



TITLE #: 39
Ordinance #: 08-20-13-020

Date: August 20, 2013

ORDINANCE for CURFEW of MINORS

DESCRIPTION: This Ordinance shall be known as the “Town of Cheswold Curfew of Minors Ordinance”, as it establishes standards of behavior for persons under the age of 18 years, and is herein sometimes referred to as the Curfew Ordinance and shall apply to and include the entire corporate limits of the Town of Cheswold, Delaware, Kent County – State of Delaware.

Section 1. PURPOSE:

The purpose and intent of this Ordinance is to establish an orderly and legal procedure for the determination and abatement of minors remaining on the streets of the Town of Cheswold, without adult supervision beyond the hours specified in this Ordinance.

Section 2. APPLICABILITY:

The provisions of the Curfew Ordinance shall apply to all minors within the corporate limits of the Town of Cheswold, whether residents, visitors or transitory traffic.

Section 3. DEFINITIONS

As used in this Ordinance, the following terms, words and phrases shall have the following specified meaning:

- 3.1 Establishment** - Any privately owned place of business carried on for a profit or any place of amusement or entertainment to which the public is invited.
- 3.2 Minor** - Any person under the age of 18 years.
- 3.3 Official Town Time** - Eastern standard time, except from the first Sunday in April to the last Sunday in October, when it means Eastern daylight saving time.
- 3.4 Operator** - Any individual, firm, association, partnership or corporation, or other entity operating, managing or conducting any establishment. When used in any clause prescribing a penalty, the term "operator," as applied to an association or partnership, includes the members or partners thereof and, as applied to a corporation, includes the officers thereof.

Section 3. DEFINITIONS – “continued”

- 3.5 **Parent** - Any natural or adoptive parent of a minor, a guardian of a minor or any adult person who is responsible for the care and custody of a minor.
- 3.6 **Public Place** - Any public street, highway, road, alley, park, playground, wharf, dock, public building or vacant lot.
- 3.7 **Remain** - To loiter, idle, wander, stroll or play in or upon.

Section 4. CURFEW HOURS; EXCEPTIONS

- 4.1 No minor shall remain in or upon any public place or any establishment between the hours of 10:00 p.m. and 6:00 a.m. of the following day, official Town time.
- 4.2 The provisions of this section shall not apply to any minor who is accompanied by a parent, or to a minor who is upon an errand or other legitimate business directed by such minor's parent or to any minor who is engaged in gainful, lawful employment during the curfew hours.
- 4.3 This section shall not apply when a minor is returning home by way of a direct route from any activity that is sponsored by an educational, religious or nonprofit organization when such returning is within 60 minutes following the termination of the activity.

Section 5. UNLAWFUL CONDUCT OF PARENTS

- 5.1 No parent shall knowingly permit any minor to remain in or upon any public place or establishment between the hours of 10:00 p.m. and 6:00 a.m. of the following day, official Town time.
- 5.2 The provisions of this section shall not apply to any parent who accompanies a minor, or to a parent who directs a minor upon an errand or other legitimate business, or to any parent or a minor who is engaged in gainful, lawful employment during the curfew hours.

Section 6. UNLAWFUL CONDUCT OF OPERATORS OF ESTABLISHMENTS

- 6.1 No operator of an establishment or the agents or employees of the operator shall knowingly permit any minor, other than a minor who is an employee of the operator, to remain upon the premises of such establishment between the hours of 10:00 p.m. and 6:00 a.m. of the following day, official Town time.

Section 7. VIOLATIONS; REFERRALS; OPPORTUNITY TO EXPLAIN CONDUCT; PENALTIES.

- 7.1 Any police officer who finds a minor violating any provisions of this ordinance shall obtain such information from such minor as to his name and address, age and the name of his parent or parents. The minor shall thereupon be instructed to proceed to his home forthwith. The information obtained from the minor shall be forwarded to the State of Delaware Division of Protective Services or the Family Court for such action as is deemed appropriate in accordance with the rules of the Family Court, if charged, and shall include a written notice to be mailed by the Public Safety Department to the parents of the minor advising of the violation of this ordinance. The police officer may charge the minor with a curfew violation, the prosecution of which shall be in the Family Court, and may charge the minor's parent(s), or the operator(s), or both the parent(s) and the operators, as the case may be, with violation(s) of the provisions of this ordinance, and the same shall be duly prosecuted in the court of the appropriate jurisdiction.
- 7.2 Any parent who violates any provisions of this ordinance after having received notice of a prior violation shall be fined in an amount not to exceed \$600 and costs for each violation, and in default of payment; thereof, shall be imprisoned for not more than 90 days.
- 7.3 Any operator of an establishment or any agent or employee thereof who violates any provisions of this ordinance shall be fined in an amount not to exceed \$600 and costs for each violation and, in default of payment thereof, shall be imprisoned for not more than 90 days.
- 7.4 Any violation of any provisions of this ordinance shall constitute a separate offense.
- 7.5 No arrest of any minor, or parent, or operator shall be made for a violation of this ordinance unless the arresting officer first affords the person an opportunity to explain his or her conduct, and no person shall be convicted of a violation of this ordinance if it is determined at trial that the explanation so given was true and disclosed a lawful purpose.

Section 8 - EFFECTIVE DATE

This ordinance, entitled **CURFEW ORDINANCE**, and the rules, regulations, provisions, requirements, orders, administration and management and matters established, was duly adopted by a majority vote of the Cheswold Town Council at the regularly scheduled Council meeting held on Monday, December 2, 2013, at which a quorum was present and voting throughout. , and that the same is still in force and effect.

I, Donald F. Tinari, Mayor of the Town of Cheswold, do hereby certify that the foregoing is a true and correct copy of the Ordinance passed by affirmative vote of said Council members and that said ordinance shall become effective on Tuesday, December 3, 2013, and shall remain in force and effect.

Certified: Donald F. Tinari
Donald F. Tinari - Mayor

Date: December 2, 2013

ATTEST: Theon E. Callender
Theon E. Callender - Secretary/Treasurer

Date: December 2, 2013

Agreed: Robert W. Sine
Robert W. Sine Vice-Mayor

Date: December 2, 2013

Agreed: Mildred Johnson
Mildred Johnson - Councilperson

Date: December 2, 2013

Agreed: Sherry Lambertson
Sherry Lambertson - Councilperson

Date: December 2, 2013

Agreed: POSITION VACANT
Councilperson

Date: December 2, 2013

NOTARIZED: Shadina Jones
Shadina Jones - Town Clerk

Date: December 3, 2013

Sponsored by: Chief Christopher Workman– Chief of Police

Introduction: September 3, 2013

Co-Sponsor: Councilperson Theon Callender – Secretary/Treasurer