

## Chapter 301 **Smoking, Outdoor**

[HISTORY: Adopted by the Town Council of the Town of Bethany Beach 4-18-2008 by Ord. No. 434 (Ch. 171 of the 1992 Code). Amendments noted where applicable.]

### § 301-1 **Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

#### **SMOKING**

The smoking, burning, heating, inhaling or exhaling of any substance (*i.e., tobacco, herbs, weed, marijuana, etc.*) by any type of delivery system (*i.e., cigar, cigarette, hookah, etc.*). This includes electronic vapor-generating devices also known as "e-cigarettes."

[Amended 5-23-2014 by Ord. No. 503]

### § 301-2 **Smoking prohibited at all times of the year.**

Smoking shall be prohibited at all times of the year in the following outdoor public places:

#### **A.**

All children's playgrounds open to the public, including without limitation those located at the northwest corner of Garfield Parkway and North Pennsylvania Avenue.

#### **B.**

All Town public parks open to the public, including without limitation, the Bethany Beach Nature Center at 807 Garfield Parkway, the Loop Canal Park located west of the intersection of Pennsylvania Avenue and First Street, and the "Town Hall Park" abutting the east side of the Town Hall at 214 Garfield Parkway.

#### **C.**

The entirety of the Bethany Beach "Bandstand Plaza" located at the eastern terminus of Garfield Parkway, extending from the eastern terminus of the paved portion of Garfield Parkway to the western edge of the boardwalk, and extending, respectively, from the north and south curb lines of Garfield Parkway easterly in a straight line to such line's intersection with western edge of the boardwalk.

#### **D.**

The entire width and length of the boardwalk running along and parallel with the public beach fronting on the Atlantic Ocean, including all boardwalk access ramps.

[Added 3-18-2011 by Ord. No. 462]

### § 301-3 **Smoking prohibited between May 15 and September 15.**

#### **A.**

Except for those specific "smoking permitted" areas designated in Subsection **B** below, smoking is prohibited between May 15 through September 15, inclusive, of each year for the entire width and length of the public beach and swimming area lying between the eastern edge of the boardwalk and a line parallel with and 100 yards east of the high water mark of the Atlantic Ocean.

[Amended 3-18-2011 by Ord. No. 462]

**B.**

Anything in Subsection **A** to the contrary notwithstanding, smoking shall be permitted between May 15 through September 15, inclusive, in not less than seven nor more than 15 designated and clearly marked locations on the public beach as determined by the Town Manager, subject to the following constraints:

[Amended 7-19-2013 by Ord. No. 495]

**(1)**

Each designated smoking permitted area shall be located on the eastern side of the easternmost dune fence running generally north and south along the public beach in Bethany.

**(2)**

Each designated smoking area shall consist of an area in the shape of a half-circle having a twelve-foot radius, the center of such half-circle being at a point in the above-referenced dune fence.

**(3)**

Each designated smoking permitted area shall be clearly marked by appropriate signage and shall be provided with a cigarette/cigar butt disposal container and a trash can.

**(4)**

No designated smoking permitted area shall be located any nearer than 100 feet from any entranceway or path to the beach or Atlantic Ocean.

**§ 301-4 Signage required.**

[Amended 8-19-2011 by Ord. No. 467]

No person shall be prosecuted for violation of this chapter unless signs, readily visible to the public, are posted in appropriate places at the entrances to those areas where smoking is prohibited, indicating when smoking is prohibited and indicating that violations are subject to penalties. All signs shall be posted in accordance with

**Chapter 530.**

**§ 301-5 Enforcement.**

Any person observed violating this chapter who has not been issued a written warning hereunder within the preceding four months shall be issued a written warning for a first

offense by any Town Police Officer or Code Official. Any person who, having received a written warning within the previous four months, is observed violating this chapter, shall be charged with a second offense and issued a summons to appear before the Town Alderman. Any person who, having received a summons for a second offense violation of this chapter, is again observed violating this chapter within four months of receiving a written warning, shall be charged with a third (or subsequent) offense and may be immediately taken into custody by any Town Police Officer to appear forthwith before the Town Alderman to answer for the violation.

**§ 301-6Violations and penalties.**

Penalties for violation of this chapter are set out in Chapter 1, General Provisions, Article I, Penalties, of the Town Code.