

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF
FENWICK ISLAND, DELAWARE AMENDING CHAPTER 160 OF THE
FENWICK ISLAND TOWN CODE**

WHEREAS, the Town of Fenwick Island, Delaware (the “Town”), through its Town Council (the “Council”), has broad authority to enact such ordinances necessary for the protection of public health, safety, comfort or welfare, and the protection and preservation of public and private property;

WHEREAS, the Council desires to amend Chapter 160 Zoning Off-Street Parking Regulations of the Town Code (the “Code”) in order to establish new, objective and fair parking standards on unimproved lots within the Commercial Zone;

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

Current Section 160-10 Zoning Off-Street Parking Regulations:

C. Location of parking spaces.

[Amended 2-22-2013]

(1) Residential. Parking spaces shall be located on the same lot(s) with the structure they are intended to serve in one of the following ways:

(a) Within a permitted garage or carport.

(b) On an open area of the lot.

(2) Commercial. Parking spaces shall be located on the same lot(s) with the structure they are intended to serve in one of the following ways:

[Amended 2-23-2018]

(a) Parking in the Commercial Zone is permitted on improved lots, but only those that have been improved with permanent structures that have working utilities and one or more bathrooms that are operational and available for employee, customer or client use during business hours.

(b) If approved by the Town Council, open parking spaces required for a structure may be located on a lot(s) other than those intended to be served, provided that:

[Amended 2-24-2023]

[1] It is not practicable to locate such spaces in accordance with Subsection C(2) because of:

- [a] Unusual shape, size or dimensions of the lot; or
- [b] The lack of an alley or the lack of appropriate ingress or egress facilities through existing or proposed alleys or streets; or
- [c] Traffic hazards.

[2] No more than 15% of the total required spaces is located on a lot(s) other than those intended; and

[3] There is a written agreement provided to Town Council, attested to by the owners of record. The agreement shall:

- [a] List the names and ownership interest of all parties to the agreement;
- [b] Provide a legal description of the land;
- [c] Include a site plan showing the area of the parking parcel and the open space reserved area which would be provided for future parking;
- [d] Describe the hours of use of the area of the parking parcel and establish that the use will be unencumbered by any condition which would interfere with its use;
- [e] Agree and expressly declare the intent for the covenant to run with the land and bind all parties and all successors in interest to the covenant;
- [f] Assure the continued availability of the spaces for joint use and provide assurance that all spaces will be usable without charge to all participating uses;
- [g] Describe the obligations of each party, including the maintenance responsibility;
- [h] Describe the method by which the covenant shall, if necessary, be revised, with a provision to notify the Town of any revision; and

[4] The peak parking hours of the lot(s) will not be the same as the structure intended to be served; and

[5] The lot(s) to serve the structure are not located in the Residential Zone; and

[6] The lot(s) to serve the structure are within 500 feet of the structure intended to be served.

[7] The Council may impose conditions in addition to those in Subsection C(2)(b)[1] through [6] above as to screening, coping, setbacks, fences, the location of entrances and exits or any other requirement it shall deem necessary to assure the continued provision and maintenance of such spaces.

F. Vehicle parking on an unimproved lot in the commercial zone for a fee or not and with or without the permission of the lot owner is prohibited.

[Added 4-28-2000]

PROPOSED Section 160-10 MODIFICATION:

C. Location of parking spaces.

[Amended 2-22-2013]

(1) Residential. Parking spaces shall be located on the same lot(s) with the structure they are intended to serve in one of the following ways:

(a) Within a permitted garage or carport.

(b) On an open area of the lot.

(2) Commercial. Parking spaces shall be located on the same lot(s) with the structure they are intended to serve in one of the following ways:

[Amended 2-23-2018]

(a) Parking in the Commercial Zone is permitted on improved lots, but only those that have been improved with permanent structures that have working utilities and one or more bathrooms that are operational and available for employee, customer or client use during business hours **or application has been made and approved by Town Council for parking on an unimproved lot as set forth in Section 160-10 F;**

(b) If approved by the Town Council, open parking spaces required for a structure may be located on a lot(s) other than those intended to be served, provided that:

[Amended 2-24-2023]

[1] It is not practicable to locate such spaces in accordance with Subsection **C(2)** because of:

[a] Unusual shape, size or dimensions of the lot; or

[b] The lack of an alley or the lack of appropriate ingress or egress facilities through existing or proposed alleys or streets; or

[c] Traffic hazards.

