

Town of Dewey Beach, DE

Tuesday, March 7, 2017

Chapter 65. Beaches

[HISTORY: Adopted by the Commissioners of the Town of Dewey Beach as indicated in article histories. Amendments noted where applicable.]

Article I. Use and Activities

[Adopted 9-7-1984 as Ch. 4 of the 1984 Code]

§ 65-1. Violations and penalties.

[Added 7-8-1994 by Ord. No. 304; amended 5-10-1997 by Ord. No. 374; 12-6-2008 by Ord. No. 636 cont'd]

Any violation of this article is declared to be a civil offense pursuant to Chapter 80 of the Municipal Code of the Town of Dewey Beach.

§ 65-2. Beach curfew.

It shall be unlawful for any person to be on the beach between the hours of 1:00 a.m. and 5:00 a.m. during the summer season.

§ 65-3. Animals on beach.

[Amended 4-6-2013 by Ord. No. 700]

No person shall permit a dog or other animal to be on the ocean beach between the hours of 9:30 a.m. and 5:30 p.m. during the summer season.

§ 65-4. Surf fishing.

No person shall engage in surf fishing when bathers are within 100 feet between the hours of 10:00 a.m. and 5:00 p.m. during the summer season.

§ 65-5. Items prohibited on beach.

[Amended 6-8-1985 by Ord. No. 65]

The following are prohibited on the beach:

- A. Drinking funnels.

- B. More than three beverage containers unless in bulk metal or hard plastic containers.
- C. More than three empty beverage or food containers. Persons closest to such containers are presumed to be their owner and responsible for such containers.
- D. Glass containers.

§ 65-6. Beach fires.

[Amended 4-16-1988 by Ord. No. 107]

- A. No person shall have a beach fire without receiving a permit and paying the fee required by the Town of Dewey Beach Fee Schedule.
- B. All fires must be extinguished and the beach cleaned up by 11:00 p.m.
- C. Any cleanup fee deposit not used shall be refundable after 1:00 p.m. the day following the permitted fire.
- D. Seasonal permits may be revoked for failure to comply with the regulations. Upon revocation, fees paid shall not be refundable.

§ 65-7. Use of boats on or around the beach.

- A. No person shall keep, anchor, maintain, or permit any boat owned or operated by him to be kept, anchored, or maintained on any public beach within the Town of Dewey Beach between the hours of 10:00 a.m. and 5:00 p.m. during the summer season without the previous written consent of the Commissioners of Dewey Beach.
- B. Motorized boats, including but not limited to watercraft described as boats with propeller-driven motors, jet-skies, personal watercraft propelled by mechanized water propulsion or systems, and/or sailboats with auxiliary motors, whether such motors or propulsion devices are engaged, are prohibited from being launched or landed from any ocean beach areas during the summer season. Nonmotorized boats are prohibited from being launched or landed from any ocean beach areas between the hours of 10:00 a.m. and 5:00 p.m. during the summer season
[Amended 7-9-1999 by Ord. No. 409]

- C. No person shall be permitted to swim out to or in from a boat off the beach at any time.
[Added 7-9-1993 by Ord. No. 268]

§ 65-8. Vehicles on the beach.

[Amended 12-8-1984 by Ord. No. 61]

- A. No vehicles shall be driven on the beach during the summer season, except those operated by police, fire, emergency, Town, beach concessionaires under contract, or other authorized municipal or state vehicle on official business.
- B. During the off season all vehicles must conform to the licensing and equipment as required by the state and must enter and exit at Chicago Street.

§ 65-9. Regulation of beach activities.

