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ORDINANCE NO.

4 **AN ORDINANCE TO AMEND CHAPTER 1-16 OF THE DEWEY BEACH CODE OF ORDINANCES TO DEFINE**
5 **“DEMOLITION,” AND ADD A NEW CHAPTER 185-22.2 RELATING TO DEMOLITION OF STRUCTURES AND**

6 **WHEREAS, TBD**

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

9

10 **Section 1.** Amend Chapter 1-16 of the Code of Ordinances as depicted by strikeouts and substitutions
11 depicted below:

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DEMOLITION

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The voluntary or involuntary removal, destruction, or replacement of structural components of
a building or structure such that the work meets or exceeds any of the thresholds established in
§185-22.2. Demolition includes both complete and partial demolition.

CONSIDERATION: DOES THIS DEFINITION CAUSE CONFUSION WITH §185-58 OR §185-59?

§ 185-59 Damage or destruction of nonconforming use or building.

If a nonconforming building is damaged by fire, storm, infestation, or other peril not caused intentionally by the property owner, it may be repaired or reconstructed to essentially the same configuration as existed prior to the damage, provided that application for all required building permits be made within one year and six months of the date of the damage. If a different configuration or an expansion of the original building is proposed, it must conform to all applicable regulations, including all applicable setbacks, height and elevation requirements.

§ 185-58 Discontinuance of nonconforming uses or building.

No building, land, or portion thereof which is used in whole or in part for a nonconforming use, that remains idle or unused for a continuous period of one year, whether or not the equipment or fixtures are removed, shall again be used, except in conformity with the regulations of the district in which such building or land is located, provided that if the building, land or any portion thereof becomes idle or unused due to a fire, storm, infestation or other peril not caused intentionally by the property owner, then such building, land or portion thereof may remain idle or unused for a continuous period of one year and six months, after which the use must conform to the regulations of the district in which such building or land is located if such building, land or portion thereof continues to remain idle or unused.

18 **Section 2.** Amend Chapter 185 of the Code of Ordinances by adding a new section 185-22.2 to read as
19 follows:

20

21 **§ 185-22.2 Demolition**

22

23 A. Structural components.

24 For the purposes of this section, “structural components” shall include exterior walls, load-
25 bearing walls, floor systems, roof framing, foundation elements, structural columns, beams
26 or girders.

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28 B. Structural component threshold.

29 A building shall be deemed demolished when the work includes any of the following:

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31 1. Removal, replacement, or destruction of fifty percent (50%) or more of the exterior
32 walls, measured in linear feet; or

33 2. Removal, replacement, or destruction of fifty percent (50%) of more of the structural
34 framing, measured by the number of structural members; or

35 3. Removal of any load-bearing wall on more than one side of the structure; or

36 4. Removal of the roof structure down to the wall plates.

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38 C. Replacement cost threshold.

39 A building or structure shall be deemed demolished when the cost of reconstruction,
40 renovation, or structural alteration exceeds fifty percent (50%) of the replacement value of
41 the structure, as determined by:

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43 1. Sussex County assessment; or

44 2. A certified appraisal; or

45 3. A sealed estimate from a licensed contractor.

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47 D. Voluntary declaration.

48 A property owner may elect to classify a project as a demolition regardless of whether the
49 thresholds in subsections A or B are met.

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51 E. Exclusions.

52 The following activities shall not constitute demolition unless structural components are
53 removed:

54

55 1. Interior renovations;

56 2. Replacement of windows, doors, siding or roofing;

57 3. Deck or porch placement;

58 4. Cosmetic or non-structural alterations.

59

60 **Section 3.** Amend Chapter 185-59 of the Code of Ordinances as depicted by strikeouts and substitutions
61 depicted below:

62 § 185-59 Damage or destruction of nonconforming use or building.

63 If a nonconforming building is damaged by fire, storm, infestation, or other peril not caused
64 intentionally by the property owner, it may be repaired or reconstructed to essentially the same
65 configuration as existed prior to the damage, provided that application for all required building
66 permits be made within one year and six months of the date of the damage. If a different
67 configuration or an expansion of the original building is proposed, it must conform to all
68 applicable regulations, including all applicable setbacks, height and elevation requirements.

