



## ORDINANCE NO. 846

### AN ORDINANCE TO AMEND CHAPTER 101, FLOOD DAMAGE REDUCTION, OF THE MUNICIPAL CODE OF THE TOWN OF DEWEY BEACH, DELAWARE, 2005, AS AMENDED, RELATING TO THE FREEBOARD HEIGHT REQUIREMENT FOR THE ELEVATION OF BUILDINGS, STRUCTURES AND EQUIPMENT.

**WHEREAS**, at a properly-noticed public meeting held on September 8, 2023, The Dewey Beach Climate Change Committee recommended the Planning Commission and Town Council explore the possibility of increasing the town freeboard; and

**WHEREAS**, at a property-noticed public hearing held on September 17, 2024, the Dewey Beach Planning Commission recommended to the Town Council that the freeboard requirement be increased to 3 feet.

**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 §101-27A(1) of the Municipal Code of the Town of Dewey Beach relating to elevation requirements of residential structures and residential portions of mixed-use structures as depicted by strikeout and underlined substitutions below:

of freeboard. Up to 1 foot of additional freeboard may be added as an option.

a minimum of

The lowest floor (including basement) shall be elevated to or above the base flood elevation plus 12 inches 2 feet. ~~{SB 64 Recommended Standard 7A; Require 12 inches of freeboard (height above minimum elevation)}~~

**Section 2.** Amend §101-27A(2) of the Municipal Code of the Town of Dewey Beach relating to elevation requirements of residential structures and residential portions of mixed-use structures as depicted by strikeout and underlined substitutions below:

a minimum of

of freeboard

a minimum of

In areas of shallow flooding (Zone AO), if not dry floodproofed, the lowest floor (including basement) shall be elevated at least as high above the highest adjacent grade as the depth number specified in feet on the Flood Insurance Rate Map plus 12 inches 2 feet or at least two feet plus 12 inches 2 feet if a depth number is not specified; adequate drainage paths shall be provided to guide floodwaters around and away from the structure. ~~{SB 64 Recommended Standard 7A; Require 12 inches of freeboard (height above minimum elevation)}~~

of freeboard

Up to one foot of additional freeboard may be added as an option.

**Section 3.** Amend §101-33B(1) of the Municipal Code of the Town of Dewey Beach relating to elevation requirements of residential and nonresidential structures as depicted by strikeout and underlined substitutions below:

a minimum of

The bottom of the lowest horizontal structural member supporting the lowest floor (excluding the pilings, pile caps, columns, grade beams, and bracing), shall be located at or above the base flood elevation plus 12 inches 2 feet. ~~{SB 64 Recommended Standard 7A; Require 12 inches of freeboard (height above minimum elevation)}~~

of freeboard. Up to 1 foot of additional freeboard may be added as an option.

**Section 4.** Amend §101-33D(1) of the Municipal Code of the Town of Dewey Beach relating to

of freeboard. Up to one foot of additional freeboard may be added as an option.

elevation requirements of manufactured homes as depicted by strikeout and underlined substitutions below:

a minimum of

Meet the elevation requirements of Subsection B., provided that the bottom of the lowest horizontal structural member is at or above the base flood elevation plus ~~12 inches~~ 2 feet. ~~{SB 64 Recommended Standard 7A; Require 12 inches of freeboard (height above minimum elevation)}~~

**Section 5.** Amend §101-28A(1) of the Municipal Code of the Town of Dewey Beach relating to elevation requirements for nonresidential structures and nonresidential portions of mixed-use structures as depicted by strikeout and underlined substitutions below:

a minimum of

The lowest floor (including basement) shall be elevated to or above the base flood elevation plus ~~12 inches~~ 2 feet or the structure shall be dry proofed in accordance with Subsection B. ~~{SB 64 Recommended Standard 7A; Require 12 inches of freeboard (height above minimum elevation)}~~;

of freeboard

Up to one foot of additional freeboard may be added as an option.

**Section 6.** Amend §101-28A(2) of the Municipal Code of the Town of Dewey Beach relating to elevation requirements for nonresidential structures and nonresidential portions of mixed-use structures as depicted by strikeout and underlined substitutions below:

of freeboard

a minimum of

of freeboard

a minimum of

In areas of shallow flooding (Zone AO), if not dry floodproofed, the lowest floor (including basement) shall be elevated at least as high above the highest adjacent grade as the depth number specified in feet on the Flood Insurance Rate Map plus ~~12 inches~~ 2 feet or at least two feet plus ~~12 inches~~ 2 feet if a depth number is not specified; adequate drainage paths shall be provided to guide floodwaters around and away from the structure. ~~{SB 64 Recommended Standard 7A; Require 12 inches of freeboard (height above minimum elevation)}~~;

Up to one foot of additional freeboard may be added as an option.