[Added 3-9-1986 by Ord. No. 343]

- A. All volleyball activities and games shall be restricted to designated volleyball areas as established by the Dewey Beach Patrol or the Town Manager.
[Amended 10-14-2006 by Ord. No. 580]
- B. Private volleyball posts and nets may be erected on public beach areas, provided that the location of posts is approved by the Dewey Beach Patrol or the Town Manager. The Town of Dewey Beach, its officers and officials shall not be responsible or liable for volleyball equipment erected or for incidents and/or injuries resulting from the use of the beach for volleyball. By the act of erecting the volleyball posts, the persons doing so shall indemnify and hold the Town and its officers and officials harmless from any incident and/or injury that may occur from the use of the beach for volleyball.
[Amended 10-14-2006 by Ord. No. 580]
- C. Between the hours of 11:00 a.m. and 3:00 p.m. on weekends and holidays all sports activities involving airborne objects other than volleyball and sports activities involving adults or teenagers over the age of 13 shall be prohibited. The term "sports activities" shall include any physical activity which, as a result of the activity, could cause physical harm to another individual.
- D. For definition purposes, whenever a holiday falls on a Thursday, the following Friday is considered the "holiday" identified in this article. Whenever a holiday falls on a Tuesday, the preceding Monday is considered the "holiday" identified in this article.
- E. Exempt from the provisions of this article are all sports activities involving a mother and/or a father, or guardian, who is playing with a child under the age of 13.
- F. Regulations for the designation and location of all sports activity zones shall be prepared by the Town Manager.
- G. No person shall use a surfboard or skimboard, or any other type of water sport device that is constructed with nonflexible material when within 100 feet of bathers. All uses of a surfboard or skimboard, or any other type of water sport device that is constructed with nonflexible material, shall be restricted to designated areas as established at the discretion of the Dewey Beach Patrol.
[Added 7-17-1998 by Ord. No. 394; amended 10-14-2006 by Ord. No. 580]

§ 65-10. Authority of captain of beach patrol to declare beach closed.

[Added 5-10-1997 by Ord. No. 374]

- A. The captain of the Dewey Beach patrol is hereby authorized to exercise his reasonable discretion to determine and declare the beach and surf area within the Town of Dewey Beach closed for reasons of unsafe weather, tide, surf, or any other hazard or unsafe condition determined by the captain. The term "captain" as used herein shall also include a deputy or acting captain as determined by the captain of the Dewey Beach Patrol.
- B. No person or persons shall be permitted on the beach or within the waters of the Atlantic Ocean contiguous to the beach within the Town limits of Dewey Beach during the time period when the captain of the Dewey Beach patrol has declared the beach and the waters of the Atlantic Ocean contiguous to the beach unsafe for use.

Article II. Concessions

[Adopted 9-7-1984 as Ch. 9 of the 1984 Code]

§ 65-11. Definitions.

See Chapter 1, Article III.

§ 65-12. Vendors on beach; license required.

[Amended 12-6-2008 by Ord. No. 636 cont'd]

- A. No person shall sell, hire or rent or offer to sell, hire or rent any article or thing or perform or offer to perform for a price or reward any work or service on any beach or strand within the territorial limits of the Town without obtaining a license therefor from the Commissioners. Any violation of this section is declared to be a civil offense pursuant to Chapter 80 of the Municipal Code of the Town of Dewey Beach.
- B. "Engaging in or soliciting business" shall be deemed to mean selling, hiring or renting or offering to sell, hire or rent any article or thing or to perform or offer to perform for a price or reward any work or service.
- C. Nothing in this article shall prevent the Town of Dewey Beach from sponsoring or approving events on the beach, including events that provide for the service of food or beverages. The concessionaire shall be provided the option to provide food and drinks at all such events.

[Added 2-14-2009 by Ord. No. 648]

§ 65-13. Supervision of beach concessionaires.

[Amended 5-13-2006 by Ord. No. 567]

The Town Manager shall oversee and supervise the beach concessionaires and their operations under licenses granted by the Commissioners pursuant to this article.

§ 65-14. Public notice to submit applications.

[Amended 10-10-1992 by Ord. No. 244]

The Town Manager shall, for at least two weeks prior to the date set by the Commissioners to open bids in any year in which bids are to be sought, advertise in a local newspaper and/or other newspapers the fact that the Town is seeking applications from persons qualified to operate the beach concessions to be awarded for any beach section available.

§ 65-15. Sealed bids; bond.

[Amended 2-12-1994 by Ord. No. 286]

- A. All bids shall be accompanied by a cashier's check or certified check for 5% of the lump sum bid. This sum will be applied as a credit to the final payment due on the fifth year of the contract.
- B. The Town reserves the right to require the successful bidder to furnish a good and sufficient performance bond to guarantee completion of the contract.

