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ORDINANCE NO. ____

AN ORDINANCE TO APPROVE A CONDITIONAL USE APPLICATION SUBMITTED BY KEITH MUSHINSKI OF PLAYA BOWLS, LLC, TO OPERATE AN EATERY LOCATED AT 1904 COASTAL HIGHWAY UNIT C7, DEWEY BEACH DE, FORMALLY KNOWN AS MAP 334-20.18 PARCEL 134.00 UNIT C7, LOCATED IN ZONING DISTRICT RB-2, SOUTH OF NEW ORLEANS ST AND NORTH OF BELLEVUE ST. PURSUANT TO §185-25D(4).

WHEREAS, on October 29, 2024, a Conditional Use permit application was filed by Keith Mushinski of Playa Bowls LLC to operate an eatery at 1904 Coastal Highway Unit C7 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, the proposed eatery will operate exclusively as a carry-out establishment offering no area for seated dining and no indoor or outdoor patron area; and

WHEREAS, a public notice regarding this matter was posted in the Cape Gazette on December 6, 2024, and a mailing of the notice to surrounding properties was distributed on December 4, 2024.

NOW THEREFORE, BE IT ENACTED AND ORDAINED, by the Commissioners of the Town of Dewey Beach, Delaware that the Conditional Use Permit for Playa Bowls, 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 1904 Coastal Highway Unit C7 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.”;

- 46 (2) The proposed Eatery shall be operated in a manner that is consistent with all written and
47 agreed upon representations made by the Applicant during the application process,
48 including those in their preliminary application package, revised site plans, and
49 informational presentations. These materials shall be incorporated by reference into this
50 conditional-use approval;
51
- 52 (3) Alcoholic beverages shall not be served, nor shall any foodstuffs infused with or otherwise
53 containing alcohol;
54
- 55 (4) The premises upon which this Eatery is conditionally authorized is restricted to the space
56 designated as "C7" within the structure of the building located at 1904 Coastal Highway,
57 Dewey Beach, DE 19971. The Eatery may be expanded within said building or upon the
58 parcel only upon grant of an amendment of this conditional use approval. No outdoor
59 seating shall be provided as the Eatery premises contains no outdoor area;
60
- 61 (5) The proposed Eatery shall be further restricted to preparing food for off-site consumption
62 via carry-out or delivery. Food shall be ordered and delivered from a customer service
63 window facing the parking area.
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- 65 (6) The proposed Eatery shall open no earlier than 6:00am and close no later than 12 midnight;
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- 67 (7) Outside loud speakers for the amplification of sound are prohibited;
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- 69 (8) The Applicant, during periods of normal operations, shall remove any and all litter
70 accumulating in the public space, including street storm sewer intakes, bordering the
71 property along New Orleans Street each day before opening. Exterior trash receptacles to be
72 emptied at close of business;
73
- 74 (9) All exterior mechanical equipment visible from public streets and adjacent residential-use
75 properties or any residential zoning district shall be appropriately screened so as not to
76 create a nuisance. Any such screening plan shall be approved by the Town prior to
77 installation;
78
- 79 (10) The entire facility shall comply with all applicable State, County and Town fire, health and
80 building codes.
81

82 **Section 4.** This Conditional-Use Approval shall terminate under conditions in which the ownership
83 and/or control of the EATERY is substantially changed, or if the primary business of the EATERY is no
84 longer accurately described as that of an exclusively carry-out and delivery food operation. Under such
85 circumstances continued operations at this location shall require a new conditional-use approval.
86 Additionally, any change in location shall require a new conditional-use approval.
87

88 **Section 5.** Applicant agrees to abide by all Federal, State, County and Town laws and codes or risk
89 forfeiture of its conditional-use approval. Violation of any condition enumerated in Section 3 herein may
90 be cause for penalties and/or revocation or modification of this conditional-use approval.
91

92 **Section 6.** Severability. If any provision of this Ordinance shall be deemed or held to be invalid or

93 unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not affect any
94 other provision of this Ordinance which may be given effect without such invalid or unenforceable
95 provision, and to this end, the provisions of this Ordinance are hereby declared to be severable.
96

97 **Section 7.** This Ordinance shall take effect immediately upon its approval by the Town Council. Adopted
98 by at least a majority vote of all Commissioners of the Town of Dewey Beach on December 20, 2024.
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104 William Stevens, Mayor
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Bill Zolper, Town Manager