69 A. Except that in the process of repairing or reconstructing a residential-use structure located
70 in a flood-prone area (e.g., a FEMA-designated VE, AE, or AO flood zone) that does not
71 conform to one or more required setbacks and does not meet Town building-elevation
72 standards and has suffered substantial damage, said structure shall be elevated to the
73 relevant minimum building-elevation requirement as per § 101-27A for special flood hazard
74 areas other than coastal high-hazard areas, or § 101-33B for coastal high-hazard areas.

75 1) For the purposes of this section, the meaning of "substantial damage" shall be that used
76 by the National Flood Insurance Program (NFIP): "damage of any origin sustained by a
77 structure whereby the cost of restoring the structure to its before-damaged condition
78 would equal or exceed 50% of the market value of the structure before the damage
79 occurred."

80 B. When a project is classified as a demolition under §185-22.2, the structure shall be
81 reconstructed in full compliance with all current zoning requirements, including height,
82 setbacks, lot coverage, and FEMA elevation standards. Nonconforming structures shall not
83 be eligible for "rebuild as was" provisions when a demolition determination has been made.
84 A new survey shall be required prior to issuance of a building permit, and a demolition
85 permit shall be required prior to commencement of work.

86 **Section 4.** Amend Chapter 185-58 of the Code of Ordinances as depicted by strikeouts and substitutions
87 depicted below:

CONSIDERATION: DOES THIS SECTION REQUIRE REVIEW AND EDITS?

88 § 185-58 Discontinuance of nonconforming uses or building.

89 No building, land, or portion thereof which is used in whole or in part for a nonconforming use,
90 that remains idle or unused for a continuous period of one year, whether or not the equipment
91 or fixtures are removed, shall again be used, except in conformity with the regulations of the
92 district in which such building or land is located, provided that if the building, land or any
93 portion thereof becomes idle or unused due to a fire, storm, infestation or other peril not
94 caused intentionally by the property owner, then such building, land or portion thereof may
95 remain idle or unused for a continuous period of one year and six months, after which the use
96 must conform to the regulations of the district in which such building or land is located if such
97 building, land or portion thereof continues to remain idle or unused.

98 **Section 5.** If any provisions of this Ordinance shall be deemed or held to be invalid or unenforceable for
99 any reason whatsoever, then such invalidity or unenforceability shall not affect any other provision of

100 this Ordinance which may be given effect without such invalid or unenforceable provision, and to this
101 end, the provisions of this Ordinance are hereby declared to be severable.

102
103 **Section 6.** This Ordinance shall take effect immediately upon its passage by a majority vote of the
104 Commissioners of the Town of Dewey Beach.

105
106 Adopted by at least a majority of the Commissioners of the Town of Dewey Beach on this -- day of --,
107 2026.

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109 SYNOPSIS

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111 TBD

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Mayor, William Stevens

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Town Manager, Bill Zolper

DRAFT



Town of Dewey Beach

www.townofdeweybeach.com

VERSION 2
 Drafted 5-2-2026, KLB

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ORDINANCE NO.

AN ORDINANCE TO AMEND CHAPTER 1-16 OF THE DEWEY BEACH CODE OF ORDINANCES TO DEFINE "DEMOLITION," AND ADD A NEW CHAPTER 185-22.2 RELATING TO DEMOLITION OF STRUCTURES AND

WHEREAS, TBD

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 1-16 of the Code of Ordinances as depicted by strikeouts and substitutions depicted below:

DEMOLITION

The ~~voluntary~~ removal, ~~dismantling~~, destruction, or replacement of structural components of a building or structure ~~by or on behalf of the property owner, where such work meets or exceeds any threshold established in §185-22.2.~~

~~Demolition shall not include damage, destruction, or loss resulting from fire, flood, storm, wind, collapse, infestation or other casualty not intentionally caused by the property owner. Such events shall be governed by §185-59, Damage or Destruction of Nonconforming Use or Building. Demolition includes both complete and partial demolition.~~

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- Deleted: Demolition includes both complete and partial
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Section 2. Amend Chapter 185 of the Code of Ordinances by adding a new section 185-22.2 to read as follows:

§ 185-22.2 Demolition

A. Structural components.

For the purposes of this section, "structural components" shall include exterior walls, load-bearing walls, floor systems, roof framing, foundation elements, structural columns, beams or girders.

