

## Setback Requirements for Single Family Residential Buildings on Corner Lots<sup>1</sup>

The table below shows the setback requirements for single family residential buildings on corner lots in several Delaware municipalities. The lot sizes for which these requirements apply are typically 50' X 100' lots, similar to those in the Dewey Beach NR district. Excerpts from each municipality's code are included that display the requirements.

| <b>Municipality</b>              | <b>Front</b>   | <b>Rear</b>    | <b>Side Abutting a Street</b> |
|----------------------------------|----------------|----------------|-------------------------------|
| <b>Dewey Beach NR District</b>   | <b>18'</b>     | <b>12'</b>     | <b>15'</b>                    |
| <b>Rehoboth</b>                  | <b>15'</b>     | <b>15'</b>     | <b>10'<sup>2</sup></b>        |
| <b>Lewes</b>                     | <b>25'</b>     | <b>15'</b>     | <b>8'</b>                     |
| <b>Bethany</b>                   | <b>20'</b>     | <b>15'</b>     | <b>15'</b>                    |
| <b>Fenwick</b>                   | <b>25'</b>     | <b>20'</b>     | <b>15'</b>                    |
| <b>South Bethany<sup>3</sup></b> | <b>20'-25'</b> | <b>10'-20'</b> | <b>8'-20'</b>                 |

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<sup>1</sup> Lot sizes are typically 50' X 100'

<sup>2</sup> Minimum setback for interior sideyard is 6' and minimum total for all sideyard setbacks is 16'

<sup>3</sup> Setbacks vary based on location and adjacent street

Dewey Beach

DEWEY BEACH CODE

| Zoning District  | NR   | RR   | PR  | RB-3  | RB-2  | RB-1  | PRB-1   | PRB-3          |  |  |
|--|--|--|---|---|---|---|---|----------------|--|--|
| Minimum lot size (square feet)                             | 5,000  |  | 100,000   | 5,000   |   |   | 80,000  |                |  |  |
| Minimum setback requirements (feet)                        | Front yard: 18<br>Rear yard: 12<br>Aggregate of front and rear yards: 30<br><br>Side yard: 8 each side, with an aggregate of 16 both sides. Side yard abutting a side street: 15.          | Front yard: 22<br>Rear yard: 10<br>Aggregate of front and rear yards: 32<br><br>Side yard: 8 each side, with an aggregate of 16 both sides. Side yard abutting a side street: 8. Internal setbacks between multiple residential buildings on a single parcel: 20 between front or rear of a building and any face of another building: 10 between sides of adjacent buildings. | Street setback: 20<br>Side yard and rear yard: 12   | Residential use: See RR District Requirements<br>Commercial and mixed use:  | Front yard abutting a street: 6; front yard abutting S.R.1: 8.  | Front yard: 8   |   | Front yard: 18 |  |  |
|  |  |  |   | Front yard: 18<br>Rear yard: 10   | Rear yard: 10   |   |   | Side yard: 6   | Side yard: 10 unless abutting a street. Side yard abutting a street: 15. |  |
|  |  |  |   | Side yard: 10 unless abutting a street, side yard shall then be 15. Setback to a residential district: 10.  | Side yard: 0' unless abutting a street. Side yard abutting any street other than S.R. 1: 6; side yard abutting S.R.1: 8.  | Setback to a Residential District: 10   |   |                |  |  |
|  |  |  |   | Internal setbacks between multiple residential buildings on a single parcel is 20 between front or rear of a building and any face of another building, and 10 between sides of adjacent buildings.   |   |   |   |                |  |  |
| Floor area ratio (FAR)                                     | Maximum FAR: 1.00. Open decks and roof decks, passenger elevators, and private garages not included in the FAR calculation.  | Maximum FAR: 1.20. Roof decks and private garages are included in the FAR calculation; passenger elevators and open decks other than roof decks are not included in the FAR calculation.   |   | Maximum FAR: 1.00 for residential and mixed-use development, with passenger elevators, open decks and roof decks not included in the FAR calculation; 1.20 for dedicated commercial development, with passenger elevators, open decks and roof decks not included in the FAR calculation. | Maximum FAR: 1.20, with passenger elevators, open decks and roof decks not included in the FAR calculation.   | Maximum FAR: 1.50, with passenger elevators, open decks and roof decks not included in the FAR calculation.   | Maximum FAR: 1.35, with passenger elevators, open decks and roof decks not included in the FAR calculation.   |                |  |  |
| Tiered setbacks  | Covered and/or enclosed portions of a third story: minimum additional 5-foot setback beyond the minimum front yard or rear yard for any building face abutting a street, the ocean or bay. | Minimum additional 10-foot setback beyond the minimum yard requirement for the covered and/or enclosed portions of each story above the second story for any building face abutting a major street or side street, the ocean or bay.   |   | Residential and commercial uses: See RR District requirements.  | Covered and/or enclosed portions of a third story: minimum additional 5-foot setback beyond the minimum yard for any building face abutting a street, the ocean or bay. | Covered and/or enclosed portions of a third story: minimum additional 10-foot setback beyond the minimum yard for any building face abutting a major street or side street, the ocean or bay. | Covered and/or enclosed portions of a third story: minimum additional 10-foot setback beyond the minimum yard for any building face abutting a major street or side street, the ocean or bay. |                |  |  |
| Maximum building frontage                                  | Single-family detached dwelling only.  | Not to exceed 3 dwelling units per structure; street frontage not to exceed 100 feet per structure.  | Not to exceed 4 dwelling units per structure; street frontage not to exceed 100 feet per structure. | Not to exceed 3 dwelling units per structure; street frontage not to exceed 100 feet per structure.   |   |   |   |                |  |  |
| Maximum floor area per dwelling unit (multiunit structure) | 1,200 square feet of living area (including covered decks in the floor area calculation, but not including the floor area of open decks and adjacent storage areas)                        |  |   |   |   |   |   |                |  |  |

[Added 11-18-2016 by Ord. No. 1116-01]

Within all districts, where permitted, no more than one single-family detached dwelling with its customary nonhabitable accessory buildings may occupy or be constructed upon any lot.

