

**AN ORDINANCE OF THE COMMISSIONERS OF THE TOWN OF DEWEY BEACH  
APPROVING A CONDITIONAL-USE APPLICATION SUBMITTED BY GEE BOWLS,  
INC. TO OPERATE AN EATERY**

WHEREAS, on March 10, 2021, a Conditional Use permit application was filed by Gee Bowls, Inc. d/b/a Playa Bowls proposing to operate an Eatery at 1809-A Coastal Hwy, Dewey Beach, DE 19971; Map number 3-34-20.18, Parcel 47.01; and

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

WHEREAS, pursuant to a public hearing, the Dewey Beach Planning Commission recommended conditional approval of the application to operate an Eatery on May 18, 2021; and

WHEREAS, the proposed Eatery will operate exclusively as a carry-out establishment offering no area for seated dining and no in-door or outdoor patron area.

WHEREAS, the Planning Commission's recommended approval is further conditioned upon Council's enactment of a pending code amendment ordinance to exempt eateries with no on-site indoor dining from the requirement of offering restroom facilities:

NOW THEREFORE:

BE IT ENACTED AND ORDAINED, by the Commissioners of the Town of Dewey Beach, that the Conditional Use Permit for GEE BOWLS, Inc. d/b/a Playa Bowls be hereby approved in accordance with the conditions set for below.

Section 1. After reviewing the Applicant's proposal and site plan submissions, and the report and recommendation the Planning Commission, the Town of Dewey Beach finds 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 surrounding property, persons, and neighborhood values.

Section 2. The Planning Commission of the Town of Dewey Beach recommends the Town Commissioners grant conditional-use approval to GEE BOWLS, Inc. for an Eatery to be located at 1809-A Coastal Highway the dimensions thereof to be restricted to the site described and depicted in 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 applicable provisions of U.S. 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 “A” within the structure of the building located at 1809 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 be further restricted to preparing food for off-site consumption via carry-out or delivery.
- 6) The proposed Eatery shall open no earlier than 6am and close no later than 12-midnight.
- 7) Outside loud speakers for the amplification of sound are prohibited;
- 8) 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;
- 9) All exterior mechanical equipment visible from public streets and adjacent residential-use properties or any residential zoning district shall be appropriately screened so as not to create a nuisance. Any such screening plan shall be approved by the Town prior to installation;
- 10) The entire facility shall comply with all applicable State, County and Town fire, health and building codes.

**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 become effective immediately upon adoption by a majority of the Commissioners of the Town of Dewey Beach and receipt of a written record statement by the Applicant agreeing to operate under all terms and conditions herein.

ENACTED AND ORDAINED into law this \_\_\_\_ day of \_\_\_\_\_, 2021.

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Dale Cooke, Mayor

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Bill Zolper, Town Manager