

**AN ORDINANCE TO AMEND CHAPTER 65 BEACHES, ARTICLE I, OF THE MUNICIPAL CODE OF THE TOWN OF DEWEY BEACH, DELAWARE RELATING TO OCEAN BEACH USE AND ACTIVITIES**

**WHEREAS**, ARTICLE III, §65-27, §65-28, §65-29 regarding beach and Baywalk rules on Van Dyke Avenue bayside was added to the Municipal Code of the Town of Dewey Beach on May 14, 2021.

**WHEREAS**, existing ARTICLE I, §65-1 through §65-9 concern ocean side beach use and activities.

**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 Article I of the Code of Ordinances of the Town of Dewey Beach by inserting the highlighted provisions depicted below and by deleting the language depicted as struck below:**

**Article I; ~~Ocean Beach~~ Use and Activities**

**§ 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 ~~on the ocean beach.~~**

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]

Glass containers 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.~~

**§ 65-6 Ocean 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 ocean 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 ocean 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 ocean 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.

A. The captain of the Dewey Beach patrol is hereby authorized to exercise 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 declared unsafe for use.

**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.

This Ordinance shall take effect by a majority vote of the Commissioners of the Town of Dewey Beach on this \_\_\_\_\_ day of \_\_\_\_\_ 2021.

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Dale H. Cooke, Mayor

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Bill Zolper, Town Manager