



# Town of Dewey Beach

www.townofdeweybeach.com

105 Rodney Avenue  
Dewey Beach, DE 19971  
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## RESOLUTION NO.

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

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

**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

**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

**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.

**NOW THEREFORE, BE IT RESOLVED,** by the Commissioners of the Town of Dewey Beach, in session met, this 16<sup>th</sup> 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.

**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.

**SO RESOLVED,** this 16<sup>th</sup> day of January, 2026.

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Mayor, William Stevens

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Town Manager, Bill Zolper



## ORDINANCE NO.

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

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

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

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

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

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

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

**Section 3.** If any provisions 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 4.** This Ordinance shall take effect immediately upon its passage by a majority vote of the Commissioners of the Town of Dewey Beach.

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

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SYNOPSIS

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

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Mayor, William Stevens

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Town Manager, Bill Zolper