



ORDINANCE NO _____

AN ORDINANCE TO AMEND CHAPTER 85-1321A, CURFEW FOR MINORS, OF THE MUNICIPAL CODE OF THE TOWN OF DEWEY BEACH, DELAWARE TO REVISE THE EFFECTIVE TIMES OF NIGHTLY CURFEW FOR MINORS

WHEREAS, the Town of Dewey Beach has experienced an increase in the number of minor persons under the age of eighteen (18) years in public areas after the town-imposed nightly curfew time; and

WHEREAS, the Town has an interest to promote the safety and well-being of the Town's youngest citizens, whose inexperience renders them particularly vulnerable to becoming participants in unlawful activities; and

WHEREAS, the larger population of minor persons present after curfew places an increased burden on law enforcement officials' public safety efforts.

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 §85-1321A(B)(1) and §85-1321A(C)(1) of the Code of Ordinances as depicted by highlighted insertions, strikeouts, and substitutions depicted below:

B. Curfew hours; exceptions.

(1) No minor shall remain in or upon any public place between the hours of 11:00 p.m. and 5:00 a.m. of the following day, official Town time, ~~except that on Fridays and Saturdays, the hours shall be from 12:00 midnight to 5:00 a.m.~~

C. Unlawful conduct of parents.

(1) No parent shall knowingly permit any minor to remain in or upon any public place between the hours of 11:00 p.m. and 5:00 a.m. of the following day, official Town time, ~~except that on Fridays and Saturdays, the hours shall be from 12:00 midnight and 5:00 a.m.~~ Any parent who has received the notice of a minor's having been issued a summons pursuant to this section may be charged with a violation of this section.

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 18th day of August, 2023.

SYNOPSIS

This Act eliminates the Friday and Saturday midnight curfew for minors, and extends the 11:00pm curfew to seven days per week.

Mayor, William Stevens

Town Manager, Bill Zolper

Town of Dewey Beach, DE
Thursday, August 17, 2023

Chapter 85. Crimes, Conduct and Disposition of Offenders

Article III. Offenses

§ 85-1321A. Curfew for minors.

A. Definitions.^[1]

[1] *Editor's Note: Pursuant to Ord. 724, adopted 1-9-2016, all definitions throughout the Code were transferred to Ch. 1, Art. III, Definitions.*

B. Curfew hours; exceptions.

- (1) No minor shall remain in or upon any public place between the hours of 11:00 p.m. and 5:00 a.m. of the following day, official Town time, except that on Fridays and Saturdays, the hours shall be from 12:00 midnight to 5:00 a.m.
- (2) The provisions of this section shall not apply to any minor who is accompanied by a parent, or to a minor who is upon legitimate business directed by such minor's parent or to any minor who is engaged in gainful, lawful employment, or en route directly to or from employment, during the curfew hours.
- (3) This section shall not apply when a minor is returning home by way of a direct route from any work or recreational activity that is sponsored by an educational, religious, governmental or nonprofit organization when such returning is within 60 minutes following the termination of the activity.

C. Unlawful conduct of parents.

- (1) No parent shall knowingly permit any minor to remain in or upon any public place between the hours of 11:00 p.m. and 5:00 a.m. of the following day, official Town time, except that on Fridays and Saturdays, the hours shall be from 12:00 midnight and 5:00 a.m. Any parent who has received the notice of a minor's having been issued a summons pursuant to this section may be charged with a violation of this section.
- (2) Notice to parent.
 - (a) Whenever a summons has been issued to a minor for a curfew violation, notice shall be given to the parent of the minor.
 - (b) Such notice shall be given either by personal delivery thereof to the parent or by deposit of such notice in the United States mail in an envelope with postage prepaid, addressed to such parent at his or her address as shown by records of the Police Department, including information of the State Motor Vehicle Division. The giving of notice by mail is complete upon the expiration of four days after such deposit of such notice. Proof of the giving of notice by personal delivery or by mail may be made by the certificate of any officer or employee of the department or affidavit of any person over 18 years of age, naming the person to whom such notice was given and specifying the time, place and manner of giving thereof.

- (3) The provisions of this section shall not apply to any parent who accompanies a minor or to a parent who directs a minor upon an errand or other legitimate business, or to any parent of a minor who is engaged in gainful, lawful employment during the curfew hours.

D. Violations, referrals, opportunity to explain conduct and penalties.

- (1) Procedures. Any police officer who finds a minor violating any provisions of this section shall obtain such information from such minor as to his name and address, age and the name of his parent or parents. The officer shall make every reasonable effort to contact the minor's parent(s) if the minor is to be detained or arrested. The minor shall thereupon be instructed to proceed to his home forthwith. A police officer may thereafter, in accordance with the provisions of this section, charge the minor with a curfew violation, and may charge the minor's parent(s), as the case may be, with violation(s) of the provisions of this section. The Family Court of the state shall have concurrent criminal jurisdiction in all proceedings concerning alleged violations of this section.
- (2) Penalties.
 - (a) Minor child. Any minor child who violates any provisions of this section shall be fined in an amount not to exceed \$100.
 - (b) Parents. Any parent who violates any provisions of this section after having received notice of a prior violation shall be fined in an amount not to exceed \$100 and costs for each violation.
- (3) Separate offense. Any violation of any provisions of this section shall constitute a separate offense.
- (4) Explanation; defenses. No arrest of any minor, or parent, or operator shall be made for a violation of this section unless the arresting officer first affords the person the opportunity to explain his or her conduct, and no person shall be convicted of a violation of this section if it is determined at trial that the explanation so given was true and disclosed a lawful purpose. More specifically, it is a defense to prosecution under Subsection **D(1)** that the minor was:
 - (a) Accompanied by the minor's parent or guardian;
 - (b) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
 - (c) In a motor vehicle involved in interstate travel;
 - (d) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
 - (e) Involved in an emergency;
 - (f) On the sidewalk abutting the minor's residence or abutting the residence of a next door neighbor if the neighbor did not complain to the Police Department about the minor's presence;
 - (g) Attending an official school, religious, governmental, or other activity supervised by adults and sponsored by the Town, a civic association, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, governmental, or other recreational activity supervised by adults and sponsored by the Town, a civic organization, or another similar entity that takes responsibility for the minor;
 - (h) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
 - (i) Married or had status of minority removed in accordance with state law.