**§ 270-24 Building setback lines.**

[Amended 8-7-2006 by Ord. No. 0806-1; 7-16-2010 by Ord. No. 0710-02]

Each story or part of a building shall be set back from the street line so as not to project beyond the building setback line prescribed in the following table:

| <b>District and Use</b> | <b>Minimum Building Setback Line (feet)</b> |
|-------------------------|---|
| R-1(S)                  | 75  |
| R-1                     | 15 <sup>1,2</sup>                           |
| R-2                     | 10  |
| Commercial              |   |
| Tier 1 uses             | 10 <sup>3</sup>                             |
| Tier 2 uses             | None  |
| Tier 3 uses             | None  |
| ER                      |   |
| Educational facilities  | 75  |
| Residential parcel      | 10  |

Notes:

<sup>1</sup>An open front porch of any size that meets the requirements of § 270-21(B)(1) may encroach up to five feet into the front yard setback area.

<sup>2</sup>For a building built on a corner lot, the side that faces the street which is not the front shall have a minimum building setback line of 10 feet. This setback shall substitute for one of the two required side yards.

<sup>3</sup>Tier 1 uses within a mixed-use structure shall meet the required setback.

**§ 270-25 Rear yards.**

[Amended 8-7-2006 by Ord. No. 0806-1]

A. A rear yard shall be provided on every lot, the minimum depth of which shall be as prescribed in the following table:

[Amended 7-16-2010 by Ord. No. 0710-02; 7-17-2015 by Ord. No. 0715-01]

| <b>District and Use</b> | <b>Minimum Depth of Rear Yard (feet)</b> |
|-------------------------|--|
| R-1(S)                  | 50                                       |
| R-1                     | 15                                       |
| R-2                     | 15                                       |
| Commercial              |  |
| Tier 1 uses             | 10 <sup>1</sup>                          |
| Tier 2 uses             | None                                     |
| Tier 3 uses             | None                                     |
| ER                      |  |
| Educational facilities  | 75                                       |

**Minimum Depth of Rear Yard  
(feet)**

**District and Use**

Residential parcel

10

Notes:

<sup>1</sup>Tier 1 uses within a mixed-use structure shall provide the required rear yard.

- B.** Where the boundary line dividing a commercial and residential district is a rear property line, there shall be a rear yard on the lot in the commercial district of at least five feet. The rear yard of the lot in the commercial district shall be bounded by a screen in order to shield or obscure the lot from those in the abutting residential district.

**§ 270-26 Side yards.**

- A.** Two side yards shall be provided on every lot as prescribed in the following table:  
[Amended 8-7-2006 by Ord. No. 0806-1; 7-16-2010 by Ord. No. 0710-02; 1-17-2014 by Ord. No. 0114-01; 5-16-2014 by Ord. No. 0514-01; 12-15-2017 by Ord. No. 1217-01]

| <b>District and Use</b>    | <b>Minimum Width of Each Side Yard<br/>(feet)</b> | <b>Minimum Aggregate Total of Both Side Yards<br/>(feet)</b> |
|----------------------------|---|--|
| R-1(S)                     | 25  | 50   |
| R-1                        | 6   | 16 <sup>2</sup>  |
| R-2                        |   |  |
| Uses in R-1                | 6   | 16 <sup>2</sup>  |
| Single-family semidetached | 10  | 20   |
| Two-family dwelling        | 10  | 20   |
| Single-family attached     | 10  | 20   |
| All other uses             | 10  | 20   |
| Commercial                 |   |  |
| Uses in R-1                | 6   | 16   |
| All other Tier 1 uses      | 10 <sup>1</sup>                                   | 20 <sup>1</sup>  |
| Tier 2 uses                | None  | None   |
| Tier 3 uses                | None  | None   |
| ER                         |   |  |
| Educational facilities     | 75  | 150  |
| Residential parcel         | 10  | 20   |

Notes:

<sup>1</sup> Tier 1 Uses within a mixed-use structure shall provide the required side yards.

<sup>2</sup> When the width of a lot exceeds 52.5 feet and the lot area exceeds 5,250 square feet, the "minimum aggregate total of both side yards" shall be the product of multiplying the applicable minimum aggregate total of both side yards by the lesser of:

- (1) The quotient obtained by dividing the width of the lot in feet by 50; or
- (2) The quotient obtained by dividing the area of the lot in square feet by 5,000.

Where for the purposes of this section the width of a lot is defined as:

- (1) The perpendicular distance between the two side lot lines when these lot lines are parallel; or
- (1) When the two side lot lines are not parallel, the length of the street line between the points where these lot lines intersect the street line at the front of the lot.

In the case of a corner lot, one side lot line shall be interpreted as the street line of the intersecting street.

