

Town of Dewey Beach, DE

Monday, May 8, 2017

## Chapter 71. Building Construction

### § 71-1. Adoption of standards; exceptions.

[Added 8-14-1987 by Ord. No. 97; amended 3-12-2005 by Ord. No. 528]

The Sussex County Building Code Inspection Department is hereby designated as the official inspection and enforcement agency for all single-family, duplex, multifamily and commercial structures constructed within the Town of Dewey Beach after June 30, 1996. The Building Codes adopted by the Sussex County Building Inspection Department shall be utilized for inspection and enforcement in Dewey Beach. For purposes of reference, the 1992 CABO Code was previously adopted by Sussex County for single-family residential and duplex residential structures and the 1994 (Southern) Standard Building Code was adopted for multifamily and commercial structures. The above-mentioned codes have been replaced by the International Building Code and the certain sections of the International Residential Code by the Sussex County Council, and the International Building Code and those certain sections of the International Residential Code as adopted by the Sussex County Council are hereby adopted by the Town of Dewey Beach, Sussex County, Delaware for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, maintenance of building and structures, including permits and penalties, save and except such portions as may hereafter be deleted, modified or amended, and the same are hereby adopted and incorporated as fully as if set out at length herein, and all the provisions thereof shall be controlling in the construction of all buildings and structures within the corporate limits of the Town. The following amendments to the International Building Code and/or International Residential Code are hereby adopted and incorporated into this section.

#### A. Adoption of standards; exemptions.

- (1) The International Building Code (hereinafter "IBC"), 2003 Edition, and future editions, as promulgated, after 60 days subsequent to the nonchallenged publication of the edition, as it relates to the below-mentioned structures, is hereby adopted as the building standard(s) for construction in the Town of Dewey Beach as it relates to the following structures: multifamily residential dwellings, assembly occupancy, business occupancy, educational occupancy, institutional occupancy, mercantile occupancy and storage occupancy.
- (2) IBC exemptions.
  - (a) "Farm buildings," defined as any nonresidential structures that are located on a farm and are used in the farming operation (barns, sheds, poultry houses, etc.) are exempt from the provisions of the IBC as regards construction, alteration or repair. Any reference to farm buildings in any chapter, section, paragraph, appendix or table in the IBC shall not be applicable.
  - (b) Land used for agricultural purposes shall be exempt from the provisions of the IBC as regards construction, alteration or repair.
  - (c) The obtaining of building permits for assessment purposes continues to remain in effect.
  - (d) Where the provisions of the IBC and the provisions of the Dewey Beach Municipal Code

conflict, the provisions contained in the Dewey Beach Municipal Code shall control.

- (3) The provisions and regulations of the International Residential Code, Chapters 1 through 10 (hereinafter "IRC"), 2003 Edition, and future editions, as promulgated, after 60 days subsequent to the nonchallenged publication of the edition, as it relates to one- and two-family dwellings, are hereby adopted as the building standard for construction in Dewey Beach.
  - (4) IRC exemptions.
    - (a) Carports: Carports are excluded from inspections.
    - (b) Landings: A landing is not required on the exterior of a sliding door.
    - (c) Riser height:
      - [1] Maximum riser height is 8 1/4 inches.
      - [2] The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch, excluding the first and last step of interior stairs, which may have a difference of 5/8 inch.
    - (d) Tread depth: Minimum tread depth shall be nine inches, including winders.
    - (e) Foundation anchorage: No anchor bolts will be required at the end of each plate section, excluding corners.
    - (f) Where the provisions of the IRC and the provisions of the Dewey Beach Municipal Code conflict, the provisions contained in the Dewey Beach Municipal Code shall control.
- B. Effect on existing buildings.
- (1) If, within any twelve-month period, alterations or repairs in excess of 50% of the square footage, as calculated by the building perimeter, are made to an existing building, such building shall be made to conform to the requirements of this Code for new buildings and also, for any building located in an established fire district, the applicable provisions of the IBC.
  - (2) If an existing building is damaged by fire or otherwise in excess of 50% of the square footage, as calculated by the building perimeter, before such damage is repaired, it shall conform to the requirements of this Code for new buildings.
  - (3) If the nature of occupancy of an existing building is entirely changed, the building shall be made to conform to the requirements of this Code for the new occupancy. If the occupancy of only a portion of an existing building is changed and that portion is separated from the remainder as stipulated in the IBC or the IRC, as appropriate, then only such portion need be made to conform.
  - (4) Repairs and alterations not covered by the preceding subsections of this section, such as restoring a building to its condition previous to damage or deterioration or altering it in conformity with the provisions of this Code or in such manner as will not extend or increase an existing nonconformity or hazard, may be made with the same kind of materials as those of which the building was originally constructed.
- C. Alternate materials and methods. The provisions of this Code are not intended to prevent the use of any material or method of construction not specifically prohibited by this Code, provided that any such alternate has been approved and its use authorized by the Building Official. The Building Official shall approve any such alternate, provided that he finds that the proposed design is satisfactory and complies with the provisions of the IRC or the IBC, as appropriate, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that

