

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 101 FLOODPLAIN MANAGEMENT OF THE CODE OF THE TOWN OF DEWEY BEACH, DE TO PROHIBIT THE ELEVATION OF NONCONFORMING STRUCTURES THAT ENCROACH IN ANY REQUIRED SET BACK(S) ABOVE THE MINIMUM ELEVATION REQUIRED BY FEMA AND TOWN CODE OF RESIDENTIAL AND NONRESIDENTIAL STRUCTURES IN FLOOD-PRONE AREAS (i.e., FEMA-DESIGNATED VE, AE AND AO FLOOD ZONES) THAT HAVE BEEN SUBSTANTIALLY DAMAGED OR ARE BEING SUBSTANTIALLY IMPROVED.¹

WHEREAS, in order to promote the health, safety, and welfare of the present and future inhabitants of Dewey Beach it is appropriate from time to time to amend Town regulations regarding planning and zoning issues within the Town of Dewey Beach, DE; and

WHEREAS, the Federal Emergency Management Agency and National Flood Insurance Program prohibit repair or reconstruction of a residential structure that has been substantially damaged by flooding unless it is elevated to the appropriate base flood elevation; and

WHEREAS, the Federal Emergency Management Agency and National Flood Insurance Program require that a residential structure undergoing substantially improvement be elevated to the appropriate base flood elevation; and

WHEREAS, it is the desire of the Town Commissioners of the Town of Dewey Beach to encourage the sustainability of the Dewey Beach “way of life” in the face of increasingly-severe storm- driven flood damage and sea-level rise; and

WHEREAS, the Town Commissioners of the Town of Dewey Beach want to ensure that the Town’s zoning code both serves the greater good of the Town’s property owners and encourages owners of non-conforming properties to bring such properties into conformance.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE TOWN COMMISSIONERS OF THE TOWN OF DEWEY BEACH, DELAWARE IN SESSION MET THIS ____ DAY OF _____, 2013, THAT:

¹ **SYNOPSIS.** This ordinance amends Section 101-11 Elevation, floodproofing and construction standards applicable within general floodplain area 1) to apply to all flood-prone areas and not just “general floodplain areas” (i.e., FEMA-designated VE, AE and AO special hazard areas, not just AE areas); 2) to limit the extent of elevation of residential and nonresidential structures that encroach in a required yard (i.e., setback); 3) to prohibit elevation of any structure such that the final height of the elevated structure would exceed the town-wide 35’ building height limit.

SECTION 1. Amend Section 101-11 to apply to all flood-prone areas. Replace “general floodplain area” (i.e., FEMA-designated AE flood zones) with “flood-prone areas (i.e., FEMA-designated VE, AE and AO special hazard areas)” everywhere it occurs, including in the section title.

SECTION 2. Amend Subsection 101-11 A. Residential Structures to clarify that encroaching residential structures in flood-prone areas shall not be elevated more than the minimum amount necessary (plus some small positive variance to accommodate measurement accuracy) to conform to FEMA/NFIP floodplain requirements, as consistent with Section 185-60 of the zoning code. Amend 101-11 A. as per the following red-lined text:

A. Residential structures. Within ~~the general floodplain area~~ all flood-prone areas the lowest floor, including the basement, of all substantially damaged or new or substantially improved residential structures shall be elevated to at least one foot above the one-hundred-year flood elevation.

1. Except that residential structures that encroach in any required set back area(s) shall not be elevated more than 1.10’ (one and one-tenth foot) above the one-hundred-year flood elevation under this Section.

2. Under no circumstance shall any structure elevated under this Section exceed the Town-wide 35’ height limit.

SECTION 3. Amend Subsection 101-11 B. Nonresidential structures to clarify that encroaching nonresidential structures in flood-prone areas shall not be elevated more than the minimum amount necessary (plus some small positive variance to accommodate measurement accuracy) to conform to FEMA/NFIP floodplain requirements. 101-11 B. as per the following red-lined text:

B. Nonresidential structures. Within the ~~general floodplain area~~ all flood-prone areas the lowest floor, including the basement, of all substantially damaged or new or substantially improved nonresidential structures including mixed-use structures shall be elevated or constructed at least one foot above the one-hundred-year flood elevation, or such structure shall be designed and constructed so that the space enclosed shall remain completely dry during any flood up to that height.

1. Except that nonresidential structures including mixed-use structures that encroach in any required set back area(s) shall not be elevated more than 1.10’ (one and one-tenth foot) above the one-hundred-year flood elevation under this Section.

2. Under no circumstance shall any structure elevated under this Section exceed the Town-wide 35’ height limit.

SECTION 4. Severability. 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 5. Formatting and minor editorial changes. Minor changes of formatting, grammar, and typography may be made to assist incorporating these changes into the Town Code.

SECTION 6. Adoption. This Ordinance shall take effect immediately upon its adoption by a majority vote of the Commissioners of the Town of Dewey Beach.

Adopted by at least a majority vote of all Commissioners of the Town of Dewey Beach on _____, 2014.

BY: _____
Mayor Diane Hanson

ATT: _____
Town Manager Marc Appelbaum