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

**AN ORDINANCE TO AMEND CHAPTER 101, FLOOD DAMAGE REDUCTION, AND CHAPTER 185 TABLE 2 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**, on September 8, 2023, The Dewey Beach Climate Change Committee recommended the Planning Commission and Town Council evaluate the need to increase the Town freeboard; and

**WHEREAS**, at a properly-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; and

**WHEREAS**, on October 18, 2024, The Town Council approved Ordinance 846 to increase the mandatory freeboard height to 2 feet; and

**WHEREAS**, on December 11, 2024, The Charter & Code Review Committee recommended the Planning Commission and Town Council approve legislation to allow property owners the option of one additional foot of freeboard; and

**WHEREAS**, on February 4, 2025 the Planning Commission recommended **[PENDING]**

**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:

The lowest floor (including basement) shall be elevated to or above the base flood elevation plus a minimum of 2 feet of freeboard. Up to 1 foot of additional freeboard may be added as an option.

**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:

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 a minimum of 2 feet of

42 freeboard or at least two feet plus a minimum of 2 feet of freeboard if a depth number is not  
43 specified; adequate drainage paths shall be provided to guide floodwaters around and away  
44 from the structure. Up to one foot of additional freeboard may be added as an option.

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

48 The bottom of the lowest horizontal structural member supporting the lowest floor (excluding  
49 the pilings, pile caps, columns, grade beams, and bracing), shall be located at or above the base  
50 flood elevation plus a minimum of 2 feet of freeboard. Up to 1 foot of additional freeboard may  
51 be added as an option.

52 **Section 4.** Amend §101-33D(1) of the Municipal Code of the Town of Dewey Beach relating to elevation  
53 requirements of manufactured homes as depicted by strikeout and underlined substitutions below:

54 Meet the elevation requirements of Subsection B., provided that the bottom of the lowest  
55 horizontal structural member is at or above the base flood elevation plus a minimum of 2 feet of  
56 freeboard. Up to one foot of additional freeboard may be added as an option.

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

60 The lowest floor (including basement) shall be elevated to or above the base flood elevation  
61 plus a minimum of 2 feet of freeboard or the structure shall be dry proofed in accordance with  
62 Subsection B. Up to one foot of additional freeboard may be added as an option.

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

66 In areas of shallow flooding (Zone AO), if not dry floodproofed, the lowest floor (including  
67 basement) shall be elevated at least as high above the highest adjacent grade as the depth  
68 number specified in feet on the Flood Insurance Rate Map plus a minimum of 2 feet of  
69 freeboard or at least two feet plus a minimum of 2 feet of freeboard if a depth number is not  
70 specified; adequate drainage paths shall be provided to guide floodwaters around and away  
71 from the structure. Up to one foot of additional freeboard may be added as an option.

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75 **Section 7.** Amend Chapter 185 Table 2 of the Municipal Code of the Town of Dewey Beach relating to  
 76 elevation requirements for nonresidential structures and nonresidential portions of mixed-use  
 77 structures as depicted by strikeout and underlined substitutions below:

Zoning District	NR	RR/PR/RB3/RB2/RB1/PRB1/PRB3
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):</p> <p>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> Town mandatory <u>and any optional</u> 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> Town mandatory <u>and any optional</u> 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>

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79 **Section 8.** Severability. If any provision of this Ordinance shall be deemed or held to be invalid or  
 80 unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not affect any  
 81 other provision of this Ordinance which may be given effect without such invalid or unenforceable  
 82 provision, and to this end, the provisions of this Ordinance are hereby declared to be severable.  
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84 **Section 9.** Adoption. This Ordinance shall take effect April 18, 2025 pending its approval by the Delaware  
 85 Department of Natural Resources and Environmental Control (DNREC). Adopted by at least a majority  
 86 vote of all Commissioners of the Town of Dewey Beach on **PENDING**.  
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SYNOPSIS

This Act permits property owners to add an additional foot of freeboard in addition to the required two feet.

\_\_\_\_\_  
Mayor, William Stevens

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Town Manager, Bill Zolper

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