

**AN ORDINANCE TO AMEND CHAPTER 65 BEACHES, OF THE MUNICIPAL CODE OF THE TOWN OF DEWEY BEACH, DELAWARE, TO ADD A NEWARTICLE III THERETO REGARDING BEACH AND BAYWALK RULES ON VAN DYKE AVENUE BAYSIDE.**

**WHEREAS**, The State of Delaware owns a major portion of the Van Dyke Avenue bayside public beach and the Bay Walk. Dewey Beach Enterprises (DBE) leases these subaqueous lands from the State as an amenity to the public consistent with the Mutual Agreement & Release (MAR).

**WHEREAS**, Per Recorded Covenant between DNREC, the Town of Dewey Beach and DBE, the Town administers and enforces all appropriate beach and bay walk regulations.

**WHEREAS**, Dewey Beach Enterprise, or its successors, is responsible to operate and maintain these amenities.

**WHEREAS**, Consistent with the responsibilities and requirements as defined in the MAR and recorded Covenant, the Town of Dewey Beach establishes the following rules for the Bay Walk, Van Dyke Avenue Bayside Beach, and Gazebo.

**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 Chapter 65 of the Dewey Beach Code of Ordinances by adding thereto a new Article III, to read as follows:

**§65-30. Public Bay Walk.**

- A. The public Bay Walk shall be open to the public 24/7/365. The Bay Walk may close during unsafe or inclement weather conditions or other emergencies identified by the Town of Dewey Beach and/or Dewey Beach patrol.
- B. It shall be prohibited to engage in the following activities on the public Bay Walk:
  1. Smoking.
  2. Alcohol Consumption.
  3. Littering.
  4. Use of Skateboards, rollerblades, and bicycles.
  5. Climbing on the Bay Walk structure by adults or minors.
  6. Use of Motorized vehicles, except for motorized units that are ADA- compliant for handicapped persons. Dogs are permitted on the Bay Walk but must have a valid license issued by the Town of Dewey Beach. Dog owners must clean up after their dogs.
  7. Docking to the pier or Bay Walk is prohibited.
  8. Fishing or crabbing from the Bay Walk is prohibited from 10:00 AM until 5:00 PM during the summer season.

**§65-31. Van Dyke Avenue Bayside Public Beach and Gazebo**

- A. The Van Dyke public bayside beach and gazebo are open to the public 24/7/365 except during the curfew hours of 1:00 am to 5:00 am daily during the summer season. The public beach and gazebo may close during unsafe or inclement weather conditions or other emergencies identified by the Town of Dewey Beach and/or the Dewey Beach Patrol.
- B. Depending upon conditions, the Town of Dewey Beach may assign a Dewey Beach Patrol lifeguard to the Van Dyke area public beach during certain summer hours. Appropriate signage shall be in place to notify the public that use of the beach is at the public's risk when a lifeguard is not present.
- C. To assure public safety, the Van Dyke Avenue bayside beach will be closed during those periods when beach renourishment activity occurs.
- D. To assure the safety of persons recreating in the bay, the Town shall designate a swimming only zone extending at least 100 feet from the shoreline, and mooring of boats shall be prohibited within this zone.
- E. Motorized boats, including jet-skis, are prohibited from being launched or landed from the Van Dyke Avenue bayside beach during the summer season. Non-motorized boats, including kayaks and paddleboards, may be launched only from an area designated by the Town during the season.
- F. All persons must always keep the Van Dyke Avenue bayside beach and gazebo clean and litter-free by using the trash receptables.
- G. Smoking is prohibited.
- H. Climbing in or on the gazebo by any adult or minor is prohibited.
- I. Camping on the beach or in the gazebo is prohibited.
- J. Beach chairs and umbrellas are permitted on the Van Dyke Avenue bayside public beach.
- K. Food and beverage, umbrella, and beach chair concessions may be available during the Summer season, but only from a Town-approved contractor.
- L. Glass containers are prohibited on the beach.
- M. Dogs are permitted on the Van Dyke Avenue bayside beach and in the gazebo. Dogs must be licensed with the Town of Dewey Beach and must always remain under control. Dog owners must clean up after their dogs and use appropriate waste receptacles. During the summer season (May 15-September 15), dogs shall be prohibited on the Van Dyke Avenue bayside beach whenever a lifeguard is present.
- N. Volleyball activity is confined to the established court on Dickinson Avenue except via Special Use Permit obtained from the Town of Dewey Beach. No private volleyball posts may be erected on the Van Dyke Avenue bayside public beach area.
- O. Consumption of alcohol on the Van Dyke Avenue bayside public beach is prohibited during the summer season except at events for which the Town has issued a Special Use permit.
- P. The Van Dyke Avenue bayside beach and gazebo can be used for special events, including wedding ceremonies, by securing a Special Use Permit from the Town of Dewey Beach and paying any required fee. Such special use approvals shall be issued on a first-come, first served basis. During the summer season, set up for wedding events shall begin no earlier than 3:30 p.m. and are limited to two and a half hours, including time for set up and clean up.

- Q. No person shall have a bonfire without securing a Town Special Use permit and paying the fee required by the Town of Dewey Beach Fee Schedule. For safety reasons, all pit fires must be set up and extinguished by a Town-approved vendor. All fires must be extinguished, and the beach cleaned up by 11:00 p.m. The Town shall approve no more than two pit fires per day and the area surrounding a bonfire shall remain open to the public. Any clean-up fee deposit not used shall be refundable after 1:00 p.m. the day following the permitted fire. The approved vendor shall have full discretion to delay or deny a pit fire if any weather or public safety condition renders such a pit fire unsuitable or unsafe.
- R. Grills or any cooking or heating device using fire are prohibited.
- S. Fishing or crabbing from the beach is prohibited from 10:00 AM until 5:00 PM during the Summer season.
- T. No vehicles shall be driven on the beach, except those operated by police, fire, emergency, town, beach concessionaires under contract, or other authorized municipal or state vehicle on official business.

**§65-32: Civil Offenses**

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.

**Section 4.** 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 5.** This Ordinance shall take effect by a majority vote of the Commissioners of the Town of Dewey Beach on this 14<sup>th</sup> day of May 2021.

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Dale H. Cooke, Mayor

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Bill Zolper, Town Manager