\_  
67 DIANE HANSON  
68 Mayor  
69

70  
71 Attest: \_\_\_\_\_  
72 MARC APPLEBAUM  
73 Town Manager  
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75  
76 **SYNOPSIS**  
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78 Delaware House Bill 39 signed on June 18, 2015 decriminalized the possession or use of  
79 a personal use quantity of marijuana and related paraphernalia. This ordinance creates civil  
80 violations in the Town of Dewey Beach for possession or use of a personal use quantity of  
81 marijuana, as well as for the possession of related drug paraphernalia. This ordinance does not  
82 change the laws governing personal use quantity of marijuana, but rather affects the location at  
83 which the citations are processed. Creation of a civil violation within the Town of Dewey Beach  
84 allows violations issued within the Town to be handled by the local Alderman’s court and  
85 penalties paid to the Town.  
86

87 Under Delaware law, a person charged or assessed a civil violation in connection with a  
88 personal use quantity of marijuana cannot also be charged with possession of related drug  
89 paraphernalia. This ordinance will also amend Dewey Beach criminal code related to the  
90 possession of drug paraphernalia to be in line with State statutes.  
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