

Sponsor: \_\_\_\_\_

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

**AN ORDINANCE TO AMEND SECTION 282-17 OF THE BETHANY BEACH CODE TO  
CHANGE THE JUVENILE CURFEW HOURS OF ENFORCEMENT TO 11:00PM AND END AT 5:00AM**

**Whereas**, the Town Council of the Town of Bethany Beach desires to modify its juvenile curfew hours of enforcement to begin at 11:00PM and end at 5:00AM.

**Whereas**, the Town Council believes that the new hours will address the inordinate number of unsupervised juveniles that remain in or upon public places within the Town of Bethany Beach.

**BE IT HEREBY ENACTED** by the Town Council of the Town of Bethany Beach, a majority thereof concurring in Council duly met, that the Town Code be and hereby is amended as follows:

**Section 1.** Amend Article X, Juvenile Curfew [Adopted 6-21-1996 by Ord. #308 (ch. 15, Art.X of the 1992 code)] section 282-17 Policy (Between May 1 to September 30, inclusive, of each year, it shall be unlawful for any person 17 years or less of age (under 18) to be or remain in or upon a public place within the Town of Bethany Beach during the period beginning at 11:00 p.m. and ending at 5:00 a.m.)

**Synopsis**

This ordinance amends Article X Juvenile Curfew section 282-17 by changing the enforcement hours to begin 11:00PM and run until 5:00AM. As a result, frequent complaints and observation there are an inordinate number of unsupervised juveniles congregating at the various public places in Bethany Beach causing concern for mischief and the general concern for the health, safety and security of the Town of Bethany Beach, its visitors and residents, curfew hours are a reasonable component to peaceful quiet enjoyment.

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This shall certify that this is a true and correct copy of the ordinance duly adopted by the Town Council of the Town of Bethany Beach at a duly-noticed and convened meeting at which a quorum was present on \_\_\_\_\_, 2021.

Attest: \_\_\_\_\_

Town Clerk

\_\_\_\_\_

Mayor

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This shall certify that the title and synopsis of the foregoing ordinance was posted at the Town Hall on \_\_\_\_\_, 2021 and published in \_\_\_\_\_ on \_\_\_\_\_, 2021.

So Certifies:

\_\_\_\_\_

Date

\_\_\_\_\_

Town Clerk

# \* Existing Ordinance \*

Town of Bethany Beach, DE  
Thursday, July 8, 2021

## Chapter 282. Peace and Good Order

### Article X. Juvenile Curfew

#### § 282-17. Policy.

Between May 1 to September 30, inclusive, of each year, it shall be unlawful for any person 17 years or less of age (under 18) to be or remain in or upon a public place within the Town of Bethany Beach during the period beginning at 1:00 a.m. and ending at 5:00 a.m.

#### § 282-18. Exceptions.

The following shall constitute valid exceptions to the operation of this article:

- A. Accompanied by parent. When a juvenile is accompanied by a parent of such juvenile.
- B. Accompanied by authorized adult. When a juvenile is accompanied by an adult authorized by a parent of such juvenile to take said parent's place in accompanying said juvenile for a designated period of time and purpose within a specified area.
- C. Errand directed by parent. When the juvenile is on an errand as directed by his/her parent.
- D. Emergency. When a juvenile is involved in or assisting in an emergency, including, by way of example and not in limitation, responding as a member of a volunteer fire company to a fire company or paramedic call.
- E. First Amendment rights. When a juvenile is 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.
- F. Reasonable necessity. In case of reasonable necessity for the juvenile remaining in a public place but only after the juvenile's parent has communicated to the Chief of Police or the person designated by the Chief of Police to receive such notifications the facts establishing the reasonable necessity relating to a specified public place at a designated time for a described purpose, including points of origin and destination. A copy of the communication, or of the police record thereof, duly certified by the Chief of Police to be correct, with an appropriate notation of the time it was received and of the names and addresses of the parent and juvenile shall be admissible evidence.