B. Structural component threshold.

A building shall be deemed demolished when the work includes any of the following:

1. Removal, replacement, or destruction of fifty percent (50%) or more of the exterior walls, measured in linear feet; or
2. Removal, replacement, or destruction of fifty percent (50%) of more of the structural framing, measured by the number of structural members; or
3. Removal of any load-bearing wall on more than one side of the structure; or
4. Removal of the roof structure down to the wall plates.

C. Replacement cost threshold.

50 A building or structure shall be deemed demolished when the cost of reconstruction,
51 renovation, or structural alteration exceeds fifty percent (50%) of the replacement value of
52 the structure, as determined by:

- 53 1. Sussex County assessment; or
- 54 2. A certified appraisal; or
- 55 3. A sealed estimate from a licensed contractor.

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59 D. Exclusions.

60 The following activities shall not constitute demolition unless structural components are
61 removed:

- 62 1. Interior renovations;
- 63 2. Replacement of windows, doors, siding or roofing;
- 64 3. Deck or porch placement;
- 65 4. Cosmetic or non-structural alterations.

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67
68 **Section 3.** Amend Chapter 185-59 of the Code of Ordinances as depicted by strikeouts and substitutions
69 depicted below:

70 § 185-59 Damage or destruction of nonconforming use or building.

71 If a nonconforming building is damaged by fire, storm, infestation, or other peril not caused
72 intentionally by the property owner, it may be repaired or reconstructed to essentially the same
73 configuration as existed prior to the damage, provided that application for all required building
74 permits be made within one year and six months of the date of the damage. If a different
75 configuration or an expansion of the original building is proposed, it must conform to all
76 applicable regulations, including all applicable setbacks, height and elevation requirements.

77 A. Except that in the process of repairing or reconstructing a residential-use structure located
78 in a flood-prone area (e.g., a FEMA-designated VE, AE, or AO flood zone) that does not
79 conform to one or more required setbacks and does not meet Town building-elevation
80 standards and has suffered substantial damage, said structure shall be elevated to the
81 relevant minimum building-elevation requirement as per § 101-27A for special flood hazard
82 areas other than coastal high-hazard areas, or § 101-33B for coastal high-hazard areas.

83 1) For the purposes of this section, the meaning of "substantial damage" shall be that used
84 by the National Flood Insurance Program (NFIP): "damage of any origin sustained by a
85 structure whereby the cost of restoring the structure to its before-damaged condition
86 would equal or exceed 50% of the market value of the structure before the damage
87 occurred."

88 B. When a project is classified as a demolition under §185-22.2, the structure shall be
89 reconstructed in full compliance with all current zoning requirements, including height,
90 setbacks, lot coverage, and FEMA elevation standards. Nonconforming structures shall not
91 be eligible for "rebuild as was" provisions when a demolition determination has been made.

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A property owner may elect to classify a project as a
demolition regardless of whether the thresholds in
subsections A or B are met.¶

96 A new survey shall be required prior to issuance of a building permit, and a demolition
97 permit shall be required prior to commencement of work.

98 **Section 4.** Amend Chapter 185-58 of the Code of Ordinances as depicted by strikeouts and substitutions
99 depicted below:

CONSIDERATION: DOES THIS SECTION REQUIRE REVIEW AND EDITS?

100 § 185-58 Discontinuance of nonconforming uses or building.

101 No building, land, or portion thereof which is used in whole or in part for a nonconforming use,
102 that remains idle or unused for a continuous period of one year, whether or not the equipment
103 or fixtures are removed, shall again be used, except in conformity with the regulations of the
104 district in which such building or land is located, provided that if the building, land or any
105 portion thereof becomes idle or unused due to a fire, storm, infestation or other peril not
106 caused intentionally by the property owner, then such building, land or portion thereof may
107 remain idle or unused for a continuous period of one year and six months, after which the use
108 must conform to the regulations of the district in which such building or land is located if such
109 building, land or portion thereof continues to remain idle or unused.

110 Section 5. Amend Chapter 71-1 of the Code of Ordinances as depicted by strikeouts and substitutions
111 depicted below:

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112 § 71-1 Adoption of standards; exceptions.

