



**ORDINANCE NO.**

**AN ORDINANCE TO AMEND CHAPTER 185-46 AND CHAPTER 185, TABLE 2 OF THE MUNICIPAL CODE OF THE TOWN OF DEWEY BEACH REGARDING BUILDING HEIGHT REGULATIONS FOR PRE-FIRM STRUCTURES IN FLOOD HAZARD AREAS**

**WHEREAS**, the Town of Dewey Beach Municipal Code contains building height regulations set forth in Chapter 185-46; and

**WHEREAS**, Chapter 185-46 has been interpreted to allow certain pre-FIRM (Flood Insurance Rate Map) structures located within flood hazard areas to be restored to their original height following damage caused by fire, storm, or other disaster; and

**WHEREAS**, Section 101 of the Town Code, the Town's Flood Damage Prevention Ordinance, provides that no building may be constructed or restored to a height exceeding the Town's maximum height limit; and

**WHEREAS**, the Planning and Zoning Commission has identified a conflict between the provisions of Chapter 185-46 and Section 101 of the Code; and

**WHEREAS**, consistency between the zoning code and floodplain regulations is necessary to ensure compliance with the National Flood Insurance Program (NFIP) and the Community Rating System (CRS); and

**WHEREAS**, the Planning and Zoning Commission reviewed the existing provisions of the Code and discussed potential amendments at a duly noticed meeting held on December 15, 2025, and determined that pre-FIRM structures should be permitted to be rebuilt to their original height following a disaster, provided such rebuilding complies with applicable floodplain management requirements; and

**WHEREAS**, the Town Council desires to amend the Town Code to clarify building height regulations, eliminate internal inconsistencies within the Code, and maintain compliance with federal floodplain standards.

**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 Chapter 185-46 of the Code of Ordinances as depicted by strikeouts and substitutions depicted below:

§ 185-46 Modification of height regulations.

- A. The height standard in this chapter (See Table 2, Bulk Zoning Standards in All Districts, at the end of Chapter 185.[2]) shall be waived for a pre-FIRM building or structure situated in a special flood hazard area that is substantially damaged, and therefore must be raised to a specified

minimum base elevation determined by FEMA's effective Flood Insurance Rate Map base flood level plus Town mandatory freeboard, provided that said building or structure is rebuilt to a substantially similar configuration as existed prior to the damage except for any increased ceiling height in previous living space(s) as required by effective building code and not elevated more than 0.1 foot above such elevation as required to meet Town Flood Damage Reduction Ordinance standards. (See Chapter 101, Flood Damage Reduction, of the Town Code.)

B. ~~All other exclusions to the height standard are included in Table 2, Bulk Zoning Standards in All Districts. In order to qualify for the exclusion, the property owner must supply proof via a site survey, original building plans, or other appropriate support documenting the height of the undamaged structure. Supporting documentation must be sealed by a registered professional land surveyor or registered professional engineer.~~

C. All other exclusions to the height standard are included in Table 2, Bulk Zoning Standards in All Districts.

**Section 2.** Amend Chapter 185, Table 2 of the Code of Ordinances relating to **Height** in the **NR district** as depicted by strikeouts and substitutions depicted below:

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.

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 Town mandatory and up to 1 foot of optional 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

Pre-FIRM height exception standards are subject to the terms established in Chapter 185-46.

**Section 3.** Amend Chapter 185, Table 2 of the Code of Ordinances relating to **Height** in the **RR, PR, RB-3, RB-2, RB-1, PRB-1 and PRB-3** districts as depicted by strikeouts and substitutions depicted below:

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.

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 Town mandatory and up to 1 foot of optional 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.

Pre-FIRM height exception standards are subject to the terms established in Chapter 185-46.

**Section 4.** 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 5.** 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 13th day of February, 2026.

#### SYNOPSIS

This ordinance amends Chapter 185-46 and Chapter 185, Table 2 of the Town of Dewey Beach Municipal Code to clarify building height regulations and resolve inconsistencies with the Town's flood damage prevention ordinance. The amendment allows pre-FIRM structures damaged by fire or storm to be rebuilt to their original height, provided the reconstruction complies with applicable floodplain regulations and federal requirements, ensuring continued compliance with the National Flood Insurance Program and Community Rating System.

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Mayor, William Stevens

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Town Manager, Bill Zolper