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ORDINANCE NO.

AN ORDINANCE TO AMEND CHAPTER 185, ZONING REGARDING SWIMMING POOLS AND POOL FENCES

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 Dewey Beach Planning & Zoning Commission convened a duly noticed public hearing on March 3, 2026 and the recommendations provided herein are based upon the Commission’s review and deliberation at that hearing.

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.

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

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SYNOPSIS

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

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Mayor, William Stevens

Town Manager, Bill Zolper

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