113 B. Effect on existing buildings.

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114 1 If, within any twelve-month period, alterations, ~~or repairs,~~ renovations, reconstruction,
115 or structural modifications in excess of 50% of the square footage, as calculated by the
116 building perimeter, are made to an existing building, shall constitute a demolition as
117 defined in §185-22.2 of the Town Code, such building shall be made to conform to the
118 requirements of this Code for new buildings and also, for any building located in an
119 established fire district, the applicable provisions of the IBC.

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120 2 If an existing building is damaged by fire, ~~storm, flood, infestation, collapse, or other~~
121 casualty, or otherwise in excess of 50% of the square footage, as calculated by the
122 building perimeter, before such damage is repaired, it shall conform to the
123 requirements of this Code for new buildings, the provisions of §185-59, Damage or
124 Destruction of Nonconforming Use or Building, shall govern the repair, restoration, or
125 reconstruction of the structure.

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126 A casualty event shall not be deemed a demolition under this section solely because
127 the extent of damage exceeds thresholds established in §185-22.2, provided the
128 damage was not intentionally caused by the property owner.

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129 Where reconstruction following a casualty event results in substantial damage as
130 defined by applicable FEMA or National Flood Insurance Program (NFIP) regulations,

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~~the structure shall comply with all applicable floodplain management and elevation requirements.~~

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~~3 If the nature of occupancy of an existing building is entirely changed, the building shall be made to conform to the requirements of this Code for the new occupancy. If the occupancy of only a portion of an existing building is changed and that portion is separated from the remainder as stipulated in the IBC or the IRC, as appropriate, then only such portion need be made to conform.~~

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~~4 Repairs and alterations not covered by the preceding subsections of this section, such as restoring a building to its condition previous to damage or deterioration or altering it in conformity with the provisions of this Code or in such manner as will not extend or increase an existing nonconformity or hazard, may be made with the same kind of materials as those of which the building was originally constructed.~~

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~~Section 6. 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.~~

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~~Section 7. This Ordinance shall take effect immediately upon its passage by a majority vote of the Commissioners of the Town of Dewey Beach.~~

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

SYNOPSIS

TBD

Mayor, William Stevens

Town Manager, Bill Zolper

SUPPORTING DOCUMENTS

Side-by-Side Comparison: Demolition Rules

Rehoboth Beach vs. Bethany Beach vs. Lewes

1. Does the Town Define “Demolition”?

Town	Definition Exists?	Notes
Rehoboth Beach	Yes	Defines demolition as removal/destruction of all or a substantial portion of a structure. Uses structural thresholds.
Bethany Beach	Yes (practical definition)	Uses a 50% structural removal rule and requires a demolition permit. Not as detailed as Rehoboth but enforced consistently.
Lewes	Yes	Defines demolition and ties it to Historic Preservation Commission (HPC) review for certain districts. Uses structural thresholds.

2. Structural-Component Thresholds

Town	Exterior Wall Threshold	Structural Framing Threshold	Load-Bearing Wall Rule	Roof Removal Rule
Rehoboth Beach	50% or more (linear feet)	50% or more of structural members	Removing load-bearing walls on more than one side = demolition	Removing roof to wall plates = demolition
Bethany Beach	50% or more (enforced administratively)	50% or more	Same interpretation as Rehoboth	Roof removal often triggers demolition classification
Lewes	50% or more	50% or more	Same	Same

Takeaway: All three towns use a **50% structural removal rule**, though Rehoboth's is the most explicitly codified.

3. Value-Based Threshold (Cost of Work)

Town	Threshold	Notes
Rehoboth Beach	50% of replacement value	Mirrors FEMA Substantial Improvement; triggers zoning compliance.
Bethany Beach	50% of replacement value	Used for floodplain and zoning determinations.
Lewes	50% of replacement value	Same FEMA-aligned standard.

Takeaway: All three use a **hybrid model**: structural threshold + value threshold.

4. Voluntary Declaration

Town	Allowed?	Notes
Rehoboth Beach	Yes	Owner may declare demolition even if thresholds not met.
Bethany Beach	Yes	Common when owners want a clean rebuild.
Lewes	Yes	Especially common in historic district cases.

5. Exclusions (Not Considered Demolition)

Town	Excluded Work
Rehoboth Beach	Interior renovations, siding, windows/doors, roof shingles, decks — unless structural components removed.
Bethany Beach	Same exclusions.
Lewes	Same exclusions.

