

Approved Reading - April 28, 2023

Approved Second Reading – May 26, 2023

AN ORDINANCE TO AMEND CHAPTER 146 (TAXATION), ARTICLE III (GROSS RENTAL RECEIPTS), OF THE CODE OF THE TOWN OF FENWICK ISLAND, DELAWARE

RELATING TO SHORT TERM RENTALS AND LONG TERM RENTALS

WHEREAS, the Town of Fenwick Island, Delaware, (“Town” or “Fenwick”) has the power and authority to tax and collect fees for any and all Town purposes, of such amounts as the Town Council (“Council”) shall fix, from any individual, firm, association or corporation carrying on or practicing any activity, business profession or occupation within Town limits;

WHEREAS, the Council desires to amend Chapter 146 (Taxation), Article III (Gross Rental Receipts), of its Town Code in respect of short term rentals and long term rentals, specifically Section 146-4 (Levying of tax), Section 146-5 (Definitions) and Section 146-7 (Schedule of payment; report to be made);

NOW THEREFORE, BE IT ORDAINED, this 26th day of May, 2023, 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:

Existing:

§ 146-4. Levying of tax.

There is hereby imposed a tax on gross rental receipts as follows:

A. In the Commercial Zone for the rental of rooms or suites in any motel/hotel, 3.5% tax shall become due and payable to the Town of Fenwick Island, Delaware, as set forth in this article.

B. In the Commercial Zone or Residential Zone for the rental of single-family dwelling units, and nonconforming dwellings that were in existence prior to the enactment of applicable zoning and building ordinances, an 8% tax shall become due and payable to the Town of Fenwick Island, Delaware, as set forth in this article.

C. In the Commercial Zone for the rental, effective November 1, 2018, of any real property, or portion thereof, other than described in Subsections **A** and **B** above, a 4% tax shall become due and payable to the Town of Fenwick Island, Delaware, as set forth in this article.

§ 146-5. Definitions.

For the purpose of this article, the following words and phrases have the following respective meanings unless the context clearly indicates a different meaning:

GROSS RENTAL RECEIPTS - The consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash and property or services of any kind or nature and also any amount for which the occupant is liable for occupancy without any deduction therefrom whatsoever.

PERSON - An individual, copartnership, corporation, company, association, firm or any group of individuals acting as a unit and includes any trustee, receiver, assignee or personal representative thereof.

§ 146-7. Schedule of payment; report to be made.

The tax on rental income received from May 1 to October 31 shall become due and payable on or before the following November 30; and the tax on rental income received from November 1 to April 30 shall be due and payable on or before the following May 31. The person collecting the tax shall make out a report upon the prescribed form, sign the report and submit the report along with the remittance of the tax to the Town of Fenwick Island, Delaware.

PROPOSED:

§ 146-4 Levying of tax.

[Amended 9-29-1989; 7-29-1994; 3-22-2002; 12-13-2002; 9-23-2005; 6-22-2018]

There is hereby imposed a tax on gross rental receipts as follows:

A. In the Commercial Zone, for the rental of rooms or suites in any motel/hotel, 3.5% tax shall become due and payable to the Town of Fenwick Island, Delaware, as set forth in this article.

B. In the Commercial Zone or Residential Zone for a Short-Term Rental, an 8% tax shall become due and payable to the Town of Fenwick Island, Delaware, as set forth in this article.

C. In the Commercial Zone, a 4% tax shall become due and payable to the Town of Fenwick Island, Delaware, as set forth in this article.

§ 146-5 **Definitions.**

For the purpose of this article, the following words and phrases have the following respective meanings unless the context clearly indicates a different meaning:

GROSS RENTAL RECEIPTS

The consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash and property or services of any kind or nature and also any amount for which the occupant is liable for occupancy without any deduction therefrom whatsoever.

LONG TERM RENTAL

The rental of a room or suite of rooms (other than in a motel/hotel), single-family dwelling, townhouse or apartment, for consideration, for a term of 365 days or longer.

SHORT TERM RENTAL

The rental of a room or suite of rooms (other than in a motel/hotel), single-family dwelling, townhouse or apartment, for consideration, for a term of less than 365 days.

PERSON

An individual, partnership, corporation, company, association, firm or any group of individuals acting as a unit and includes any trustee, receiver, assignee or personal representative thereof.

§ 146-7 **Schedule of payment; report to be made.**

- A. Short-Term Rentals. The tax on rental income received from May 1 to October 31 shall become due and payable on or before the following November 30; and the tax on rental income received from November 1 to April 30 shall be due and payable on or before the following May 31. The person collecting the tax shall make out a report upon the prescribed form, sign the report and submit the report along with the remittance of the tax to the Town of Fenwick Island, Delaware.

B. Motel/Hotel Rentals. The tax on rental income received shall become due and payable quarterly within 30 days of the preceding quarters ending December 31, March 31, June 30 and September 30, respectively. The person collecting the tax shall make out a report upon the prescribed form, sign the report and submit the report along with the remittance of the tax to the Town of Fenwick Island, Delaware.

C. Long-Term Rentals. With regard to Long Term Rentals, the tax on rental income received shall become due and payable quarterly within 30 days of the preceding quarters ending December 31, March 31, June 30 and September 30, respectively. The person collecting the tax shall make out a report upon the prescribed form, sign the report and submit the report along with the remittance of the tax to the Town of Fenwick Island, Delaware.