C. All bids shall be sealed.

§ 65-16. Return of deposit.

The sum deposited as bond for performance is not only surety for payment of fines but is also to indemnify the Town against the expense of hiring another person to complete the obligation of any person whose rights as a beach concessionaire under this article have been terminated or who has abandoned performance of his obligation under the award granted pursuant to this article for a period of more than 36 hours.

§ 65-17. Decision of Commissioners; grounds for refusal.

[Amended 4-13-1985 by Ord No. 64; 5-13-2006 by Ord. No. 567]

The Commissioners shall have the right to decline to award a contract on the basis of the written application submitted to the Town Manager on the grounds that the bidder lacks proper experience or that he has insufficient capital or inadequate equipment to successfully carry out his obligations under the contract which he seeks to have awarded to him or that his history shows him to be a poor risk, or that the contract price is inadequate. The contract may be awarded on the basis of negotiation with any applicant.

§ 65-18. Award of concession.

[Amended 4-13-1985 by Ord No. 64; 2-14-2009 by Ord. No. 648]

The beach concession for each section shall be awarded to the person who, having satisfactorily complied with this article, appears to the Commissioners to be the person most likely to render the best service to the Town and the citizens on the basis of cost, application, negotiation, or past performance.

§ 65-19. Service covered by bids.

[Amended 12-12-1992 by Ord. No. 257; 2-12-1994 by Ord. No. 286; 5-13-2006 by Ord. No. 567; 2-14-2009 by Ord. No. 648]

All bids shall be for three summer seasons, to provide required service daily from 10:00 a.m. to 5:00 p.m. (weather permitting in the opinion of the Town Manager or Captain of the lifeguards) and discretionary service from 9:00 a.m. to 10:00 a.m. and 5:00 p.m. to 6:00 p.m.; said services are required to be provided from the Saturday of Memorial Day weekend through September 15 and are discretionary through the remainder of September.

§ 65-20. Time for opening bids.

[Amended 10-10-1992 by Ord. No. 244]

The Commissioners shall open all bids at a time and date set by the Commissioners.

§ 65-21. Default on contracts; forfeiture of bond.

[Amended 5-13-2006 by Ord. No. 567]

Upon the default in payment as required or upon abandoning his license, the Town Manager may hire

another person to complete the contract on such terms as he deems just, subject to the approval of the Commissioners.

§ 65-22. Payment by successful bidders; failure to pay.

[Amended 2-12-1994 by Ord. No. 286]

- A. Twenty percent of the bid amount shall be payable by the successful bidder annually in two installments of 10% due on April 1 and on August 1 of each year.
- B. Time is of the essence and failure to make payment when due shall be considered default.

§ 65-23. Return of deposit of unsuccessful bidders.

The deposit accompanying the bids of the unsuccessful person shall be returned promptly.

§ 65-24. Duties of concessionaires; transfer of ownership.

- A. The concessionaires shall be expected to maintain their equipment in first class condition in such minimum quantity as the Town Manager requires and shall employ and maintain courteous and efficient service.

[Amended 5-13-2006 by Ord. No. 567]

- B. The failure to employ competent and courteous personnel may be cause to terminate a license.
[Added 2-14-2009 by Ord. No. 648]
- C. Any transfer or change in ownership, without having first obtained the approval of the Commissioners at an official meeting of the Commissioners, shall be cause to terminate license.
- D. Provide 100 trash barrels and the removal and recycling of trash daily.
[Added 2-14-2009 by Ord. No. 648]
- E. The failure to comply with this section or other rules and regulations adopted by the Commissioners shall be cause to terminate license.

§ 65-25. Storage of beach equipment.

[Amended 5-13-2006 by Ord. No. 567]

All beach equipment shall be stored in structures built according to specifications and design approved by the Town Manager and placed in locations approved by the Town Manager.

§ 65-26. Liability insurance required.

Each person to whom a license is awarded under this article for any beach section shall carry insurance for general liability to the limits commonly known as \$100,000/\$300,000 for bodily injury and \$5,000 for property damage, and he shall, by accepting the award of such license, agree to indemnify and hold the Town harmless against any claim or loss whatsoever arising out of negligence or misconduct on his part.