[2] No more than 15% of the total required spaces is located on a lot(s) other than those intended; and

[3] There is a written agreement provided to Town Council, attested to by the owners of record. The agreement shall:

[a] List the names and ownership interest of all parties to the agreement;

[b] Provide a legal description of the land;

[c] Include a site plan showing the area of the parking parcel and the open space reserved area which would be provided for future parking;

[d] Describe the hours of use of the area of the parking parcel and establish that the use will be unencumbered by any condition which would interfere with its use;

[e] Agree and expressly declare the intent for the covenant to run with the land and bind all parties and all successors in interest to the covenant;

[f] Assure the continued availability of the spaces for joint use and provide assurance that all spaces will be usable without charge to all participating uses;

[g] Describe the obligations of each party, including the maintenance responsibility;

[h] Describe the method by which the covenant shall, if necessary, be revised, with a provision to notify the Town of any revision; and

[4] The peak parking hours of the lot(s) will not be the same as the structure intended to be served; and

[5] The lot(s) to serve the structure are not located in the Residential Zone; and

[6] The lot(s) to serve the structure are within 500 feet of the structure intended to be served.

[7] The Council may impose conditions in addition to those in Subsection **C(2)(b)[1]** through **[6]** above as to screening, coping, setbacks, fences, the location of entrances and exits or any other requirement it shall deem necessary to assure the continued provision and maintenance of such spaces.

F. Vehicle parking on an unimproved lot in the commercial zone for a fee or not and with or without the permission of the lot owner is prohibited [Added 4-28-2000] unless application has been made to and approved by Town Council for a temporary unimproved parking lot permit as set forth below:

1. Property Owner and any other involved business owner seeking to have vehicles park on unimproved lot make application to Town Council for a hearing on their request and shall include in the application:
 - a. Identity of lot which is proposed for parking and legal owner;
 - b. Identity of all business owners with an interest in the use of the lot for parking;
 - c. Proposed parking usage including days of the week, hours of the day and dates of use;
 - d. Business property owner/licensee to which the parking will benefit;
2. Town Council shall have sole discretion to grant or deny the application and:
 - a. Shall consider only those applications that seek to grant a temporary unimproved parking permit for unimproved lots that are contiguous to Route 1;
 - b. Shall consider the impact that a temporary parking permit for unimproved lot would have on the property which it would serve as well as the surrounding properties;
 - c. Shall impose whatever restrictions and/or requirements that Town Council, in its sole discretion, deems necessary to maintain the parking usage for the sole use of providing parking for the business owner/licensee's patrons who seek to utilize the parking while physically

being in the building of the business owner/business licensee only, including, but not limited to:

- i. hours of operation;
 - ii. dates of operation;
 - iii. ingress and egress requirements;
 - iv. maximum length of time parking per vehicle limitations;
 - v. configuration of the parking lot, including gating, fencing and marking parking spaces;
 - vi. maximum number of vehicles to utilize the parking lot;
 - vii. number of parking spaces to be utilized;
 - viii. requirement of parking attendant;
 - ix. screening, setbacks, fences, gating;
 - x. and any other restriction, limitation or requirement, not specifically referenced herein, that Town Council deems necessary to assure the proper use of the temporary parking on unimproved lot permit;
- d. Shall have a public hearing either as an agenda item at a regularly scheduled Town Council meeting and/or schedule a special hearing date that is published to the public;
 - e. Shall ensure that public participation on the proposed usage be permitted during a hearing.
4. Town Council may revoke the temporary parking on unimproved lot permit at any time and for any reason, with five (5) days written notice to the parties seeking the permit or, in the event any of the conditions, limitations or requirements established by Town Council for parking use are not met and/or there is a traffic hazard created by the use of the lot for parking, the Chief of Police may revoke the temporary parking on unimproved lot permit without notice, pending review by Town Council at the next scheduled Town Council meeting.
 5. Parking fees imposed directly on the patron utilizing the unimproved lot for parking shall be prohibited.
 6. Any approved temporary parking on unimproved parking permit by Town Council shall expire within the date set forth by Town Council in the permit and, in any event, no later than one (1) year from the date of issuance.

Adopted by the Council of the Town of Fenwick Island, Delaware on _____ day of _____, 2026.

Secretary of the Town of Fenwick Island, Delaware