

AN ORDINANCE TO ESTABLISH A MORATORIUM UPON THE ISSUANCE OF ANY PERMIT, LICENSE OR OTHER APPROVAL FOR OR INVOLVING NEW MOTEL/HOTEL USES IN THE TOWN OF FENWICK ISLAND.

WHEREAS, the Town of Fenwick Island currently allows motels/hotels as a permitted use in the Commercial Zone; and

WHEREAS, on or about February 26, 2016, the Town Council approved an Ordinance imposing a moratorium upon the issuance of any permit, license or other approval for or involving new motel/hotel uses in the Town for a period of two (2) years (“Original Ordinance”); and

WHEREAS, in accordance with the Original Ordinance, prior to the expiration of the moratorium imposed by the Original Ordinance, the Town Council extended the moratorium for another two-year period, expiring on February 26, 2020; and

WHEREAS, in accordance with the Original Ordinance, the Original Ordinance expired; however, on July 24, 2020, the Town Council found it necessary and appropriate to re-establish the moratorium imposed by the Original Ordinance for a period of two (2) years; and

WHEREAS, prior to the expiration of the July 24, 2020 moratorium extension , the Town Council finds it necessary and appropriate to extend the moratorium imposed by the Original Ordinance, as additional review and discussion is necessary to determine whether or not an expansion of the total number of motel/hotel uses in the Town would create a positive or negative impact on the Town’s infrastructure, the Town’s economy, the Town’s Commercial Zone, the Town’s residents and/or the Town’s owners.

WHEREAS, whether or not an expansion of the total number of motel/hotel uses in the Town, above and beyond the parcels already devoted to motel/hotel uses, is in the best interest of the Town has been the subject of much debate by the citizens of and property owners in the Town for many years; and

WHEREAS, due to the COVID pandemic, it was not possible to fully assess whether or not an expansion of the total number of motel/hotel uses in the Town would create a positive or negative impact on the Town, due to mandated closures for the protection of the health and safety of the citizens of the Town as well as unique pandemic behaviors, which may or may not, be replicated with the easing of pandemic restrictions/health concerns; and

WHEREAS, there are significant concerns regarding having adequate parking in the Commercial Zone resulting in the formation of an Ad Hoc Parking Committee that is considering solutions as well as proposed ordinance changes to parking ratios. In addition, the

Town has been awarded a grant to commission a Resiliency Study which should be completed within the next two years that is expected to address and recommend approaches to combat sea level rise and increasing flooding within the Town, including the Commercial Zone. Further, the Town is seeking to build sidewalks along State Highway Route 1 which abuts portions of the Commercial Zone; however, construction has not yet begun. All of these issues may affect the Commercial Zone and whether or not an expansion of the total number of motel/hotel uses in the Town would create a positive or negative impact on the Town's infrastructure, the Town's economy, the Town's Commercial Zone, the Town's residents and/or the Town's owners; and

WHEREAS, the Town has also begun the process of renewing its Comprehensive Plan, as required by Title 22 of the Delaware Code, and the expansion of motel/hotel uses in the Town will be an important topic of discussion during said update process; and

WHEREAS, the Comprehensive Plan update process is scheduled to be completed by June, 2023, and will consist of multiple public meetings and/or hearings, as well as hiring professional consultant(s) and is expected to address, among other concerns, the issue of motel/hotel uses and other land use planning issues with which the Town is faced; and

WHEREAS, because the Comprehensive Plan update process may result in comprehensive and/or significant changes to the permitted land uses within the Commercial Zone that may be separate and distinct from the ongoing concerns regarding creating adequate parking in the Commercial Zone and the results expected from the Resiliency Study to combat flooding and sea level rise, the Town Council deems it to be in the best interest of the Town to maintain the status quo of existing motel/hotel uses while these issues are studied; and

WHEREAS, the Town Council finds that maintaining the status quo of existing motel/hotel uses by placing a moratorium upon the issuance of any permit, license or other approval for or involving new motel/hotel uses in the Town for a period of two (2) years is the minimum time period necessary for the Town to study these issues/concerns and create a plan of implementation that often follows said process.

NOW THEREFORE BE IT ORDAINED by the Town Council of the Town of Fenwick Island, in session met, a quorum pertaining at all times thereto, that:

Section 1. A moratorium upon the issuance of any permit, license or other approval for or involving new motel/hotel uses in the Town is hereby imposed for a period of two (2) years after the date of adoption of this Ordinance, unless extended, modified, or terminated in accordance with this Ordinance. During the period of said moratorium, the Town's Building Official/Code Enforcement Official, as well as all other Town staff and boards, committees or commissions, shall not grant any approvals which would have, as the result, the establishment or development of any new motel/hotel uses in the Town.

Section 2. This moratorium shall not apply to existing motel/hotel uses in Town. The parcels in Town already devoted to motel/hotel uses, as of the adoption of this Ordinance, may continue to be used for a motel/hotel use and the owners/operators thereof may maintain, remodel, renovate, reconstruct and/or rebuild the structures located on said parcels as they deem

necessary and appropriate for the furtherance of their motel/hotel businesses, provided all necessary permits and approvals from the Town and/or any other applicable governing agency are obtained.

Section 3. This Ordinance may be extended, modified, or terminated at any time by a majority vote of all members of the Town Council. Without action by the Town Council to terminate this moratorium early or to further extend this moratorium, the moratorium hereby imposed shall automatically dissolve two (2) years from the effective date of this Ordinance.

Section 4. If any clause, section or other part or application of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered eliminated and so not affecting the validity of the remaining portions or application remaining in full force and effect.

Section 5. This Ordinance shall become effective upon its adoption.