

**TOWN OF DAGSBORO
ORDINANCE NO. _____**

**AN ORDINANCE TO ADD SECTION 83 OF THE MUNICIPAL CODE OF
THE TOWN OF DAGSBORO FOR THE ADOPTION OF REGULATIONS FOR
THE PREVENTION AND ABATEMENT OF PUBLIC NUISANCES**

WHEREAS, the Charter of the Town of Dagsboro, 68 Delaware Laws, Chapter 138, Section 28YY, as amended, grants the Town Council of the Town of Dagsboro the authority to make, adopt and establish such ordinances and regulations as are deemed proper and necessary for the good government of the Town, the protection and preservation of persons and property and of the public health, safety and welfare; and

WHEREAS, the Town Council of the Town of Dagsboro intends to add Section 83 to the Town Code to regulate and abate public nuisances and set procedures and authorizes the Town to impose penalties and take legal action for properties that are considered public nuisances.

NOW THEREFORE;

BE IT ENACTED AND ORDAINED, by the Town Council of the Town of Dagsboro, in session met, a quorum pertaining at all times thereto, that Section 83 is hereby added as follows:

Section 1. Add Section 83 by making the following additions (additions are highlighted in bold below):

Section 83

- (a) A public nuisance in the Town is hereby declared to be the commission of any act by any person or legal entity, or the keeping, maintaining, propagation, existence or permitting of anything by any person, which presents an actual or imminent threat to the public health, safety, and welfare of any person.
- (b) A code enforcement officer, or any law enforcement officer, shall, upon obtaining knowledge of the existence of a public nuisance, notify the town administrator or designee who shall cause notice to be sent to the property owner and/or person creating, keeping, or maintaining the nuisance or both to remove or cause it to be removed or abated within 72 hours. Any property owner and/or person found by a code enforcement officer who fails to remove or cause to be removed or abated, upon conviction shall be punished as prescribed by the Town Code or by any other legal remedy available to the Town as set

forth in the codes and ordinances of the Town or controlling state or federal laws.

(c) It is prohibited and unlawful for any person or legal entity to keep or permit to remain upon their premises, or upon any premises owned, used, or controlled by them in any dwelling house, warehouse, commercial building or other building, or upon any vacant lot, or in any yard or other public or private place within the town, any nuisance including, but not limited to, conditions occurring on the property that includes the following:

(1) When there have been three or more separate police responses resulting in enforcement action (written warning, citation, or arrest) due to the following types of violations within any 12-month period:

(a) Alcohol violations

(b) Criminal acts against animals

(c) Arson

(d) Physical assaults and other related crimes against the person

(e) Disorderly conduct

(f) Gambling

(g) Harassment, Terroristic Threatening, Stalking and other related offenses

(h) Illegal drug activity

(i) Lewd and lascivious behavior

(j) Noise violations

(k) Resisting Arrest and other criminal offenses against public administration as set forth in the Delaware Criminal Code

(l) Possession of stolen property

(m) Prostitution

(n) Theft

(o) Trespassing

(p) Weapons violations

- (2) Interferes with, obstructs, or renders dangerous for passage on any public or private street, alley, highway, right-of-way, easement, sidewalk, stream, ditch, channel, or drainage of any property; or results in the pollution of any body of water or drainage system by sewage, dead animals, industrial wastes, debris, or other contamination; or results in the blocking of drainage inlets, pipes, ditches, swales, channels, culverts, or stream; or**
 - (3) Renders any other person unable to reasonably use their personal or real property; or**
 - (4) Provides harborage for rats, mice, snakes, insects, or other vermin; or**
 - (5) Results in any foul, offensive, or unlawful emissions, odors, or stenches and the causes thereof; or**
 - (6) Results in dense smoke, noxious or lethal fumes, lethal gas, soot, or cinders; or**
 - (7) Results in any condition constituting a fire hazard as defined by the National Fire Protection Association; or**
 - (8) Permits any material the existence of which constitutes, or may constitute, a danger to a person or property including, but not limited to, hazardous materials; or**
 - (9) Creates an attractive nuisance which is or may create a risk of injury or illness, no matter how slight, to children including, but not limited to, abandoned or broken equipment or machinery, unfenced or otherwise unprotected swimming pools, spas, or excavations; refrigerators, iceboxes or deepfreeze lockers not being used, without removing the door or such portion of the locking/latching mechanism as will prevent the locking or latching of the door and uncapped or otherwise dangerous wells; or**
 - (10) Allows for unlawful trespass or unauthorized occupancy, encampment, or similar use by persons on the property.**
- (d) The Town Administrator, with prior consent of the Mayor and Council, is hereby authorized and directed to implement this Ordinance and take all necessary administrative actions to include, but not limited to, the adoption of administrative rules.**

- (1) Any person aggrieved by any decision of the Town Administrator shall have the right to appeal to the Town Council by filing a written appeal with the Town Council within 30 days following the effective date of the action or decision.**
- (2) The Town Council shall set a time and place for hearing the appeal and shall serve a written notice upon the person requesting the appeal informing them of the hearing. The Town Council shall also provide notice to the Town Administrator and they shall be entitled to appear and defend the action or decision. The findings of the Town Council shall be final and conclusive and shall be served upon the person who requested the appeal.**

Sec. ____ – Violations and penalties.

- (a) A person or legal entity who violates this section is subject to the following penalties:**

First Offense:	\$250.00
Second Offense:	\$500.00

- (b) The Town may enforce the provisions of this Ordinance by any means available the Town under the Code of Ordinance of the Town of Dagsboro, Delaware, including, but not limited to, imposition of fees and fines, or revocation of business and/or rental licenses, or voiding of any other town-issued permit, or as may be available under the controlling provisions of state law.**

Sec. ____ – Severability.

If any section, sentence, phrase, word, or portion of this Ordinance is determined to be invalid, unlawful, or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word, or portion of this Ordinance not otherwise determined to be invalid, or unconstitutional.

ORDAINED AND ENACTED into law this ____ day of _____ 2025.
