

Chapter 26

Nuisances

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History: Section 26-1 was from Ordinance 1000 Article V Section 18 (adopted January 12, 1976), Sections 26-2, 26-3, and 26-4 were Ordinance 9012 (adopted April 4, 1969), Section 26-5 was Ordinance 9006 (adopted June 2, 1958), Article II was Ordinance 9004 (adopted December 2, 1957), Article III was Ordinance 9005 (adopted February 3, 1958) and Article IV was Ordinance 9011A (adopted February 12, 1979).

Article I Littering**Section 26-1 General**

No person shall deposit or cause to be deposited any garbage in or upon any street, public place, park, vacant lot or public or private alley.

Section 26-2 Definition

Littering: the throwing, scattering or depositing upon any property, public or private, except property owned by the person throwing, scattering or depositing, of glass, cans, paper, or any other goods, merchandise or other form of refuse or rubbish.

Section 26-3 Criminal Penalties

Littering is unlawful and is a misdemeanor, and any person convicted of littering shall be fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) or be imprisoned not less than ten (10) days nor more than thirty (30) days, or both.

Section 26-4 Jurisdiction

The Court of Common Pleas for New Castle County shall have concurrent jurisdiction with Justices of the Peace to issue warrants and try offenses brought pursuant to this Article.

Section 26-5 Littering of Waste into the Branch Channel

No person by agent or otherwise shall cast, throw or deposit or in any manner cause to be cast, thrown or deposited trash, waste or garbage material into the Branch Channel of the Delaware and Chesapeake Canal or on Canal Street adjacent thereto within the Town limits of Delaware City.

Whoever violates Section 26-1 of this ordinance shall be fined not less than fifteen dollars (\$15.00) nor more than one hundred dollars (\$100.00).

Sections 26-6 to 26-10 Reserved

Article II Loitering**Section 26-11 Loitering**

Whoever loiters upon the sidewalk within the Town limits of Delaware City, so as to obstruct the free and convenient passage of a person or persons walking along said sidewalk and fails to make way after reasonable request is guilty of a common nuisance and shall be fined not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00).

Sections 26-12 to 26-15 Reserved

Article III Disorderly Conduct**Section 26-16 Disorderly Conduct**

Whoever brawls, quarrels, uses abusive, threatening or profane language, in a loud voice, or is intoxicated in any public place within the Town limits of Delaware City is guilty of disorderly conduct and shall be fined not more than twenty-five dollars (\$25.00) and the cost of prosecution, and in default of the payment of such fine shall be imprisoned not more than ten (10) days.

Sections 26-17 to 26-20 Reserved

Article IV Curfew**Section 26-21 Definitions**

For the purposes of this Article, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, words in the masculine gender to include the feminine gender, and words in the singular number the plural number. The word “shall” is always mandatory and not merely directory.

- a.) City: the City of Delaware City.
- b.) Minor: any person under the age of eighteen (18) years.
- c.) Parent: the natural or adoptive parent of a minor.
- d.) Guardian: any person other than a parent, who has legal guardianship of a minor.
- e.) Custodian: any person over the age of twenty-one (21) years who is in loco parentis to a juvenile.

Section 26-22 Curfew for Minors Under Eighteen – Generally

It shall be unlawful for any minor under the age of eighteen (18) years to loiter, idle, wander, stroll or play in or remain unnecessarily upon the public streets, highways, roads, alleys, parks, playgrounds, wharves, docks or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places, whether by foot or in a motor vehicle or other conveyance between the hours of 10:00 P.M. and 6:00 A.M., of the following day, official city time; provided, however, that the provisions of this Section shall not apply to a minor accompanied by his parent, guardian or other adult person having the care and custody of the minor, or where the minor is upon an emergency errand or legitimate employment directed by his parent, guardian or other adult person having the care and custody of the minor.

Section 26-23 Curfew for Minors Under Eighteen – Responsibility of Parents, Guardians, Etc.

It shall be unlawful for the parent, guardian or other adult person having the care and custody of a minor under the age of eighteen (18) years to neglect to restrain and prevent or to knowingly permit such minor to loiter, idle, wander, stroll or play in or remain unnecessarily upon the public streets, highways, roads, alleys, parks, playgrounds, wharves, docks or other public grounds, public places and public buildings, places of amusement and entertainment,

vacant lots or other unsupervised places between the hours of 10:00 P.M. and 6:00 A.M. of the following day, official city time; provided, however, that the provisions of this Section shall not apply when the minor is upon and emergency errand or legitimate employment directed by his parent, guardian or other adult person having the care and custody of the minor.

Section 26-24 Procedures

a.) Any police officer upon finding a minor in violation of Section 26-22 shall ascertain the name and address of such minor and warn the minor that he is in violation of curfew and shall direct the minor to proceed at once to his or her home or usual place of abode. The police officer shall report such action to the Chief of Police who in turn shall notify the parents, guardian or person having custody or control of such minor.

b.) If such minor refused to heed such warning or direction by the police officer or refuses to give such police officer his correct name and address, or if the minor has been warned on a previous occasion that he or she is in violation of curfew, he or she shall be taken to the Police Department and the parent, guardian or other adult person having the care and custody of such minor shall be notified to come and take charge of the minor. If the parent, guardian or other adult person having custody of any said minor cannot be located, any such minor shall be turned over to the State Division of Social Services or the Family Court for such action as is deemed appropriate in accordance with the Rules of the Family Court.

c.) Any police officer who turns over a minor, alleged to have violated the provisions of Section 26-22 of this Article, to his or her parent, guardian or other adult person having the care and custody of such minor, shall thereupon issue to such parent, guardian or other said adult person a summons charging him or her with violation of the provisions of Section 26-23 of this Article.

d.) Any parent, guardian or other adult person having care and custody of a minor and who is found guilty of violating the provisions of Section 26-23 of this Article shall, upon conviction thereof, be fined for the first offense the sum of fifteen dollars (\$15.00) and not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00) for each subsequent offense.