- G. On own or neighbor's property. When a juvenile is on the sidewalk or property where the juvenile resides or on either side of or across the street from the place where the juvenile resides and the adult owner or resident of that property has given permission for the juvenile to be there.
- H. Attending and returning home within one hour of official activity. When a juvenile is attending or is returning home by a direct route (without any unnecessary stop or detour) from and within one hour of any religious, recreational or other organized activity supervised by adults, sponsored by the Town, a recognized charitable, benevolent or civic association or a similar entity that takes responsibility for the minor.
- I. Employment necessity. When the juvenile is legally employed, going to or returning home from employment.
- J. Interstate or intrastate travel. When the juvenile is, with parental consent, in a motor vehicle, engaged in normal interstate or intrastate travel through the Town or originating or terminating in the Town.
- K. Married. When the juvenile is married or has been married pursuant to state law.

## § 282-19. Town responsibility limited; parental responsibilities.

- A. The foregoing exceptions to the operation of this article shall act only to create a waiver of enforcement and affirmative defense(s) to such enforcement. By authorizing such exceptions, neither the Town nor any member of the Police Department shall assume any affirmative obligation or duty to supervise the well-being of any juvenile acting pursuant to such authorized exception.
- B. It shall be unlawful for a parent having legal custody of a juvenile knowingly to permit or by inefficient control to allow the juvenile to remain in any Town public place under circumstances not constituting an exception to, or otherwise beyond the scope of, this article. The term "knowingly" includes knowledge that a parent should reasonably be expected to have concerning the whereabouts of a juvenile in that parent's legal custody. This requirement is intended to hold a neglectful or careless parent up to a reasonable community standard of parental responsibility through an objective test. It shall, therefore, be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of such juvenile.
- C. It shall be unlawful for any parent to "knowingly" (as defined above) provide any false authorization, information or certification, written or verbal, to the Town Police Department in order to obtain an exception to the operation of this article under § 282-18 hereof.

## § 282-20. Enforcement procedures.

- A. If a police officer reasonably believes that a juvenile is in a public place in violation of this article, the officer shall require the juvenile to provide his or her name, address and telephone number and how to contact his or her parent or guardian. No juvenile shall be issued a citation or taken into custody for a violation of this article unless the police officer first affords that minor an

opportunity to explain his or her conduct. In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate or driver's license, a police officer shall use his or her best judgment in determining age.

- B. If the police officer reasonably concludes that the juvenile is in violation of this article, the officer may, depending upon the circumstances (e.g., age of the juvenile, hour of night, juvenile's means of transportation, juvenile's physical condition and whether parents could be reached) take the juvenile into custody pursuant to 10 Del. C. § 1004 or issue the juvenile a citation charging him or her with a violation of this article and order the juvenile to go promptly home. If the juvenile is issued a citation, the Chief of Police shall send the parent or guardian of the juvenile written notice of the violation as set out in Subsection **E** hereof.
- C. Notwithstanding Subsection **B** of this section, when a police officer has reasonable grounds to believe that the juvenile has engaged in delinquent conduct, the procedure shall then be to take the juvenile to the police station, where a parent or guardian shall immediately be notified to come for the juvenile, whereupon the parent or guardian and the juvenile shall be questioned. This is intended to permit ascertainment, under constitutional safeguards, of relevant facts and to centralize responsibility in the person designated there and then on duty for accurate, effective, fair, impartial and uniform enforcement and recording, thus making available experienced personnel and access to information and records.
- D. When a parent or guardian, immediately called, has come to take charge of the juvenile, and the appropriate information has been recorded, the juvenile shall be released to the custody of such parent. If the parent cannot be located or fails to take charge of the juvenile, then the juvenile shall be released to the juvenile authorities, except to the extent that in accordance with police regulations, approved in advance by juvenile authorities, the juvenile may temporarily be entrusted to an adult, neighbor or other person who will on behalf of a parent or guardian assume the responsibility of caring for the juvenile pending the availability or arrival of a parent or guardian.
- E. In the case of a first violation of this article by a juvenile, the Chief of Police shall cause notice to be given to the parent of such minor. Such notice shall be given by either 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 obtained from the Delaware 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 Police Department or by affidavit of any person over the age of 18 years naming the person to whom such notice was given and specifying the time, place and manner of the giving of such notice. Such notice shall contain a warning that any subsequent violation of this article by the minor will result in full enforcement of this article, including enforcement of parental responsibility and of applicable penalties.