prescribed in the Code in quality, strength, effectiveness, fire resistance, durability and safety.

- D. All drawings, specifications and accompanying data shall bear the name and address of the designer. In the case of buildings or structures of Group E — Educational, Group I — Institutional and Group A — Assembly Occupancy, as defined by and regulated by the IBC, and in the case of all buildings or structures of 5,000 square feet or more in area, such designer shall be an architect or engineer legally registered under the laws of any state in the United States regulating the practice of architecture and/or engineering and shall affix his official seal to said drawings, specifications and accompanying data.
- E. No frame inspections on prefabricated modular homes or sectional homes are required, provided that a certified inspection agency has performed an inspection pursuant to the IRC requirements or pursuant to a Code which, in the written opinion of the Building Code Official, equals or exceeds the IRC requirements. The Building Official is authorized to certify, in writing, and upon diligent investigation, approved inspection agencies. The Building Official shall request inspection reports from the inspection agency on a monthly basis. Notwithstanding the requirements of this section, the Building Official may require an inspection of sectional or modular structures by inspectors at any time and without cause.
- F. Adoption of smoke alarm standards. The Commissioners of the Town of Dewey Beach hereby adopt Section R313 (Smoke Alarms) of the IRC.

## § 71-2. Plan approval and inspections; purpose; copies of Code on file.

[Added 8-14-1987 by Ord. No. 97; amended 6-14-1996 by Ord. No. 353]

- A. Inspections for building permits; fees.
  - (1) Plan review and inspection fees assessed by the Sussex County Building Inspection Department shall be payable by any applicant for a Dewey Beach building permit prior to the issuance of a Dewey Beach building permit.
  - (2) Prior to the issuance of a Dewey Beach building permit the applicant must receive plan review approval from the Sussex County Building Inspection Department and receive a valid Sussex County building permit, having paid the applicable Sussex County building permit fee.
  - (3) Subsequent to the issuance of a Sussex County building permit, the applicant must receive a Dewey Beach building permit pursuant to the provisions of § 71-3 of this Code, hereinbelow, and pay the applicable fee therefore.
  - (4) All structures constructed or under construction prior to the effective date of this chapter shall continue to be inspected and enforced by the Building Official of the Town of Dewey Beach.
  - (5) The provisions of this chapter shall become effective July 1, 1996. Any building permit issued prior to July 1, 1996, shall be subject to the inspection and enforcement provisions of Ordinance 97, enacted August 11, 1987.
  - (6) Upon presentation of proper credentials, and/or upon written notice to the record title owner of a premises of a time and date for inspection to determine compliance of construction or the existing premises with the provisions of the Dewey Beach licensing regulations, zoning provisions or building requirements of the Dewey Beach Code or the Sussex County Housing Code, the building official or a duly authorized representative may enter at reasonable times any building, structure or premises within the Town limits to perform any duty imposed upon the building official by this code.

[Added 2-12-2000 by Ord. No. 423]

- B. The purpose of this Code is to provide minimum requirements to safeguard life, health and public welfare and the protection of property as it relates to these safeguards by regulation and controlling the design, construction, alteration, repair, equipment, use and occupancy, location, maintenance, removal and demolition of all buildings or structures and appurtenances thereto.
- C. At least two copies of the Building Code shall be on file in the Town offices for public inspection and use.

