

ORDINANCE NO. \_\_\_\_

AN ORDINANCE TO AMEND CHAPTER 185, ZONING, OF THE MUNICIPAL CODE OF THE TOWN OF DEWEY BEACH, DELAWARE, 2005, AS AMENDED, RELATING TO BULK STANDARDS IN ALL DISTRICTS INCLUDING BUT NOT LIMITED TO HEIGHT, FLOOR AREA RATIO, MINIMUM SETBACK REQUIREMENTS, MAXIMUM FLOOR AREA (IN MULTIFAMILY DWELLING), BASEMENTS, PLANTINGS AND OPEN SPACE BY AMENDING TABLE 2 THEREOF.

**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, Zoning of the Municipal Code of the Town of Dewey Beach, by striking the provisions of Table 2 concerning **Height in the NR** zoning district as depicted below and by substituting the underlined language reflected:

“For buildings not in any special flood zone hazard area:

Maximum building height: 35 feet measured from ~~grade~~ grade the crown of the roadway abutting the property. Maximum number of stories: ~~2-1/4~~ 32 1/2. Roof decks are ~~permitted, with all decks and railings subject to this height standard. 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 prohibited in the NR district. A minimum roof pitch of 4/12 is required for all roofs. 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.~~ permitted, with all decks and railings subject to this height standard. 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 above the 1<sup>st</sup> story unless such roof area is covered by a roof deck. 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 appropriate Town mandatory 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: ~~2-1/4~~ 32 1/2. Roof decks are ~~permitted permitted, prohibited in the NR district with all decks and railings subject to this height standard. 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. 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.”~~ permitted, with all decks and railings subject to this height standard. 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. 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.”

**Section 2.** Amend Chapter 185, Zoning of the Municipal Code of the Town of Dewey Beach, by striking the numeral “15” as it appears in the following provision of Table 2 concerning **Minimum Setback Requirements in the NR** zoning district and by substituting the numeral “12 ~~8~~ 12” as depicted below:

“Side yard abutting a ~~side~~ street: ~~15~~ 12 ~~8~~ 12”

**Section 3.** Amend Chapter 185, Zoning of the Municipal Code of the Town of Dewey Beach, by striking the numeral “15” as it appears in the following provision of Table 2 concerning **Minimum Setback Requirements in the RB-3** zoning district and by substituting the numeral “~~12~~ 10 12” as depicted below:

“Side yard: 10 unless abutting a street, side yard shall then be ~~45~~ 12 10 12.”

**Section 4.** Amend Chapter 185, Zoning of the Municipal Code of the Town of Dewey Beach, by striking from Table 2 the provisions labelled “**Floor Area Ratio**” as applied to ~~an~~ NR, and-RR zoning districts and by substituting in lieu thereof the following:

“Maximum Building Size/bedrooms or Floor Area Ratio (FAR)

[NR]: For lots less than 7,500 sq. ft., the maximum square footage of any single family detached home shall be

4,0500 sq. ft. The 4,0500 sq. ft. limitation shall be calculated by determining the total gross floor area above grade and under roof with headroom of 6 ft. or greater. A basement where 4 feet or more of the vertical height of the space is above grade shall also count toward the maximum square footage. The maximum number of bedrooms is six per dwelling. No size restrictions applied to open decks. If unenclosed on at least one side, porches, decks and areas under houses raised on pilings shall not be included in the total square footage of the home. The area of any unfinished attic shall not be included in the gross floor area if access is limited to fold-away stairs or other nonpermanent means of access. The first 500 Sq. Ft. of a single garage that is neither heated nor air conditioned shall not count toward this maximum. Space used for an elevator is not counted toward this maximum. The maximum number of bedrooms is six per dwelling

For lots of 7,500 sq. ft. or greater the maximum square footage shall be 5,200 sq. ft. as calculated above, but including any garage. The maximum number of bedrooms is 8 per dwelling. ~~No restrictions on size of open decks.~~

[RR]: The maximum square footage of any single family detached dwelling shall be 5,100 sq. ft. calculated by determining the total gross floor area above grade and under roof with headroom of 6 ft. or greater, including any garage. A basement where 4 feet or more of the vertical height of the space is above grade shall also count toward the maximum square footage. ~~s. If unenclosed on at least one side, porches decks and areas under houses raised on pilings shall not be included in the total square footage of the home. The area of any unfinished attic shall not be included in the gross floor area if access is limited to fold-away stairs or other nonpermanent means of access.~~ Multi-family dwellings located in the RR district shall be limited to ~~XXX~~ 5100sq. ft dwelling per 5000 sq ft of land and shall be calculated in the same manner as the calculation for a single family detached dwelling. ~~No size restrictions applied to open decks. Roof decks are permitted in RR district.~~ The maximum number of bedrooms for any dwelling in the RR district is 8.

~~{PR/RB-3/RB-2/RB-1/PRB-1/PRB-3}~~  
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**Section 5.** Amend Chapter 185, Zoning of the Municipal Code of the Town of Dewey Beach, by striking from Table 2 the provisions labelled “**Tiered setbacks**” as applied to all zoning districts.

**Section 6.** Amend Chapter 185, Zoning of the Municipal Code of the Town of Dewey Beach, by striking from Table 2 the provisions labelled “**Maximum floor area per dwelling unit (multi-family structure)**” as applied to all zoning districts.

**Section 7.** Amend Chapter 185, Zoning of the Municipal Code of the Town of Dewey Beach, by striking from Table 2 the provisions labelled “**Basements**” as applied to all zoning districts and by substituting the following:

“Basements [all districts]: below grade space permitted in accordance with prevailing [Federal and](#) state regulation.”

**Section 8.** Amend Chapter 185, Zoning of the Municipal Code of the Town of Dewey Beach, by striking the **planting and open space requirements applicable to NR** in their entirety and by substituting the following as depicted below:

“Minimum of 15% of gross lot area dedicated to planting and beautification area; a minimum of 50% of this requirement shall be located in front yard, ~~notwithstanding that not more than 50% of the front yard shall be required to be planted and planting must include a vegetative buffer between right of way and front yard on either side of driveway, i.e. hedge, bushes, planter boxes but must not intrude into the public right of way.~~”

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**Section 9.** If any provision 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 10.** This Ordinance shall take effect ~~immediately upon~~ 90 days after its adoption 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 \_\_\_\_\_, 2020.

\_\_\_\_\_  
Dale Cooke  
Mayor

Attest: \_\_\_\_\_

Town Manager

### **SYNOPSIS**

This Act is an amendment to the zoning code to modify bulk standards applicable to the development of property so as to be more logical, consumer friendly and more readily interpreted and enforced by the building official.