6. Permit Requirements

Town	Demolition Permit Required?	Additional Requirements
Rehoboth Beach	Yes	Utility disconnects, asbestos survey, tree protection, ARB review in historic areas.
Bethany Beach	Yes	Utility disconnects, site plan, floodplain compliance.
Lewes	Yes	HPC review for historic district; site plan; floodplain compliance.

7. Effect on Nonconforming Structures

Town	Effect of Demolition
Rehoboth Beach	All nonconformities lost; rebuild must meet current zoning.
Bethany Beach	All nonconformities lost; rebuild must meet current zoning.
Lewes	All nonconformities lost; rebuild must meet current zoning.

Takeaway: All three towns treat demolition as a **reset** to current zoning.

8. Historic District / Architectural Review

Town	Historic Review Required?
Rehoboth Beach	Yes — ARB review for contributing structures.
Bethany Beach	No formal historic district.
Lewes	Yes — HPC review for demolition in historic district.

Summary — Key Differences

Rehoboth Beach

- Most explicit and detailed demolition definition.
- Strongest structural thresholds.
- ARB review for historic structures.
- Very clear loss of nonconformities.

Bethany Beach

- Uses the same 50% rules but less formally codified.
- Enforcement relies on building official interpretation.
- No historic district review.

Lewes

- Similar thresholds to Rehoboth.
- Strong historic district oversight (HPC).
- Clear demolition permit process.

2. FLOWCHART FOR BUILDING OFFICIAL — “DEMOLITION DETERMINATION WORKFLOW”

START

|

|— Applicant submits plans for renovation / reconstruction

|

|— STEP 1: Identify Structural Work

- | • Are exterior walls being removed?
- | • Are load-bearing walls being removed?
- | • Is roof structure being removed?
- | • Are structural members being replaced?

|

|— If NO structural components removed → NOT DEMOLITION → Issue renovation permit →
END

|

|— STEP 2: Apply Structural-Component Threshold

- | • $\geq 50\%$ exterior walls removed? → YES → DEMOLITION
- | • $\geq 50\%$ structural framing removed? → YES → DEMOLITION
- | • Load-bearing walls removed on >1 side? → YES → DEMOLITION
- | • Roof removed to wall plates? → YES → DEMOLITION

|

|— If NONE of the above → Proceed to Step 3

|

|— STEP 3: Apply Replacement-Cost Threshold

- | • Does project cost exceed 50% of replacement value?
- | • Use assessment, appraisal, or sealed estimate

|

|— If YES → DEMOLITION

|— If NO → Proceed to Step 4

|

|— STEP 4: Voluntary Declaration

| • Did owner elect to classify as demolition?

|

|— If YES → DEMOLITION

|— If NO → NOT DEMOLITION → Issue renovation permit → END

|

|— If DEMOLITION:

| • Require demolition permit

| • Require new survey

| • Require full zoning compliance (height, setbacks, FEMA)

| • Apply §185-68(F)

|

END

This can be converted into a graphic for staff packets if you want.

3. BUILDER-FRIENDLY SUMMARY — “WHAT COUNTS AS A DEMOLITION IN DEWEY BEACH?”

Why this matters

Dewey Beach now uses clear, objective rules to determine when a renovation becomes a demolition. If a project is classified as a demolition, the new structure must meet **all current zoning rules**, including height, setbacks, and FEMA elevation.

When Your Project *Is* a Demolition

Your project is considered a demolition if **any** of the following occur:

1. Structural Work (50% Rule)

- You remove **50% or more of the exterior walls**, or
- You remove **50% or more of the structural framing**, or
- You remove load-bearing walls on more than one side, or
- You remove the roof down to the wall plates.

2. Cost Threshold (50% of Replacement Value)

If the cost of the work exceeds **50% of the building's replacement value**, based on:

- Sussex County assessment,
- A certified appraisal, or
- A contractor's sealed estimate.

3. You Choose to Declare It

You may voluntarily classify a project as a demolition.

What Does NOT Count as Demolition

- Interior renovations
- Window/door replacement
- Siding or roofing replacement
- Deck or porch replacement
- Cosmetic work

Unless structural components are removed.

If Your Project Is a Demolition

You must:

- Obtain a demolition permit
- Provide a new survey

- Rebuild fully to current zoning standards
- Meet FEMA elevation requirements
- Lose “rebuild as was” rights for nonconforming structures