- D. Review procedures for cluster development.
- (1) The applicant must submit a plan depicting to scale potential lots, streets, storm drainage facilities, the location and uses of all open space, the extent of existing wooded areas, wetlands and waterways, as well as the location of any historical or cultural resources. However, the plan is not required to contain the same level of engineering detail nor reports required for a subdivision plan.
  - (2) The Municipal Planner may waive this requirement when the proposed development does not contain significant natural features or resources.
  - (3) The information submitted shall include a plan for the management of all open space.
  - (4) The applicant shall use the plan to designate compliance with the provisions of this section including the location of proposed lots. The maximum number of dwelling units allowed on a cluster development tract shall not be greater than the maximum Permitted Residential Units as defined within this section.
  - (5) The plan shall be used for the purposes of determining maximum density allowed under a cluster development. This does not replace the submission of a full subdivision plan with the application for a subdivision as defined in Chapter 170.

## § 197-51. Nonresidential zones.

[The Table of Dimensional Regulations for Nonresidential Zones is included as an attachment to this chapter.]

## § 197-52. Accessory buildings and structures.

- A. "Accessory buildings and structures" shall be defined as a building or structure customarily incidental or subordinate to and accessory to the principal building or structure and located on the same lot as the principal building or structure; provided, however, that any accessory building or structure shall not exceed 900 square feet for the first floor, shall adhere to the dimensional regulations found in § 197-52B, and shall not have any of the following facilities:
- (1) Cooking facilities, including stoves, ovens, ranges, wood, coal, microwave or any other type of appliance which is or could be used for the preparation of food, are prohibited.
  - (2) Toilet rooms, including a toilet or commode, bidet, shower, tub unit or any other similar facility, are prohibited, except that any accessory building may have one sink with running water.
  - (3) Sleeping facilities, including, but not limited to, beds, sleep sofas, hammocks or any other sleeping apparatus which is or could be used for sleeping purposes, are prohibited unless stored in such a manner so as not to be available for sleeping purposes.
- B. Accessory buildings and structures shall adhere to the following dimensional regulations.  
[The Table of Dimensional Regulations for Accessory Buildings and Structures is included at the end of this chapter.]

## § 197-53. Yards.

[Amended 5-20-2013]

- A. In the case of a corner lot, a front yard, as provided for in each district, shall be required on each street on which a corner lot abuts, provided that, when one front lot line of said

corner lot measures less than 65 feet and said corner lot is located in one of the following districts: the Residential Low-Density, Residential Low-Density (Historic) [R-2 and R-2(H)], Residential Beach, Residential Beach (Historic) [R-3 and R-3(H)], Residential Medium-Density, Residential Medium-Density (Historic) [R-4 and R-4(H)], Limited Commercial, and Limited Commercial (Historic) [LC and LC(H)], the front yard on the side of the corner lot with a front lot line measuring longer than 65 feet may be decreased to not less than the minimum side yard requirements.

- B. In the case of a through lot, front yard requirements shall be observed on both streets.
- C. Permitted projections into required yards shall be as shown on the Table of Permitted Projections Into Required Yards included as an attachment to this chapter.

## § 197-54. Fences, walls, hedges, and shrubbery.

- A. Setback. The building line and yard requirements of this chapter shall not apply to fences, walls, hedges, or shrubbery.
- B. Residential areas.
  - (1) Applicability: properties used for residential purposes.
  - (2) All fences shall be "finished side out."
  - (3) Maximum height: eight feet, except that the maximum height shall be three feet in the required front yard.  
[Amended 7-9-2012]
  - (4) Six feet or less: The entire fence may be solid.
  - (5) Between six feet and eight feet. That portion of the fence or wall which exceeds six feet in height shall contain openings equal to at least 50% of the area that the fence or wall exceeds six feet.
- C. Nonresidential areas.
  - (1) Applicability: properties used for other than residential purposes.
  - (2) All fences shall be "finished side out."
  - (3) Maximum height: eight feet, except that the maximum height shall be four feet in the required front yard.  
[Amended 7-9-2012]
  - (4) Six feet or less: The entire fence may be solid.
  - (5) Between six feet and 10 feet: That portion of the fence or wall which exceeds six feet in height shall contain openings equal to at least 50% of the area that the fence or wall exceeds six feet.
- D. Areas along the Lewes-Rehoboth Canal.  
[Added 5-20-2013]
  - (1) No continuous fences, hedgerows or landscaping shall exceed three feet in height.
  - (2) All other naturally occurring or introduced trees, shrubs, bushes, plantings or vegetation of any kind or manner shall not obstruct more than 50% of the view of the canal as measured at a height of three feet from any point along the closest street paralleling the canal.

## § 197-55. Building height.

- A. In general.

ZONING

197 Attachment 2

**City of Lewes**  
**Table of Dimensional Regulations for OS, R-1, R-2, R-2(H), R-3, R-4 and R-4(H) Zones**  
**[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