Sections 26-25 to 26-30 Reserved

Article V Solicitation**Section 26-31 General**

No person shall engage in or cause another person to be engaged in the act of commercial solicitation in or upon any property located within the City. No person shall engage in or cause another person to be engaged in the act of noncommercial solicitation in or upon any property located within the City where the owner, occupant or other person in control of the property has expressed his objection to such activity either by explicit instructions, oral or written, or by posting a sticker, sign or notice bearing the words "No Solicitation" or words of similar meaning and import unless the person has been invited or requested by the owner, occupant or other person in control of the premises for such purpose.

Section 26-32 Definitions

For the purpose of this section only, the following words and phrases shall, when used in this section, have the following meanings:

a.) Charitable: means the purpose of an organization which has received a letter of determination approving tax exempt status under Title 26 of the United States Code Section 501 (c)(3) or the purpose of a school club, recognized and affiliated with a public or private school, having a program with annual campaigns to support the public or private school club.

b.) Commercial Solicitation: means the act of any person, whether a resident of the City or not, traveling by foot, vehicle or any other type of conveyance who goes from house to house, business to business, from place to place or in or along any highway, roadway, route, street or sidewalk within the City either: (1) requesting, either directly or indirectly money, credit, funds, contributions, personal property or anything of value; (2) taking or attempting to take orders for the sale of goods, wares, merchandise or services of any kind, or description for future delivery or for services to be performed in the future, either in person or by distributing flyers and leaflets; and (3) selling and making immediate delivery any goods, wares, merchandise or services of any kind or description.

c.) Noncommercial Solicitation: means the act of any person, whether a resident of the City or not, traveling by foot, vehicle or any other type of conveyance who goes from house to house, business to business, from place to place or in or along any highway, roadway, route, street or sidewalk within the City that : (1) is not requesting, either directly or indirectly, money credit, funds, contributions, personal property or anything of value; (2) has a charitable, religious or political purpose for the solicitation; (3) is communicating or otherwise conveying

ideas, views or beliefs or otherwise disseminating oral or written information to a person willing to directly receive such information, provided that such information is of a political, religious or charitable nature; (4) is seeking to influence the personal belief of the occupant of any residence or business in regard to any political or religious matter; (5) is seeking to obtain, from an occupant of any residence or business, an indication of the occupant's belief in regard to any political or religious matter; (6) is conducting a poll, survey or petition drive in regard to any political matter; and (7) is carrying, conveying, delivering or transporting dairy products, newspapers or other goods to regular customers on established route or to the promises of any person who had previously ordered such products or goods and is entitled to receive the same.

Section 26-33 Violations and Penalties

Any person violating the provisions of this Article shall, upon conviction, be punished by a fine of not less than \$50 nor more than \$100 or imprisonment for such a period not to exceed 10 days, or both such fine and imprisonment, at the discretion of the court. For purposes of this Article, each property solicited shall be considered a separately punishable offense.¹

ARTICLE VI Fireworks

Sec. 26-41. Discharging fireworks.

- a) **Discharging of Fireworks.** It is hereby declared to be a public nuisance for any person or persons, absent a permit issued by the Delaware City Police Department, to sell, possess with intent to sell, or discharge fireworks with the City limits of Delaware City.
- b) **Definition.** "Fireworks" includes any combustible or explosive composition, or any substance or combinations of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation and includes blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used (paper caps are excepted), the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman candles, Daygo bombs, or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or any caps or tablets or other device containing any explosive substance.

Sec. 26-42. Other Explosive and Flammable Devices Prohibited. The following items are considered hazardous and are not permitted within the city limits of Delaware City: wood stick or wire sparklers which produce a shower of sparks upon ignition and which consist of wire of stick coated with a pyrotechnic mixture; other hand-held or ground-based sparkling devices which are non-explosive and non-aerial, which sometimes produce a crackling or whistling effect, and

¹ Article V Created by Ordinance 14-0721-01(Adopted 8-18-14)

which contain pyrotechnic mixture per; snakes, glow worms, and smoke devices which contain a pyrotechnic mixture; or trick noisemakers, which include party poppers, snappers and drop pops, which contain a pyrotechnic mixture.

Sec. 26-43. Penalties. Whosoever violates section 26-41 or 26-42 of this chapter shall be fined not less than \$100.00 nor more than \$500.00 for the first offense; not less than \$200.00 nor more than \$500.00 for a second offense, and a mandatory penalty of \$500.00 shall be assessed for a third offense.

Section 2. Severability. The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that City Council would have enacted the remaining valid provisions without the unconstitutional or void provision; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with City Council's intent.

Section 3. Effective Date. This Ordinance shall become effective immediately upon its adoption by City Council.

Article VI Created by Ordinance 20-0921-01(Adopted 10-19-20)