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ORDINANCE NO _____

AN ORDINANCE TO AMEND CHAPTER 85-1321A(D), CURFEW FOR MINORS, OF THE MUNICIPAL CODE OF THE TOWN OF DEWEY BEACH, DELAWARE TO REVISE THE PROCEDURES, EXCEPTIONS AND PENALTIES FOR THOSE IN VIOLATION OF THE MINOR CURFEW

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; and

WHEREAS, under current municipal law, violating the minor curfew constitutes a criminal offense; and

WHEREAS, the Dewey Beach Police Department has indicated a desire to reduce the offense from a criminal to a civil violation.

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(D) of the Code of Ordinances as depicted by highlighted insertions, strikeouts, and substitutions depicted below:

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

- 1) Procedures. Any police officer who issues a citation for a minor violating any provision of this section shall take reasonable efforts to contact the minor’s parent(s) or guardian(s). ~~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.~~

- 44 2) Penalties.
- 45 a. Minor child. Any minor child who violates any provisions of this section shall be fined in
46 an amount may incur a civil fine not to exceed ~~\$300~~ of \$100.
- 47 b. Parents. Any parent who violates any provisions of this section after having received
48 notice of a prior violation shall be fined in an amount may incur a civil fine not to exceed
49 \$300 of \$100 and costs for each violation.
- 50 3) Separate offense. Any violation of any provisions of this section shall constitute a separate
51 offense.
- 52 4) ~~Explanation; defenses~~ Exceptions. No arrest of any minor, or parent, or operator shall be
53 ~~made~~ cited for a violation of this section unless the ~~arresting~~ responding officer first affords
54 the person the opportunity to explain his or her conduct, ~~and no person shall be convicted~~
55 ~~of a violation of this section if it is determined at trial that the explanation so given was true~~
56 ~~and disclosed a lawful purpose. More specifically, it is a defense to prosecution under~~
57 ~~Subsection D(1) that the minor was:~~ No citation shall be issued under this section if the
58 individual provides a truthful explanation demonstrating that the minor's actions fall within
59 one of the following lawful exceptions:
- 60 a. Accompanied by the minor's parent or guardian;
- 61 b. On an errand at the direction of the minor's parent or guardian, without any detour or
62 stop;
- 63 ~~c. In a motor vehicle involved in interstate travel;~~
- 64 d. Engaged in an employment activity, or going to or returning home from an employment
65 activity, without any detour or stop;
- 66 e. Involved in an emergency;
- 67 f. On the sidewalk abutting the minor's residence or abutting the residence of a next door
68 neighbor if the neighbor did not complain to the Police Department about the minor's
69 presence;
- 70 g. Attending an official school, religious, governmental, or other activity supervised by
71 adults and sponsored by the Town, a civic association, or another similar entity that
72 takes responsibility for the minor, or going to or returning home from, without any
73 detour or stop, an official school, religious, governmental, or other recreational activity
74 supervised by adults and sponsored by the Town, a civic organization, or another similar
75 entity that takes responsibility for the minor;
- 76 ~~h. Exercising First Amendment rights protected by the United States Constitution, such as~~
77 ~~the free exercise of religion, freedom of speech, and the right of assembly; or~~
- 78 i. Married or had status of minority removed in accordance with state law.

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80 **Section 2.** If any provisions of this Ordinance shall be deemed or held to be invalid or unenforceable for
81 any reason whatsoever, then such invalidity or unenforceability shall not affect any other provision of
82 this Ordinance which may be given effect without such invalid or unenforceable provision, and to this
83 end, the provisions of this Ordinance are hereby declared to be severable.

84

85 **Section 3.** This Ordinance shall take effect immediately upon its passage by a majority vote of the
86 Commissioners of the Town of Dewey Beach.

87
88 Adopted by at least a majority of the Commissioners of the Town of Dewey Beach on this -- day of --,
89 2025.

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92 SYNOPSIS

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94 This Act reduces the penalty for violating the minor curfew ordinance from a criminal offense, which
95 carried a maximum fine of \$300, to a civil penalty of \$100. Additionally, the Act removes subsections
96 D(4)(e) and D(4)(h) as exceptions to curfew violations.

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Mayor, William Stevens

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Town Manager, Bill Zolper

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