| Zoning Code                   | OS  | R-1            | R-2 and R-2(H)<br>Residential Low-Density and Residential Low-Density (Historic) | R-3 and R-3(H)<br>Residential Beach and Residential Beach (Historic) |  | R-4 and R-4(H)                   |
|-------------------------------|---|----------------|--|--|--|----------------------------------|
|                               |   |                |  | All Structures   | Dwelling, Detached   |                                  |
| <b>Zoning Description</b>     | Open Space  | Suburban       |  |  | Residential Medium-Density and Residential Medium-Density (Historic) |                                  |
| <b>Dwelling Unit Type</b>     | All Structures                                    | All Structures |  | All Structures   |  | Dwelling, Two-Family             |
| <b>Tract standards</b>        |   |                |  |  |  |                                  |
| Tract area (acres)            | N/A   | 5              | None   | None   | None   | 2.5                              |
| Street frontage (feet)        | N/A   | 100            | 75   | 50   | Burton Sub: 40<br>All others: 50                                     | 50                               |
| <b>Lot standards</b>          |   |                |  |  |  |                                  |
| Lot area (square feet)        | N/A   | 20,000         | 10,000   | 5,000  | Burton Sub: 4,000<br>All others: 5,000                               | 6,000                            |
| Square feet per dwelling unit | N/A   | 20,000         | 10,000   | 5,000  | Burton Sub: 4,000<br>All others: 5,000                               | 3,000                            |
| Lot width (feet)              | Along both Canal and street parallel to Canal: 75 | 100            | 75   | 50   |  | Burton Sub: 40<br>All others: 50 |
| Lot depth (feet)              | N/A   | 150            | 100  | 75   |  | 75                               |

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| Zoning Code                    | OS             | R-1            | R-2 and R-2(H)   | R-3 and R-3(H)                                     | R-4 and R-4(H)   |
|--------------------------------|----------------|----------------|--|--|--|
| Zoning Description             | Open Space     | Suburban       | Residential Low-Density and Residential Low-Density (Historic) | Residential Beach and Residential Beach (Historic) | Residential Medium-Density and Residential Medium-Density (Historic) |
| Dwelling Unit Type             | All Structures | All Structures | All Structures   | All Structures                                     | Dwelling, Detached   |
| Setbacks (feet)                |                |                |  |  |  |
| Front yard                     | N/A            | 35             | 30 or EBL  | 25 or EBL  | Minimum: EBL<br>Maximum: EBL + 10<br>No EBL: 15                      |
| Side yard                      | N/A            | 15             | 8  | 8  | 8  |
| Rear yard                      | N/A            | 25             | 15   | 15   | 15   |
| Maximum building height (feet) |                |                |  |  |  |
| FEMA flood zones AE and VE     | N/A            | 34             | 34 or EBH  | 34 or EBH  | 34 or EBH  |
| All other locations            | N/A            | 30.5           | 30.5 or EBH  | 34 or EBH  | 30.5 or EBH  |
| Maximum number of stories      | N/A            | 3              |  | 3  | 3  |
| Maximum lot coverage           | N/A            | 60%            | 65%  | 65%  | 65%  |
| Main structure (up to)         | N/A            | 50%            | 50%  | 50%  | 50%  |

**NOTES:**

1. All dimensions are minimum standards unless specified otherwise.
2. "N/A" means not applicable.
3. "EBL" means established building line. See Article XVI, Definitions.
4. "Burton Sub" means the Burton Subdivision, which includes that area bounded by West Fourth Street, Park Avenue, Johnson Street, and Burton Avenue (being those lots on both sides of Burton Avenue, Paynter Avenue, Dupont Avenue, Park Avenue and Johnson Street lying and being on the south side of West Fourth Street between Park Avenue and Burton Avenue).
5. "EBH" means established building height (for single-family dwellings located within the Historic District only). See Article XVI, Definitions.

- B. No fence, building, structure, planting, vehicles or other obstruction above a height of three feet shall be permitted within seven feet of any alley and street right-of-way located in the C-1 Zone.

## § 425-14. Lots fronting on two or more streets.

[Amended 3-16-2007 by Ord. No. 423]

On lots or plots fronting on two or more streets, the front, rear and side yards shall be designed and shown on the required plot or plat at time of application for a building permit. Front and rear yards shall comply with this chapter; side yards fronting on a street shall be no less than 15 feet, measured from the street right-of-way line to the building setback line.

## § 425-15. Public utility buildings and structures.

Public utilities buildings and structures are permitted in any district by and subject to the terms of a special exception granted by the Board of Adjustment.

## § 425-16. Regulation of perimeter fences.

[Amended 7-21-1989 by Ord. No. 225; 11-17-1989 by Ord. No. 235; 9-17-1993 by Ord. No. 282; 6-15-2012 by Ord. No. 479]

- A. Purpose. The purpose of these regulations is to establish criteria for the location, appearance and maintenance of perimeter fences. The Town of Bethany Beach recognizes the health, safety, aesthetic and economic value of fences. The provisions of these regulations are intended to:
- (1) Allow for on-site areas for privacy, while maintaining the Town's general open design along streets, alleys and private ways;
  - (2) Provide screening and mitigation of potential conflicts between active (commercial and recreational) areas and more passive (residential) areas;
  - (3) Maintain the overall aesthetic conditions within the Town;
  - (4) Limit sight line obstructions;
  - (5) Prevent conflicts involving the Town's right-of-way and stormwater management issues;
  - (6) Insure proper fence construction and maintenance.
- B. Definitions. As used in this section, the following terms shall have the meanings indicated:

### **APPROPRIATE FENCE MATERIALS**

Fences must be constructed of wood, metal, bricks and/or masonry, plastic or other materials designed for permanent outdoors fencing. Wood fences must be constructed of cedar, redwood, or other decay-resistant wood. Fences must not be constructed from razor wire, chain linked, snow fencing, plywood, or materials used for other purposes. Any aboveground fences that conducts an electric current or any guard wall, or other forms of protection upon which any spike, nail, or pointed instrument of any kind is fixed, attached or placed shall not be permitted. Electrically wired in-ground "invisible" pet containment systems are not considered fences and therefore are not subject to these fence regulations.

