



ORDINANCE NO.

AN ORDINANCE TO AMEND CHAPTER 185 OF THE DEWEY BEACH CODE OF ORDINANCES REGARDING PROJECTION OF ARCHITECTURAL ELEMENTS INTO A REQUIRED YARD, AND TO ADD A DEFINITION OF "LANDING" TO CHAPTER 1-16

WHEREAS, § 185-48 of the Code of Ordinances governs yards and open space requirements, including allowable encroachments into required yard areas; and

WHEREAS, existing legislation does not clearly identify many customary architectural features that may reasonably extend into required yard areas; and

WHEREAS, the proposed amendment clarifies that certain architectural features may extend into required yard areas up to a defined limit; and

WHEREAS, this clarification promotes consistency, transparency, and predictability in the administration of the Code while maintaining the intent of required yard setbacks.

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 185-48 of the Code of Ordinances as depicted by strikeouts and substitutions depicted below:

§ 185-48 Yards and open space generally.

A. Where these regulations refer to side streets, the Town Building Code Official shall be guided by the pattern of development in the vicinity of the lot in question in determining which of two streets is the side street, subject to the following guidelines.

1) Lots abutting on a single street shall be deemed to front on the street.

2) Unimproved corner lots may front on either street at the owner's discretion.

3) Lots abutting on the water or beach and a street shall be deemed to front on the street or water or beach at the owner's discretion.

4) Interior lots not abutting on any street shall be deemed to front at the owner's discretion.

B. Every part of a required yard shall be open to the sky, except as authorized by this Code Chapter, and except ordinary projections of sills, belt courses, chimneys, cornices and ornamental features which may project a distance not to exceed 24 inches into a required yard. Window air-conditioning units may project a distance not to exceed 36

inches into the yard. Air conditioners and heat pump compressors may be located in a required yard, but not closer than three feet to a property line.

Unless otherwise expressly provided herein, all permitted encroachments shall be measured horizontally from the exterior face of the wall from which the encroachment extends. The maximum permitted encroachment shall include all supporting members, trim, gutters and similar appurtenances.

The following architectural encroachments shall be permitted into required yards:

- 1) Roofs, eaves and overhangs may project not more than twenty-four (24) inches.
- 2) Gutters may project not more than six (6) inches beyond the permitted roof overhang. All gutters and downspouts shall discharge stormwater onto the subject property and shall not create drainage impacts upon adjoining properties or public rights-of-way.
- 3) Chimneys may project not more than twenty-four (24) inches.
- 4) Window sills, belt courses, trim, cornices and other customary architectural features may project not more than twenty-four (24) inches.
- 5) Bay windows may project into a required yard provided that:
 - a. The projection does not exceed six (6) feet from the exterior wall;
 - b. The bay window does not exceed five (5) feet in overall width;
 - c. The lowest portion is located at least twenty-four (24) inches about finished grade;
 - d. The bay window does not provide a separate entrance; and
 - e. The bay window remains an architectural projection and shall not be designed or constructed as an enclosed room addition.
- 6) Retractable or open-sided awnings and canopies may project not more than thirty (30) inches.
- 7) Open steps, stoops and landing providing pedestrian access to the principal entrance of a structure may project into a required yard up to five (5) feet, provide that they:
 - a. Remain unenclosed;
 - b. Do not exceed thirty-two (32) square feet in area;
 - c. Do not extend into a public right-of-way

- 65 d. Are designed solely to provide ingress and egress and shall not function as
66 patios, deck, terraces, porches or outdoor gathering areas;
- 67 e. Shall be included in the calculation of lot coverage and impervious surface,
68 where applicable;
- 69 f. Shall not reduce the minimum require open space established elsewhere in
70 this Chapter; and
- 71 g. Shall comply with all applicable building and accessibility codes.

72 8) Window air conditioning units may project not more than thirty-six (36) inches.

73 9) Ground-mounted air conditioning units, heat pumps and similar mechanical
74 equipment may be located within a required yard provided they maintain a
75 minimum setback of three (3) feet from any property line unless otherwise required
76 by this Chapter.

77 C. Outdoor showers.

78 1) Unenclosed outdoor showers may be located within a required side or rear yard
79 provided they maintain a minimum setback of three (3) feet from any property line.

80 2) Partially enclosed outdoor showers shall comply with the same setback
81 requirements provided they remain open above.

82 3) Fully enclosed outdoor showers shall be considered accessory structures and shall
83 comply with the setback requirements applicable to accessory structures.

84 4) Outdoor showers shall not be permitted within a required front yard.

85 5) Drainage from outdoor showers shall be directed to an approved infiltration area or
86 other code-compliant disposal method and shall not discharge onto adjacent
87 properties.

88 D. Flood Hazard Areas.

89 Nothing contained in this section shall modify or supersede the requirements of the
90 Town's Flood Damage Prevention regulations.

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92 Where a conflict exists between this section and the Flood Damage Prevention
93 regulations, the Flood Damage Prevention regulations shall govern.

94 E. Prohibited encroachments.

95 Unless specifically authorized elsewhere in this Chapter, the following shall not
96 encroach into any required yard:

- 1) Balconies above the first story.
- 2) Habitable rooms or enclosed living areas.
- 3) Decks above the first story.
- 4) Mechanical equipment except as specifically permitted herein.
- 5) Any encroachment not expressly authorized by this Chapter.

Section 2. Amend Chapter 1-16 of the Code of Ordinances as depicted by strikeouts and substitutions depicted below:

LANDING

A platform serving as part of a stairway and intended solely to provide safe pedestrian ingress to and egress from a building. A landing shall not include a deck, patio, terrace, porch, balcony, or other area designed or intended for outdoor seating, gathering, dining, or recreational use.

Section 3. Amend Chapter 185-49 of the Code of Ordinances as depicted by strikeouts and substitutions depicted below:

§ 185-49 Front, side and rear yards.

- A. On through lots, the required front yard shall be provided on each street.
- B. On a corner lot, a side yard abutting a street shall have a side street setback as specified in Table 2, Bulk Standards for All Districts.[1]
- C. For the purpose of the side yard regulations, a group of business or commercial buildings separated by common or party walls shall be considered as one building occupying one lot.
- ~~D. In residential districts, open, unenclosed porches, platforms, steps or paved terraces not covered by a roof or canopy and which do not extend above the level of the first floor of the building may extend or project into the required front or rear yard not more than five feet. Such extension or projection shall not be greater than four feet above grade and in no event be closer than six feet to the front property line.~~
- E. In the RB-1 and RB-2 Districts along Coastal Highway (SR-1), when a public sidewalk of width equal to or greater than five feet exists in the public right-of-way, open ramps, steps, platforms and terraces not covered by a roof or canopy may be constructed in the setback area to the right-of-way line, but shall not be more than four feet higher than the elevation of the abutting sidewalks.

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 -- day of --, 2026.

SYNOPSIS

This ordinance amends Chapters 1 and 185 of the Town Code to amend yard encroachment regulations.

The amendments establish standards for permitted architectural encroachments, including roofs, gutters, bay windows, awnings, steps, landings, and mechanical equipment; establish regulations for outdoor showers; clarify the applicability of flood hazard regulations; and define the term "landing."

Mayor, William Stevens

Town Manager, Bill Zolper