



## ORDINANCE NO \_\_\_\_\_

### **AN ORDINANCE TO AMEND CHAPTER 185 - ATTACHMENT 1, ZONING TABLE 2, OF THE MUNICIPAL CODE OF THE TOWN OF DEWEY BEACH, DELAWARE, AS AMENDED, RELATING TO MAXIMUM FLOOR AREA AND MAXIMUM NUMBER OF BEDROOMS, AND CHAPTER 185-60, EXTENSION OF NONCONFORMING USE OR BUILDING, CONCERNING NONCONFORMING PROPERTIES.**

**WHEREAS**, the Town of Dewey Beach recognizes the need to provide guidance to owners of nonconforming properties in the NR and RR districts who wish to modify or expand the residential structures on those properties; and

**WHEREAS**, the Code of Ordinances does not provide specific guidance for certain nonconforming properties with two single family structures; and

**WHEREAS**, the Commissioners of the Town of Dewey Beach wish to have policies for such nonconforming properties that are consistent with maintaining the character of the NR and RR districts and preserving the value of adjoining properties.

**NOW THEREFORE, BE IT ENACTED AND ORDAINED**, by the Commissioners of the Town of Dewey Beach, Sussex County, Delaware, in session met, as follows:

**Section 1.** Amend Chapter 185 – Attachment 1, Zoning Table 2 as depicted by the highlighted insertions below:

Zoning District	NR	RR
Floor area ratio (FAR)	<p>Maximum Building Size/bedrooms or Floor Area Ratio (FAR): For lots less than 7,500 sq. ft., the maximum square footage of any single-family home shall be 4,000 sq. ft. The 4000 sq. ft. limitation shall be calculated by determining the total area above grade and under roof with headroom of 6 ft. or greater. A basement where 4 feet or more of the vertical height of the space is above grade shall also count toward the maximum square footage. The maximum number of bedrooms is six per dwelling. Any deck area under a house raised on pilings, or porch on having at least one side entirely open to light and air except for open mesh screening, railing, partial wall joining floor to railing or combination of these elements shall not be included in the total square footage of the home. The area of any unfinished attic shall not be included in the gross floor area if access is limited to fold-away stairs or other nonpermanent means of access. The first 500 sq. ft. of a single garage that is neither heated nor air conditioned shall not count toward this maximum. Space used for an elevator is not counted toward this maximum.</p> <p>For lots of 7,500 sq. ft. or greater, the maximum square footage shall be 5,200 sq. ft. and shall be</p>	<p>Maximum Building Size/bedrooms or Floor Area Ratio (FAR): The maximum square footage of any single-family detached dwelling shall be 5,100 sq. ft. calculated by determining the total area above grade and under roof with headroom of 6 ft. or greater. A basement where 4 feet or more of the vertical height of the space is above grade shall also count toward the maximum square footage. Any deck, area under a house raised on pilings, or porch having at least one side entirely open to light and air except for open mesh screening, railing, partial wall joining floor to railing or combination of these elements shall not be included in the total square footage of the home. The area of any unfinished attic shall not be included in the gross floor area if access is limited to fold-away stairs or other nonpermanent means of access. The first 500 sq. ft. of a single garage that is neither heated nor air conditioned shall not count toward this maximum. Space used for an elevator is not counted toward this maximum.</p> <p>Multifamily dwellings located in the RR district shall be limited to 5100 sq. ft. per 5000 sq.ft. of land and square footage shall be calculated in the same manner as the calculation for a single family dwelling. The</p>

	<p>calculated in the same manner as above for lots less than 7,500 sq. ft. The maximum number of bedrooms is 8 per dwelling.</p> <p><u>For non-conforming properties with two single family structures, the maximums for square footage and number of bedrooms shall apply to the two structures combined.</u></p>	<p>maximum number of bedrooms for any dwelling in the RR district is 8.</p> <p><u>For non-conforming properties with two single family structures, the maximums for square footage and number of bedrooms shall apply to the two structures combined.</u></p>
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**Section 2.** Amend Chapter 185-60(A), Extension of nonconforming use or building, as depicted by the highlighted insertions, strikeouts, and substitutions below:

- (1) The extension is for a use which is necessarily incident to the existing use;
- (2) Such extension shall not encroach on any of the setback or yard requirements for the district in which the use is located;
- (3) Such extension shall have a floor area not to exceed 50% of the floor area of the existing building or portion thereof;
- (4) It will not impair the value of the adjoining property or adversely affect the character of the neighborhood; ~~and~~

(5) Such extension shall be permitted only within the maximums for square footage, number of bedrooms, and Floor Area Ratio (FAR) applicable to the property; and

~~(5)~~ (6) Only one extension shall be permitted by the Board of Adjustment during the life of the nonconforming use.

**Section 3.** If any provisions 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 4.** This Ordinance shall take effect immediately upon its passage by a majority vote of the Commissioners of the Town of Dewey Beach.

Adopted by at least a majority of the Commissioners of the Town of Dewey Beach on this 19th day of May, 2023.

SYNOPSIS

This Act amends the zoning code of the Town of Dewey Beach to specify that for nonconforming properties with two single family structures in the NR and RR zoning districts. any permitted expansion of those structures will be limited to the applicable maximums for square footage and number of bedrooms for the two structures combined.

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Town Manager, Bill Zolper

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Mayor, William Stevens