



ORDINANCE NO.

AN ORDINANCE TO APPROVE A CONDITIONAL USE APPLICATION SUBMITTED BY KATEY EVANS OF THE FROZEN FARMER, LLC, TO OPERATE AN EATERY LOCATED AT 1601 COASTAL HIGHWAY UNIT 102, DEWEY BEACH DE, FORMALLY KNOWN AS MAP 334-20.18 PARCEL 75.00 UNIT 102, LOCATED IN ZONING DISTRICT RB-2, SOUTH OF MCKINLEY AVE AND NORTH OF READ AVE, PURSUANT TO §185-25D(4).

WHEREAS, on July 27, 2026 a Conditional Use permit application was filed by Katey Evans of The Frozen Farmer LLC to operate an eatery at 1601 Coastal Highway Unit 102 in Dewey Beach, Delaware 19971; and

WHEREAS, the owner of the above-referenced property and proposed conditional use site location consents to said application; and

WHEREAS, a public notice regarding this matter was posted in the Cape Gazette on August 7, 2026, and a mailing of the notice to surrounding properties was distributed on July 31, 2026.

NOW THEREFORE, BE IT ENACTED AND ORDAINED, by the Commissioners of the Town of Dewey Beach, Delaware that the Conditional Use Permit for The Frozen Farmer, LLC be hereby approved in accordance with the conditions set forth below:

Section 1. After reviewing the Applicant's proposal and site plan submissions, the Town of Dewey Beach find that the location is appropriate, the public health, safety, morals and general welfare will not be adversely affected, and that necessary safeguards will be provided for the protection of the surrounding property, persons and neighborhood values.

Section 2. The dimensions of the eatery to be located at 1601 Coastal Highway Unit 102 are restricted to the site described and depicted in the Applicant's submissions incorporated herein as though restated in full under the conditions enumerated herein in Section 3.

Section 3. This Conditional Use approval shall be subject to all application provisions of US federal, State of Delaware, Sussex County and Town of Dewey Beach Code of Ordinances as well as the following enumerated conditions:

- (1) The use of the premises shall be that of an Eatery, Dewey Beach Town Code defines Eatery under Section 1-16, Definitions, as "[a] commercial enterprise or any portion thereof which prepares and/or serves walk-in or carry-out food and which has been approved by the Town Commissioners as a conditional use pursuant to Chapter 185, Section 185-25D(1)(a)[4] of this Code.";
- (2) The proposed Eatery shall be operated in a manner that is consistent with all written and agreed upon representations made by the Applicant during the application process,

including those in their preliminary application package, revised site plans, and informational presentations. These materials shall be incorporated by reference into this conditional-use approval;

- (3) Alcoholic beverages shall not be served, nor shall any foodstuffs infused with or otherwise containing alcohol;
- (4) The premises upon which this Eatery is conditionally authorized is restricted to the space designated as "102" within the structure of the building located at 1601 Coastal Highway, Dewey Beach, DE 19971. The Eatery may be expanded within said building or upon the parcel only upon grant of an amendment of this conditional use approval. No outdoor seating shall be provided as the Eatery premises contains no outdoor area;
- (5) The proposed Eatery shall open no earlier than 6:00am and close no later than 1:00am on the following day.
- (6) Outside loud speakers for the amplification of sound are prohibited;
- (7) The Applicant, during periods of normal operations, shall remove any and all litter accumulating in the public space, including street storm sewer intakes, bordering the property along Coastal Highway each day before opening. Any exterior trash receptacles to be emptied at close of business;
- (8) The entire facility shall comply with all applicable State, County and Town fire, health and building codes.
- (9) **ADDITIONAL CONDITIONS MAY BE ESTABLISHED BY THE TOWN COUNCIL PRIOR TO APPROVAL**

Section 4. This Conditional-Use Approval shall terminate under conditions in which the ownership and/or control of the EATERY is substantially changed, or if the primary business of the EATERY is no longer accurately described as that of an exclusively carry-out and delivery food operation. Under such circumstances continued operations at this location shall require a new conditional-use approval. Additionally, any change in location shall require a new conditional-use approval.

Section 5. Applicant agrees to abide by all Federal, State, County and Town laws and codes or risk forfeiture of its conditional-use approval. Violation of any condition enumerated in Section 3 herein may be cause for penalties and/or revocation or modification of this conditional-use approval.

Section 6. Severability. If any provision of this Ordinance shall be deemed or held to be invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not affect any other provision of this Ordinance which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Ordinance are hereby declared to be severable.

Section 7. This Ordinance shall take effect immediately upon its approval by the Town Council.
Adopted by at least a majority vote of all Commissioners of the Town of Dewey Beach on **ENTER**
DATE

William Stevens, Mayor

Bill Zolper, Town Manager

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