**Section 7.** Amend §101-29E of the Municipal Code of the Town of Dewey Beach relating to elevation requirements of electrical service and mechanical equipment in accessory structures as depicted by strikeout and underlined substitutions below:

Electrical and mechanical equipment shall be elevated to or above the level of the base flood elevation plus ~~12 inches~~ 2 feet. ~~{SB 64 Recommended Standard 7A; Require 12 inches of freeboard (height above minimum elevation)}~~

**Section 8.** Amend §101-25B of the Municipal Code of the Town of Dewey Beach relating to elevation requirements of gas or liquid storage tanks as depicted by strikeout and underlined substitutions below:

Above-ground tanks in special flood hazard areas shall be elevated to or above the level of the base flood elevation plus ~~12 inches~~ 2 feet or shall be anchored at-grade and designed and constructed to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of base flood. ~~{SB 64 Recommended Standard 7A; Require 12 inches of freeboard (height above minimum elevation)}~~

**Section 9.** 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 10.** This Ordinance shall take effect April 18, 2025 pending its approval by the Delaware Department of Natural Resources and Environmental Control (DNREC).

Adopted by at least a majority of the Commissioners of the Town of Dewey Beach on October 18, 2024.

SYNOPSIS

This Act raises the freeboard requirement from 1 foot to 2 feet above base flood elevation meaning that new construction shall be elevated by an additional 1 foot to lessen the threat of damage caused by flood waters.



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Bill Zolper, Town Manager



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Bill Stevens, Mayor

101-28 B.

Dry floodproofing requirements. Dry floodproofed structures, together with attendant utility and sanitary facilities, shall:

- (1) Be designed to be dry floodproofed such that the structure is watertight with walls and floors substantially impermeable to the passage of water to the level of the base flood elevation plus 24 inches. In areas of shallow flooding (Zone AO), the structure shall be dry floodproofed at least as high above the highest adjacent grade as the depth number specified in feet on the Flood Insurance Rate Map plus 24 inches, or at least two feet plus 24 inches if a depth number is not specified. ~~[SB-64 Recommended Standard 7A; Require 42 inches of freeboard (height above minimum elevation)]~~

ZONING

185 Attachment 1

Town of Dewey Beach

**TABLE 2**  
**BULK ZONING STANDARDS IN ALL DISTRICTS**  
 [Amended 5-9-2015 by Ord. No. 718; 2-12-2021 by Ord. No. 759; 1-21-2022 by Ord. No. 780; 5-19-2023 by Ord. No. 811]

Zoning District	NR	RR	PR	RB-3	RB-2	RB-1	PRB-1	PRB-3	
Height	<p>For buildings not in any special flood hazard area:                      Maximum building height: 35 feet measured from grade. Maximum number of stories: 2 ½. Roof decks are permitted. The floor area of any roof deck shall not exceed 20% of the covered and/or enclosed floor area of the top story; the finished floor elevation of any top floor deck shall be not less than six feet below the elevation of the roof peak. A minimum roof pitch of 4/12 is required for all roofs.</p> <p>For buildings in any special flood hazard area (SFHA):                      Maximum building height: 32 feet measured from the elevation of the 1% annual flood level on the appropriate effective FEMA Flood Insurance Rate Map plus <del>appropriate</del> <b>and any optional</b> Town mandatory freeboard except in any VE SFHA where one additional foot of height shall be permitted due to the difference in base building elevation reference points for AO and AE SFHAs versus VE SFHAs. Maximum number of stories: 2 ½. Roof decks are permitted. A minimum roof pitch of 4/12 is required for all roofs above the first story unless such roof area is covered by a roof deck. The floor area of any roof deck shall not exceed 20% of the covered and/or enclosed floor area of the top story; the finished floor elevation of any top floor deck shall be not less than six feet below the elevation of the roof peak.</p>	<p>For buildings not in any special flood hazard area:                      Maximum building height 35 feet measured from grade. Maximum number of stories: 3. Roof decks are permitted with all decks and railings subject to this height standard. All above ground deck railing must be the higher of: 42 inches above the deck surface or in compliance with the most current Town Building Code.</p> <p>For buildings in any special flood hazard area (SFHA):                      Maximum building height 32 feet measured from the elevation of the 1% annual flood level on the appropriate effective FEMA Flood Insurance Rate Map plus <del>appropriate</del> <b>and any optional</b> Town mandatory freeboard except in any VE SFHA where one additional foot of height shall be permitted due to the difference in base building elevation reference points for AO and AE SFHAs versus VE SFHAs. Maximum number of stories: 3. Roof decks are permitted with all decks and railings subject to this height standard. All aboveground deck railing must be the higher of: 42 inches above the deck surface or in compliance with the most current Town Building Code.</p>							
Exclusions to height restriction	Chimney required to comply with fire code (not to exceed 24 inches above peak of roof); alternative energy systems, where appropriately set back from roof edges so as not to be visible from the street, permitted as special exception but not to exceed 42 inches above roof peak.		Chimney and stand pipe required to comply with fire code (not to exceed 24 inches above peak of roof). Elevator bulkhead where required for safety, and air handling system (appropriately screened) and alternative energy system when appropriately set back from roof edges so as not to be visible from the street, permitted as special exception but not to exceed 42 inches above peak of roof.						
Minimum lot size (square feet)	5,000		100,000		5,000			80,000	
Minimum setback requirements (feet)	Front yard: 18 Rear yard: 12 Aggregate of front and rear yards: 30	Front yard: 22 Rear yard: 10 Aggregate of front and rear yards: 32	Street setback: 20 Side yard and rear yard: 12	Residential use: See RR District Requirements Commercial and mixed use:  Front yard: 18	Front yard abutting a street: 6; front yard abutting S.R.1: 8.		Front yard: 8		Front yard: 18
					Rear yard: 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.	