



Town of Dewey Beach

www.townofdeweybeach.com

105 Rodney Avenue
Dewey Beach, DE 19971
P: (302)227-6363

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RESOLUTION NO.

5 **BY THE COMMISSIONERS OF THE TOWN OF DEWEY BEACH PROPOSING THAT A REFERRAL TO THE**
6 **PLANNING COMMISSION FOR RECOMMENDATIONS AND AN ASSOCIATED PUBLIC HEARING BE HELD**
7 **ON THE SUBJECT OF AMENDING THE DEWEY BEACH TOWN CODE SECTION 185-51 RELATING TO THE**
8 **REQUIRED YARDS, ACCESSORY SWIMMING POOLS AND POOL FENCES ATTACHED HERETO AS EXHIBIT**
9 **"A".**

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11 **WHEREAS**, the Commissioners of the City of Dewey Beach have deemed it desirable to clarify
12 that pool fences are subject to the height restrictions set forth in the §185-51A of the Zoning Code
13 applicable to hedges, fences and walls located in required front yards; and

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15 **WHEREAS**, the Commissioners of the City of Dewey Beach have deemed it desirable to clarify
that accessory swimming pools shall not occupy any portion of required front yards; and

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17 **WHEREAS**, Title 22, Chapter 3, Section 301 of the Delaware Code provides that "[f]or the
purpose of promoting health, safety, morals or the general welfare of the community, the legislative
body of cities and incorporated towns may regulate and restrict the height, number of stories and size of
buildings and other structures, percentage of lot that may be occupied, the size of yards, courts and
other open spaces, the density of population, and the location and use of buildings, structures and land
for trade, industry, residence or other purposes"; and

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23 **WHEREAS**, Article 1, Chapter 185, Section 3.1 of the Dewey Beach Zoning Code acknowledges its
enabling legislation and §185-73 of the Zoning Code set forth the process for the making of changes and
amendments to its Zoning Code requiring a referral to the Planning Commission for recommendations
following a public hearing at which hearing parties in interest and citizens shall have an opportunity to
be heard pursuant to at least 15 days' notice of such hearing by publishing notice of the time and place
of such hearing in an official paper or paper of general circulation in the Town.

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29 **NOW THEREFORE, BE IT RESOLVED**, by the Commissioners of the Town of Dewey Beach, in session met,
this 16th day of January, 2026, that a referral to the Planning Commission for a public hearing and
recommendations on the subject of amending the Zoning Code to clarify that accessory swimming pools
and associated pool fences exceeding 3.5 feet in height shall not occupy any required front yard as set
forth in Exhibit "A" hereto.

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34 **BE IT FURTHER RESOLVED**, that enforcement of the provisions of the ordinance attached hereto as
Exhibit "A" shall be subject to the recognized pending ordinance doctrine.

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36 **SO RESOLVED**, this 16th day of January, 2026.

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Mayor, William Stevens

Town Manager, Bill Zolper



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EXHIBIT A

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ORDINANCE NO.

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5 AN ORDINANCE TO AMEND CHAPTER 185, ZONING REGARDING SWIMMING POOLS

6 **WHEREAS**, the Commissioners of the Town of Dewey Beach find it necessary and appropriate to
7 clarify and confirm the intent of the zoning code that the existing prohibition against fence height in a
8 required front yard applies equally to fences required to surround accessory swimming pools; and

9 **WHEREAS**, the Commissioners of the Town of Dewey Beach find it necessary and appropriate to
10 clarify and confirm the intent of the zoning code that accessory swimming pools may occupy a limited
11 portion of required rear and side yards, but not required front yards.

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

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16 **Section 1.** Amend Section 185-51 of the Zoning Code of the Town of Dewey Beach by inserting the
17 underlined language in subsection A thereof as reflected below:

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19 A. A hedge, fence or wall not more than 3.5 feet in height may project into or enclose any required
20 front or side yard to a depth from the street line equal to the required depth of the front yard.
21 This height limit applies equally to pool fences which are required to exceed 3.5 feet in height.
22 Any fence, hedge, or wall for residential use may project into or enclose other required yards,
23 provided such fences, hedges, and walls do not exceed a height of seven feet. This height limit
24 does not apply to fences or walls used for commercial screening or tennis courts.

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26 **Section 2.** Amend Section 185-51 of the Zoning Code of the Town of Dewey Beach by inserting the
27 underlined word "rear" in subsection B thereof as reflected below:

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29 B. Accessory swimming pools open and unenclosed, may occupy a required rear yard or side yard,
30 provided they are not located closer than 10 feet to an interior side lot line or six feet to a rear
31 lot line. A walk space at least three feet wide shall be provided between pool walls and
32 protective fences or barrier walls. Every swimming pool shall be protected by a safety fence or
33 barrier at least 4.5 feet in height and constructed of concrete, stockade wood or material of
34 equal quality.

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36 **Section 3.** If any provisions of this Ordinance shall be deemed or held to be invalid or unenforceable for
37 any reason whatsoever, then such invalidity or unenforceability shall not affect any other provision of
38 this Ordinance which may be given effect without such invalid or unenforceable provision, and to this
39 end, the provisions of this Ordinance are hereby declared to be severable.

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41 **Section 4.** This Ordinance shall take effect immediately upon its passage by a majority vote of the
42 Commissioners of the Town of Dewey Beach.

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44 Adopted by at least a majority of the Commissioners of the Town of Dewey Beach on this TBD day of
45 TBD, 2026.

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50 This Ordinance clarifies that swimming pools are permitted to occupy portions of required side and rear
51 yards but not any portion of required front yards. Also, it clarifies that pool fences which by definition
52 must exceed 3.5 feet in height are not permitted in required front yards.

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SYNOPSIS

Mayor, William Stevens

Town Manager, Bill Zolper