### § 71-3. Building permits.

- A. Any person who may desire to erect, alter, repair, move, raze, or add to any building or other structure, including fences, bulkheads and retaining walls, within the Town, shall first apply to the Town for a building permit. The applicant shall submit plans and specifications therefore, and shall not deviate from the plans and specifications as approved, unless authorized in writing by the Building Inspector.
- B. No building permit shall be issued for construction or alteration of any building or structure unless the applicant has first obtained and submitted supporting documents required by the Building Inspector, including:
  - (1) Surveys as required by regulation or rule.
  - (2) Other documents necessary to insure compliance with county, state and federal regulations as set forth on the attached checklist, which may be changed from time to time as required, by the Building Inspector.
- C. No building permit shall be issued for the construction or alteration of any building or structure within the area east of the easterly right-of-way of Route 1 or King Charles Avenue unless the applicant has first obtained and submitted to the Town a permit from the Department of Natural Resources and Environmental Control of the State of Delaware (hereinafter referred to as the DNREC) or a letter from the DNREC stating that a permit from the DNREC is not required.
- D. When the above requirements and all other requirements have been met, a building permit may be issued; provided, however, that no construction activity of any kind shall be commenced until the building permit is posted in a conspicuous place on the property which is the subject of the building permit.
- E. This section shall be administered by the Building Inspector. The Town Commissioners shall issue necessary regulations to implement this section and shall designate the person or persons who shall act as inspectors.
- F. Appeal from a decision of an inspector shall be to the Board of Adjustment.
- G. Building permits shall be valid for one year from date of issue, and may be renewed one time for one additional year for a fee of \$50, provided renewal is applied for prior to expiration date, except in extraordinary circumstances, an additional renewal may be allowed subject to Commissioners approval.

[Added 7-15-1988 by Ord. No. 121; amended 9-12-1992 by Ord. No. 245]
- H. Applications for building permits, when accompanied by the required application fee, shall remain valid for a period not to exceed 90 days from date of acceptance. If a building permit is not issued within the ninety-day period, a new application shall be required and conformance shall be based upon the regulations as of the date of submission of the new application.

[Added 1-12-1991 by Ord. No. 195; amended 9-9-1994 by Ord. No. 310]

- I. No building permit shall be issued if there are delinquent Town of Dewey Beach property taxes due on the property.  
[Added 7-9-1993 by Ord. No. 269]
- J. Portable toilet facilities shall be prohibited from placement on any public or private property within the Town limits of Dewey Beach unless a permit is obtained from the Town.  
[Added 3-11-1995 by Ord. No. 323; amended 4-20-1996 by Ord. No. 348]
  - (1) Permits shall be granted by the Building Inspector for portable toilets facilities for the following uses:
    - (a) Demolition and/or new construction sites for the minimum time period that permanent toilet facilities are inoperable.
    - (b) Emergency operations, including but not limited to fire, flood, hurricane and natural disasters, and such other emergency conditions that in the Building Inspector's determination, require the placement of portable toilets.
    - (c) Special events as approved by the Town Commissioners upon application.
  - (2) An appeal to the Board of Adjustment of the Town of Dewey Beach may be taken by any person aggrieved by the Building Inspector's decision within thirty days of the decision pursuant to the provisions of the Municipal Code of the Town of Dewey Beach.
  - (3) A permit fee of \$5 shall be required to be paid for any application for the placement of any portable toilet facility.

## § 71-4. Fees and conditions for permits.

- A. The required fee for permits issued pursuant to § 71-3 hereof shall be established by resolution of the Commissioners, and listed in the Schedule of Fees for the Town.
- B. The permit application fee shall not be refundable.
- C. All construction, repairs, alteration, or additions shall comply with the requirements of any Building Code adopted by the Town, Chapter 185, Zoning, and the Town ordinances, all as amended from time to time.
- D. A building permit shall not be required for normal maintenance requiring less than \$1,000 of material costs.  
[Amended 6-9-2006 by Ord. No. 573]

## § 71-5. Other requirements.

- A. The applicant for a building permit shall furnish any and all papers, drawings, explanations, etc., that may be requested by the Town to assure conformance with all applicable codes and regulations.
- B. No application for a building permit shall be reviewed unless all required application fees are paid. No permit shall be issued for any building, structure, etc., to be erected, altered, or added to, which when altered, built, or added to shall encroach upon the street line or conflict with any of the restrictions applicable to the lot upon which said structure or building built, altered or added to is to be erected or which shall be in effect in the Town of Dewey Beach at the time of the applications for said permit.