### **ARBOR**

An arbor is defined as a structure that is attached to a fence or is freestanding and serves to define a gate or entranceway located in the front, rear or side yard. Arbors may be a maximum of eight feet in height and eight feet in width.

### **FENCE**

# ZONING

## 425 Attachment 3

### Town of Bethany Beach

#### Appendix 3 Table of Dimensional Requirements

[Amended 4-15-1983 by Ord. No. 114; 11-18-1983 by Ord. No. 121; 8-19-1988 by Ord. No. 202; 11-18-1988 by Ord. No. 209; 8-17-1990 by Ord. No. 251; 5-15-1998 by Ord. No. 325; 3-21-2003 by Ord. No. 373; 6-20-2003 by Ord. No. 375; 2-10-2006 by Ord. No. 405; 4-21-2006 by Ord. No. 410; 4-21-2006 by Ord. No. 412; 8-7-2006 by Ord. No. 413; 8-18-2006 by Ord. No. 417; 8-15-2008 by Ord. No. 443; 6-18-2010 by Ord. No. 456; 6-23-2011 by Ord. No. 466; 4-20-2012 by Ord. No. 477; 5-17-2013 by Ord. No. 491 ; 5-17-2013 by Ord. No. 494; 8-16-2013 by Ord. No. 498; 3-18-2016 by Ord. No. 522<sup>1</sup>; 10-21-2016 by Ord. No. 526]

| District                          | Minimum Lot Area<br>(square feet) | Minimum Street Frontage<br>(feet)                              | Maximum Lot<br>Coverage by<br>Buildings(a)<br>(percent) | Minimum Yard Depth<br>(setback) (n) |                |                | Maximum Height<br>(p)(q) |                     |
|-----------------------------------|-----------------------------------|--|---|-------------------------------------|----------------|----------------|--------------------------|---------------------|
|                                   |                                   |  |   | Front<br>(feet)                     | Rear<br>(feet) | Side<br>(feet) | Main<br>(feet)           | Accessory<br>(feet) |
| <b>R-1 and R-1B (Residential)</b> |                                   |  |   |                                     |                |                |                          |                     |
| Single-dwelling-unit building     | 5,000 per lot                     | 40 interior<br>50 corner                                       | 40%   | 20(b)                               | 15             | 7(h)           | 31(r)                    | 15                  |
| Multi-dwelling-unit building      | 5,000 per dwelling unit           | 40 per dwelling unit<br>50 per dwelling unit, corner           | 40%   | 20(b)                               | 15             | (c)            | 31(r)                    | 15                  |
| <b>R-2 (Residential)</b>          |                                   | (s)  |   |                                     |                |                |                          |                     |
| Single-dwelling-unit building     | 7,000 per lot                     | 60 per lot   | 40%   | 20(b)                               | 15             | 7(h)           | 31                       | 15                  |
| Multi-dwelling-unit building      | 7,000 per dwelling unit           | 40 per dwelling unit, interior<br>50 per dwelling unit, corner | 40%   | 20(b)                               | 15             | (c)            | 31                       | 15                  |
| <b>R-1A (Residential)</b>         | 2,500 per dwelling unit           | 40 per lot (k)   | 40%   | 0                                   | 15             | (l)            | 31                       | 15                  |
| <b>C-1 (Central Commercial)</b>   |                                   |  |   |                                     |                |                |                          |                     |
| Commercial/Residential            | 5,000 per lot                     | 40 per lot, interior<br>50 per lot, corner                     | (d)(i)  | None                                | 15             | (g)            | (q)                      | 15                  |

<sup>1</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

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- (h) Building must conform to requirements of Article IV, § 425-14. With an entrance door facing and being clearly visible from the street, uncovered steps and landings having a maximum width of 42 inches and leading from the street to that door may encroach up to five feet into the street facing side yard setback, but in no case closer than 10 feet from the street facing side lot line, as provided in § 425-85.
- (i) Provided that the parking and loading requirements of this code are met.
- (j) Side-yard requirements shall be waived in the case of apartments or commercial lodging rooms located above a commercial structure.
- (k) In R-1A District, the boardwalk shall be treated as a street for purposes of calculating minimum street frontage.
- (l) None required, unless the lot abuts the R-1 Residential or R-2 Residential District, in which case a side yard of not less than seven feet is required.
- (m) (Reserved)
- (n) Anything in this chapter to the contrary notwithstanding, no construction of any building (residential, commercial, recreational, principal or accessory) shall be permitted within seven feet of the eastern property line of any lot fronting the beach or strand abutting the Atlantic Ocean, provided that this setback shall not prohibit any structure, device or facility devoted to the enhancement, preservation and protection of beaches, the sole jurisdiction over which has been delegated exclusively to DNREC, or the construction of any boardwalk or deck.
- (o) Only if abutting residential; does not include fencing.
- (p) Any structure located in a flood zone regulated by Chapter 453, Flood Damage Prevention, of the Town Code, the roof of which has a roof pitch throughout of not less than 5/12, may, at the option of the owner thereof, have its height measured from the elevation of the base flood elevation plus freeboard to the highest point of such building or structure rather than from grade.
- (q) All land, buildings and structures now or hereinafter located on any parcel of land in the C-1 Central Commercial, C-2 Neighborhood Commercial or CL-1 Commercial Lodging Districts are subject to the "Bethany Beach Nonresidential Design Guidelines, dated August 15, 2004," attached as Appendix 4 to the Town Zoning Code (as such guidelines may from time to time be revised or amended by the Town Council). Any person or entity contemplating the construction, reconstruction, alteration, or modification of any such land, building or structure with the C-1 Central Commercial, C-2 Neighborhood Commercial or CL-1 Commercial Lodging Zoning District shall refer to such Guidelines prior to commencing work, including the preparation of architectural, engineering and landscaping plans.
- (r) For street frontage requirements for lots fronting on a cul-de-sac, see § 425-56.
- (s) Total lot area less the required off-street parking and loading requirements and requisite yard setbacks.
- (t) Allowable maximum height of the top plate/eave is 31 feet, with a maximum of three stories. The height of nonhabitable sloping roof elements may extend to a maximum height of 35 feet with the approval of the Non-Residential Design Review Committee (NRDRC). No flat roofs are permitted above 31 feet. Height shall be measured from FEMA base flood elevation or average grade whichever is higher. HVAC equipment shall be allowed up to a maximum height of 35 feet with the approval of the NRDRC. Cupolas not larger than four feet by four feet may extend to a maximum height of 37 feet above base flood level with the approval of the NRDRC.

