



ORDINANCE NO. 838

AN ORDINANCE TO AMEND CHAPTER 80, CIVIL OFFENSES, OF THE MUNICIPAL CODE OF THE TOWN OF DEWEY BEACH, DELAWARE CONCERNING PERSONAL USE QUANTITY OF MARIJUANA.

WHEREAS, the Commissioners of the Town of Dewey Beach find it necessary and appropriate to bring its civil prohibitions against the possession and use of “personal use quantities” of marijuana and associated paraphernalia in line with more recent amendments to state law; and

WHEREAS, state law no longer criminalizes use of personal use quantities of marijuana by adults (less than one ounce) for which Dewey Beach imposes a civil penalty.

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 80-13.1 of the Code of Ordinances as depicted by highlighted insertions, strikeouts, and substitutions depicted below:

§ 80-13.1 Personal use quantity marijuana.

- A. Any person under 21 years of age who knowingly or intentionally possesses, uses, or consumes a personal use quantity of marijuana, as defined in Title 16, §4701 and 4714 of the Delaware Code, shall be assessed a civil penalty of \$200 \$100 for the first violation and civil penalty of not less than \$200 and not more than \$500 for a second violation, and is guilty of an unclassified misdemeanor and shall be fined \$100 for a third and subsequent violations of this subsection. A peace officer having reasonable grounds to believe that a juvenile has committed a violation of this subsection may issue the juvenile a civil citation., ~~and the marijuana shall be forfeited, provided that the violation can be classified as a civil offense under Title 16, § 4764, of the Delaware Code.~~
- B. ~~Any person who uses or possesses drug paraphernalia, as defined in § 85-4771 of the Dewey Beach Code, for the use or possession of a personal use quantity of marijuana shall be assessed a civil penalty of \$200, except that any person charged under Subsection A of this section shall not also be charged with this offense if in possession of drug paraphernalia pertaining to the use of marijuana.~~
Possession for personal use of marijuana. – Any person under the age of 21 who uses or possesses drug paraphernalia, as defined by § 4701 of the Delaware Code, for the use or possession of a personal use quantity of marijuana shall be assessed a civil penalty of not

more than \$100, in addition to such routine assessments necessary for the administration of civil violations.

Section 2. 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 3. 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 17th day of May, 2024.

SYNOPSIS

This Ordinance strikes civil penalties for use and possession of personal use quantities of marijuana by persons over the age of 21 (one ounce or less) and associated drug paraphernalia as defined in 16 Del. C. §4701 and §4714, as amended. Persons under the age of 21 remain subject to civil violations for these two offenses except in the case of a third offense of subsection A.



William Stevens, Mayor



Bill Zolper, Town Manager