## § 71-6. Storage of construction materials during certain

## periods.

Building permits for construction between May 15 and September 15 of any year granted by the Town of Dewey Beach shall require that the storage of all materials for such construction shall be maintained on the site of construction, land owned by the permit holder or land permitted to be used for such purpose by the owner, and in such a manner as not to interfere with pedestrian or vehicular traffic and adequate barriers and lighting are maintained. The Board of Adjustment may grant a special exception to this section.

## § 71-7. Construction, pile driving and demolition limitations.

[Amended 3-8-2003 by Ord. No. 488]

A. Construction activities shall not be performed between the hours of 6:00 p.m. and 8:00 a.m. daily. Construction activities shall not be performed on any Saturday or Sunday or on any holiday identified hereinbelow, except that commencing September 16 and extending through May 14 of each year, permitted hours of construction shall include Saturdays from 9:00 a.m. through 6:00 p.m. Construction activities are defined as any activity whatsoever relating to construction, including, but not limited to: site preparation, grading and excavation; construction of foundation; construction, fabrication, and placement of any structure upon or within the premises; painting, drywalling, roofing and application of any materials whatsoever to the structure being constructed or placed upon the premises, including installation of plumbing, electrical fixtures and wiring, heating, ventilation and air-conditioning equipment; and any activity whatsoever related to construction, installation, site preparation, landscaping, paving or improvement of the premises. Persons who are property owners performing construction activities which do not require the issuance and approval of a building permit are exempt from the Saturday, Sunday and holiday prohibitions stated herein, but such persons may not commence work earlier than 9:00 a.m. nor work after 6:00 p.m. The term "persons who are individual property owners" shall not be defined as a corporation, limited liability company or business entity which is a contractor or subcontractor and which is identified as the owner of the premises.

(1) "Holidays" shall be defined as follows:

- (a) New Year's Day.
- (b) Martin Luther King's Birthday.
- (c) Presidents' Day.
- (d) Memorial Day.
- (e) Independence Day.
- (f) Labor Day.
- (g) Columbus Day.
- (h) Veterans' Day.
- (i) Thanksgiving Day.
- (j) Christmas Day.

B. Pile driving. Pile driving is a construction activity restricted by the provisions of Subsection A. Additionally, no pile driving shall be allowed by any person, property owner, firm or business entity from 6:00 p.m. on the Thursday before Memorial Day (as observed) until 8:00 a.m. on the Tuesday

after Labor Day (as observed). The exception stated in Subsection A for permitted hours of construction on Saturdays from September 16 and extending through May 14 of each year shall not apply to pile driving activities.

- C. Demolition activities. Any demolition activity which requires a demolition permit from the Town of Dewey Beach Building Official is a construction activity restricted by the provisions of Subsection A. The exception stated in Subsection A for permitted hours of construction on Saturdays from September 16 and extending through May 14 of each year shall not apply to demolition activities which requires a demolition permit.

## § 71-8. Enforcement; violations and penalties.

[Amended 4-20-1996 by Ord. No. 348; 12-6-2008 by Ord. No. 636 cont'd]

- A. It shall be the duty of the Building Inspector to enforce the provisions of this chapter and to refuse to issue any permit for any building or certificate of occupancy for the use of any premises which would violate any of the provisions of said chapter. It shall also be the duty of all officers and employees of the Town to assist the enforcing officer by reporting to the Building Inspector any seeming violation of new construction, reconstruction or land use.
- B. In case any building is erected, constructed, reconstructed, altered, repaired, or converted or any building or land is used in violation of this chapter, the Building Inspector is authorized and directed to institute any appropriate civil action to put an end to such violation.
- C. Any person who shall violate any of the provisions of this chapter or who fails to comply therewith, or with any of the requirements thereof, or who shall build or alter any building in violation of any detailed statement or plan submitted and approved hereunder shall have committed a civil offense pursuant to Chapter 80 of the Municipal Code of the Town of Dewey Beach. Each day such violation shall be permitted to exist shall constitute a separate offense. The owner or owners of any building or premises, or part thereof, where anything in violation of this chapter shall be placed, or shall exist, and any architect, builder, contractor, agent, person, or corporation employed in connection therewith and who has assisted in the commission of any such violation, shall have committed a separate civil offense pursuant to Chapter 80 of the Municipal Code of the Town of Dewey Beach, and shall be subject to an assessment as hereinbefore provided.