The distance measured from ground level (including the wind turbine itself) to its highest point.  
[Added 8-28-2009]

**TOWN**

Town of Fenwick Island, Delaware.

**TOWNHOUSE**

A single-family dwelling forming one of a group or series of two to four attached single-family dwellings separated from one another by a fireproof party wall(s).

**UNINHABITABLE ATTIC**

The area between roof framing and the ceiling of the rooms below that is not habitable but may be reached by ladder or pull-down stairs/ladder only and used for storage and mechanical equipment.  
[Amended 2-22-2013]

**VEGETATIVE STORMWATER BUFFER**

An area of land maintained in a permanent vegetative state that functions to intercept stormwater runoff. Such buffers must be designed by an engineer who is duly registered and licensed in the State of Delaware.  
[Added 7-24-2015]

**YARD, REAR**

The area between the rear line of a building and the rear lot line.  
[Amended 2-22-2013]

**YARD, SIDE**

An open, unoccupied space on the same lot with a building between the building and the side lot lines and extending the complete depth of the lot from the front property line to the rear property line.

**ZONE**

An area for which the regulations governing the use of buildings and the premises are identical; a district.

[1] *Editor's Note: This ordinance replaced the former separate definitions of "hotel" and "motel" in this section.*

## § 160-3. District boundaries.

[Amended 5-18-2012]

- A. For the purposes of this chapter, the Town is hereby divided into three zones: Commercial, Parks and Residential. The boundaries of the zones are set forth on a map posted in the Town Hall.
- B. The Commercial Zone is designated in yellow. More specifically, the Commercial Zone extends to a depth of 150 feet on the west side of Route No. 1 between Delaware Avenue and James Street, and to a depth of 130 feet on the east side of Route No. 1 between Atlantic Street and James Street.
- C. The Parks Zone is designated in green. More specifically, the Parks Zone shall include public or private sites designated for use as a park and used for recreational activities common to a park such as, but not limited to, playgrounds, sports, kayaking and other recreational uses.
- D. All remaining land in the Town of Fenwick Island, Delaware, is zoned Residential.

## § 160-4. Residential Zone.

- A. Use regulations. Unless hereinafter provided, no building or premises shall be used and no building or structure shall be hereafter erected, altered or repaired except for one or

more of the following uses. No mobile home (manufactured home, as designated by FEMA) as defined in this chapter shall be permitted to be placed or located on any lot within the corporate limits of the Town of Fenwick Island.

[Amended 7-26-1996 by Ord. No. 77]

- (1) One detached dwelling, single-family.  
[Amended 5-31-2002]
- (2) Accessory building or private garage and uses incident to the above-mentioned single-family dwelling when located on the same lot and not involving the conduct of a retail or wholesale trade, and including:
  - (a) One accessory building, which shall be located not less than seven feet from the side lot line, not less than four feet from the rear lot line, except that in the case of a corner lot it shall be located not less than 15 feet from the side lot line which is adjacent to and abutting the street.
  - (b) One private garage.
    - [1] When constructed as an integral portion of the main single-family residence structure, the building limit line setback requirements shall be the same as those which apply to the main structure.
    - [2] When constructed as a detached garage (separate individual building), it shall be located not less than 60 feet from the front property lot line, not less than seven feet from any rear or side lot line, except that in the case of a corner lot it shall be not less than 15 feet from the side lot line adjacent to the street. The height of the garage shall not exceed 15 feet above existing ground contour level at the garage site location.
  - (c) Home occupations, provided that no sign or signs shall be displayed on the premises so used exceeding a total of three square feet in area.
  - (d) Professional office when situated in the building used by a practitioner as his or her private dwelling, provided that no nameplate shall be displayed exceeding one square foot in area and containing the name and occupation of the resident of the premises.
  - (e) Residential pools.  
[Added 5-28-2004]
    - [1] The building line setback requirements for pools shall be the same as those which apply to the main structure for that property.
    - [2] Every unenclosed portion of a residential pool shall be protected by a continuous safety barrier consisting of county-approved fencing or its equivalent. Fencing which is part of such a required pool safety barrier may be up to six feet. Barriers are not required for hot tubs or spas when a cover is provided.  
[Amended 2-22-2013]

B. Height regulations.

[Amended 7-26-1996 by Ord. No. 77; 4-1-2016]

- (1) No building shall exceed a height of 30 feet, except as provided in § 160-8A(2).
- (2) Notwithstanding § 160-4B(1) above, where the principal building has a freeboard of 18 inches to 24 inches above base flood elevation (BFE), the principal maximum building height may be increased by said 18 inches to 24 inches, not to exceed a total building height of 32 feet measured from the highest point of the crown of the road.

