

Approved First Reading April 28, 2023

Proposed Second Reading – May 26, 2023

AN ORDINANCE TO AMEND CHAPTER 61 (BUILDING AND UTILITY CONSTRUCTION), ARTICLE II (HOURS OF OPERATION AND CONSTRUCTION CONDITIONS), SECTION 61-14 (HOURS OF CONSTRUCTION; PILE DRIVING), OF THE CODE OF THE TOWN OF FENWICK ISLAND, DELAWARE

RELATING TO DEFINITION OF “CONSTRUCTION” AND PROHIBITED DAYS OF CONSTRUCTION

WHEREAS, the Town Council (“Council”) of the Town of Fenwick Island, Delaware, (“Town” or “Fenwick”) has the authority to regulate the erection, construction, addition, alteration, repair, removal and demolition of buildings and structures in the Town, including by way of restricting the hours and days of construction activity;

WHEREAS, the Council desires to amend its Town Code, Chapter 61 (Building and Utility Construction) Article II (Hours of Operation and Construction Site Conditions), Section 61-14 (Hours of construction; pile driving), in order to define the term “construction” and to prohibit construction on Saturdays from May 15 to September 15;

NOW THEREFORE, BE IT ORDAINED, this ____ day of ____, ____, by the Town Council of the Town of Fenwick Island, Delaware, in session met, and a quorum pertaining at all times thereto, in the manner following:

Section 1. Revise Code Section 61-14 A. to read as follows:

Hours of construction. No construction shall be carried on between the hours of 6:00 p.m., prevailing time, and 8:00 a.m., of the following morning, prevailing time. No construction shall take place on any Sunday or the following specified holidays or dates: January 1 - New Year's Day; Memorial Day; July 4; Labor Day; Thanksgiving Day; Christmas Day; and any Saturday from May 15 to September 15, inclusive, of any year, except as certified, in writing, by the Town Council of the Town of Fenwick Island as necessary to protect public property. Nothing contained herein shall prevent any homeowner from working within his own property boundaries, provided that such work is done by himself. Such privilege does not convey the right to violate any provisions of

the Zoning and/or Building Construction Code, nor is it to be construed as exempting any such property owner from obtaining a permit and paying the required fees therefor.

Section 2. Add a new Code Section 61-14 C. to read as follows:

Construction, definition. As used in this chapter, “Construction” shall mean any activity, relating but not limited to, operating or permitting the operation of any tools or equipment in connection with the erection, addition, repair, removal, fabrication, installation, alteration, excavation or demolition of any structure, facility or addition thereto. Construction activity extends to site preparation, earth moving, blasting, drilling, deliveries, portable toilet maintenance, dumpster delivery/emptying, and loading and unloading from construction vehicles.

Draft Amendment In Redlined Format

§ 61-14 Hours of construction; pile driving; [definition](#).

[Amended 7-31-1987; 11-15-2003; 3-4-2022]

- A. Hours of construction. No construction shall be carried on between the hours of 6:00 p.m., prevailing time, and 8:00 a.m., of the following morning, prevailing time. No construction shall take place on any Sunday or the following specified holidays or dates: January 1 - New Year's Day; Memorial Day; July 4; Labor Day; Thanksgiving Day; ~~and~~ Christmas Day; ~~provided~~ and any Saturday from May 15 to September 15, ~~however inclusive, that nothing of any year, except as certified, in writing, by the Town Council of the Town of Fenwick Island as necessary to protect public property. Nothing~~ contained herein shall prevent any homeowner from working within his own property boundaries, provided that such work is done by himself. Such privilege does not convey the right to violate any provisions of the Zoning and/or Building Construction Code, nor is it to be construed as exempting any such property owner from obtaining a permit and paying the required fees therefor.

[Amended 3-4-2022]

- B. Pile driving. Installation of piling by mechanical driving is prohibited from June 1 to August 31, inclusive, of any year, except as certified, in writing, by the Town Council of the Town of Fenwick Island as necessary to protect public property.

C. Construction, definition. As used in this chapter, "Construction" shall mean any activity, relating but not limited to, operating or permitting the operation of any tools or equipment in connection with the erection, addition, repair, removal, fabrication, installation, alteration, excavation or demolition of any structure, facility or addition thereto. Construction activity extends to site preparation, earth moving, blasting, drilling, deliveries, portable toilet maintenance, dumpster delivery/emptying, and loading and unloading from construction vehicles.