C. Area regulations. The minimum dimensions of yards and the minimum lot area, except as provided in § 160-8, shall be as follows:

[Amended 5-31-2002; 6-23-2006; 7-27-2007; 2-22-2013]

- (1) Lot area. Each dwelling erected after July 11, 1956, in this zone shall occupy a lot with a minimum area of 5,000 square feet and a minimum width of 50 feet at the front

building line, except as provided in § 160-8A(3). No lot area shall be so reduced or diminished by this chapter.

- (2) Front building limit line. The building limit line shall be set back from the front property line a minimum of 25 feet.
  - (3) Side yard. There shall be a side yard of not less than seven feet in width on each side of a main building, and eaves shall be set back not less than six feet from the side property line, excepting that in the case of a corner lot the side yard adjacent to and abutting the side street shall be not less than 15 feet in width, eaves setback not less than 14 feet from the side property line and further excepting as provided in § 160-6A(3) and (7) of this chapter.
  - (4) Rear yard building limit line.
    - (a) Rear yard building limit line shall be 20 feet from rear property line.
    - (b) In the case where the rear property line extends beyond an established bulkhead, the building limit line shall be 20 feet as measured from the bulkhead.
    - (c) In the case where the bulkhead extends beyond the property line, the building limit line shall be measured 20 feet from the property line.
    - (d) In the case where the rear property is ripped, the rear building limit line shall be measured from the established surrounding bulkhead line or the average high water line as determined by the Building Official.
  - (5) Any mechanical equipment shall be prohibited in the side yard setbacks. Such equipment shall be allowed to encroach into the rear yard and front yard setbacks to a line not less than 10 feet from the rear property line and to a line not less than 16 feet from the front property line. Mechanical equipment located in any rear or front yard setback shall be screened from view with screening that has openings constituting between 20% and 30% of the total surface area of the screening to provide for the flow-through of air. A detailed design drawing of the mechanical equipment, together with any required screening, shall be submitted with the application for a building permit.  
 [Added 6-23-2017<sup>[1]</sup>  
 [1] *Editor's Note: This ordinance also provided for the renumbering of former Subsection C(5) and (6) as Subsection C(6) and (7), respectively.*
  - (6) No dwelling shall be built on a lot or plot which does not front directly on a public street, road or highway.
  - (7) Floor area ratio and floor area. For a detached single-family dwelling, the maximum floor area ratio shall be 70% and the maximum floor area shall be 7,500 square feet.
- D. Minimum size of dwelling erected on a lot; valuation thereof. No building erected, maintained or occupied in this zone exclusive of accessory buildings shall occupy less than 750 square feet of a lot nor have a fair valuation of less than \$50,000.

## § 160-5. Commercial Zone.

- A. Use regulations. Unless herein provided, no building or premises shall be used or any building or structure be hereafter erected, altered or repaired in the Commercial Zone except for one or more of the following uses:  
 [Amended 1-27-1995; 7-26-1996; 4-28-2000; 10-20-2000; 11-15-2002; 5-23-2003; 9-23-2005; 6-23-2006; 7-27-2007; 5-20-2011; 7-22-2011; 2-22-2013]
- (1) Any use permitted in the Residential Zone.
  - (2) Retail store or personal services shop (not including activities requiring outdoor use of power tools or animal treatment and/or sale).
  - (3) Professional offices and banks.

[Added 10-14-2016 by Ord. No. 184-16]

## § 145-36. C-1 Commercial District.

- A. Minimum lot area: 7,000 square feet.
- B. Minimum lot width: 60 feet.
- C. Maximum lot coverage by buildings subject to setbacks includes principal and accessory buildings. Maximum coverage is the maximum horizontal cross-section areas of the buildings on a lot, excluding roof overhangs, cornices, eaves, gutters or chimneys projecting not more than 18 inches; provided that the parking and loading requirements of Article XIII of this chapter are satisfied.  
[Amended 3-14-2014 by Ord. No. 171-13]
- D. Minimum building floor area subject to setbacks shall be 750 square feet first floor.  
[Amended 3-14-2014 by Ord. No. 171-13]
- E. Minimum yard setbacks:
  - (1) Front: 80 feet.
  - (2) Rear: 20 feet.
  - (3) Sides: 20 feet. Side and rear yards may be used for parking; rear yards for loading space(s).  
[Amended 3-14-2014 by Ord. No. 171-13]
- F. Maximum building height:
  - (1) Main: 30 feet.
  - (2) Accessory: 15 feet.
- G. Signs: See Article IX.
- H. Fences: See § 145-12.

## Article XI. Setback Requirements\*

\*NOTE: (Where the lot width of any lot now existing or hereafter created exceeds the standard lot width as stated hereafter as to each location, the stated side yard setbacks shall be increased by that percentage that the lot width exceeds the stated standard lot width provided that one side setback may be as small as the original required setback. (By way of illustration, where the standard lot width was stated as 50 feet and the total side yard setbacks were set at 16 feet, an existing or newly created lot having a lot width of 75 feet would be required to have total side yard setbacks of 24 feet, i.e.,  $75/50 = 150\%$ ;  $150\% \times 16 \text{ feet} = 24 \text{ feet}$ ).

[Added 2-13-2004 by Ord. No. 121-03]

## § 145-37. R-1 District east of Delaware Route No. 1.

[Amended 4-17-1998 by Ord. No. 74-98; 2-8-2002 by Ord. No. 106-01; 2-13-2004 by Ord. No. 121-03]

- A. Lots east of Ocean Drive (standard lot width: 50 feet).  
[Amended 12-10-2010 by Ord. No. 155-10]
  - (1) Setback requirements shall be as follows:
    - (a) Front: 20 feet from the west property line.

- (b) Rear: no structure more than 87 feet east of west side of property line.
- (c) Side: eight feet.
- (2) Dwellings in the R-1 District on lots east of Ocean Drive may include, for the purpose of primary access only, steps, ramp or platform in the front setback area, provided that:  
[Amended 4-17-1998 by Ord. No. 74-98; 12-10-2010 by Ord. No. 155-10; 3-14-2014 by Ord. No. 171-13]
  - (a) No step, ramp or platform shall be wider than four feet nor longer than five feet extending toward the west property line;
  - (b) The top of the step, ramp or platform shall be no higher than the elevation of the first livable floor of the dwelling;
  - (c) Such structures must otherwise be in compliance with the International Codes, IBC/IRC, as specified by the Sussex County Building Department and Coastal Floodplain Regulations, as amended; and
  - (d) Off-street parking requirements of Article XIII, § 145-41A, are satisfied.

**B. Lots west of Ocean Drive (standard lot width: 70 feet).**

- (1) Setback requirements shall be as follows:
  - (a) Front: 20 feet.
  - (b) Rear: 10 feet.
  - (c) Sides: 10 feet.
- (2) Corner lots adjacent to Route No. 1.
  - (a) Front yards shall be measured from the Town street running east and west, thus providing front yards which face either north or south.
  - (b) Rear yards shall be that part of the lot adjacent to and bordering another lot and face either north or south.
  - (c) Side yards shall be measured from the east and west boundary lines; the western side yard shall be 20 feet from the Route No. 1 right-of-way, and the eastern side yard shall be 10 feet from the adjacent property line.
- (3) Corner lots adjacent to Ocean Drive.
  - (a) Front yards shall be measured from the Town street running east and west, thus providing front yards which face either north or south.
  - (b) Rear yards shall be that part of the lot adjacent to and bordering another lot and face either north or south.
  - (c) Side yards shall be measured from the east and west boundary lines; the eastern side yard shall be 20 feet from Ocean Drive, and the western side yard shall be 10 feet from the adjacent property line.

- C. Lots fronting Ocean Drive, facing east (standard lot width: 70 feet). Setback requirements shall be as follows:
  - (1) Front: 20 feet.
  - (2) Rear: 10 feet.
  - (3) Sides: 10 feet.

- D. Lots abutting Sea Side Drive (ocean side of Sea Side Drive) (standard lot width: 50 feet). Setback requirements shall be as follows:  
[Amended 12-10-2010 by Ord. No. 155-10]

- (1) Front: 20 feet.
  - (2) Rear: no structure more than 72 feet east of west side of property line.
  - (3) Sides: eight feet.
- E. Lots abutting Sea Side Drive (except ocean side of Sea Side Drive) (standard lot width: 70 feet). Setback requirements shall be as follows:
- (1) Front: 20 feet.
  - (2) Rear: 10 feet.
  - (3) Sides: 10 feet.
- F. Existing dwellings raised to meet BFE or to provide freeboard in the R-1 District on lots west of Ocean Drive and east of Delaware Route No. 1, or abutting Sea Side Drive may include steps, a ramp, or platform in the setback area, provided that each of the following are satisfied:  
[Added 5-13-2016 by Ord. No. 180-16<sup>[1]</sup>]
- (1) No other reasonable alternative is possible, such as, but not limited to, changing the direction of the steps, a ramp, or platform;
  - (2) No step, ramp or platform shall be wider than four feet or longer than five feet extending toward the property line;
  - (3) The top of the step, ramp, or platform shall be no higher than the elevation of the first livable floor of the dwelling;
  - (4) Such structures must otherwise be in compliance with the International Codes, IBC/IRC, as specified by the Sussex County Building Department and Coastal Floodplain Regulations, as amended; and
  - (5) Off-street parking requirements of Article XIII, § 145-41A, are satisfied.
- [1] *Editor's Note: This ordinance also redesignated former Subsection F as Subsection G.*
- G. For structures allowed in the setback area, see § 145-38H, J, K, and L.  
[Added 3-14-2014 by Ord. No. 171-13<sup>[2]</sup>]
- [2] *Editor's Note: This ordinance also repealed former Subsection F, which provided that front and rear measurements were to be taken from the front property line.*

## § 145-38. R-1 District west of Delaware Route No. 1.

- A. Residential lots abutting Petherton, Brandywine, Henlopen, New Castle, Layton and Bayshore Drives; Godwin, Kent and Sussex Places; Cleveland Avenue; Peterson, Canal and Anchorage Drives; Evergreen and Russell (east of Canal Drive) Roads; West 1st to West 11th Streets; South Anchorage Avenue; Mays Way, Elizabeth Way and Elizabeth Court (standard lot width: 50 feet).  
[Amended 2-8-2002 by Ord. No. 106-01; 2-13-2004 by Ord. No. 121-03; 5-13-2016 by Ord. No. 180-16]
- (1) Front: 25 feet.
  - (2) Rear: 25 feet.
  - (3) Sides: eight feet.
- B. Residential lots abutting Carlisle Drive (standard lot width: 70 feet).  
[Amended 2-13-2004 by Ord. No. 121-03]
- (1) Front: 25 feet.
  - (2) Rear: 25 feet.