

NOTICE

THE COMMISSIONERS OF THE CITY OF REHOBOTH BEACH ON JULY 17, 2015,  
ADOPTED ORDINANCE NO. 0715-01 WHICH READS AS FOLLOWS:

**AN ORDINANCE TO AMEND CHAPTER 270, ZONING,  
OF THE MUNICIPAL CODE OF THE CITY OF REHOBOTH BEACH, DELAWARE, 2001,  
SECTION 270-4, 270-21, 270-25, AND 270-44  
RELATING TO NATURAL AREA, FLOOR AREA RATIO, LOT COVERAGE,  
REAR YARDS, AND ACCESSORY BUILDINGS**

**WHEREAS**, the Mayor and Commissioners are committed to the sustainability and long-term protection of the traditional residential character of the City's residential neighborhoods;

**WHEREAS**, the 2010 Rehoboth Beach Comprehensive Development Plan provides:

Rehoboth Beach is now and will remain a town within a town. It has two sets of active users—residents and visitors. It has two physical identities—residential community and resort. And it has two levels of municipal service—local and regional. Maintaining balance among these various identities is a continuing challenge of managing traffic, parking, oceanfront land use, municipal service, business stability, commercial and neighborhood appearance, and governance. Rehoboth Beach will achieve this balance by using the Comprehensive Development Plan to give constant attention to the long-term foundations of our community—the ocean, beach, and waterways; the parks; the residential and commercial neighborhoods, the transportation network; and our public and private services. (2010 Rehoboth Beach Comprehensive Development Plan, p. 11).

**WHEREAS**, the 2010 Rehoboth Beach Comprehensive Development Plan further provides:

Although progress has been made to reduce the scale of mega-vacation homes by using new FAR and other restraints, the fundamental problem of regulating the use of vacation rental properties of whatever size remains a disappointment of the 2004 CDP. The Planning Commission continues to hear repeated public concern about overcrowded units, large numbers of cars at units, cars blocking sidewalks, and associated loud and unruly behavior. (2010 Rehoboth Beach Comprehensive Development Plan, p. 83).

**WHEREAS**, the proliferation of dwelling units of a larger scale than those that have traditionally existed in the City has contributed to traffic and parking congestion, noise, and other undesirable qualities that threaten the character of the City's residential neighborhoods; and

**WHEREAS**, the Mayor and Commissioners desire to quell the proliferation of dwelling units of larger scale than those that have traditionally existed in the City in order to address traffic and parking congestion, noise, and other undesirable qualities that threaten the character of the City's residential neighborhoods, and thereby protect the health, welfare, and safety of the inhabitants of the City; and

**WHEREAS**, Title 22, Chapter 3, Section 301 of the Delaware Code provides that “[f]or the purpose of promoting health, safety, morals or the general welfare of the community, the legislative body

of cities and incorporated towns may regulate and restrict the height, number of stories and size of buildings and other structures, percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes”; and

**WHEREAS**, Article X, Amendment Procedure, Sections 270-86 and 270-88 of the Municipal Code of the City of Rehoboth Beach provides the following procedure to be followed by the City Commissioners before exercising the aforesaid authority:

1. Hold a public hearing at which hearing parties in interest and citizens shall have an opportunity to be heard;

2. Provide at least fifteen (15) days’ notice of such hearing by publishing notice of the time and place of such hearing in an official newspaper of the City of Rehoboth Beach or a newspaper of general circulation in the City; and

**WHEREAS**, a public hearing was conducted on July 17, 2015.

**WHEREAS**, at least fifteen (15) days’ notice of such hearing was provided by publishing notice of the time and place of such hearing in an official paper or a paper of general circulation in the City; and

**BE IT ORDAINED** by the Commissioners of the City of Rehoboth Beach, in session met, a quorum pertaining at all times thereto, in the manner following to-wit:

**Section 1.** Chapter 270, Section 270-4 of the Municipal Code of the City of Rehoboth Beach, Delaware, 2001, as amended be and the same is hereby further amended by inserting within the definition of “Structure”, after the phrase “swimming pool”, the phrase “swimming pool pumps, filters and equipment”.

**Section 2.** Chapter 270, Section 270-21 of the Municipal Code of the City of Rehoboth Beach, Delaware, 2001, as amended be and the same is hereby further amended by deleting Section 270-21 in its entirety and inserting in lieu thereof a new Section 270-21, as follows:

**§270-21. Natural Area, Floor Area Ratio, and Lot Coverage.**

A. Natural Area

(1) In R-1(S), R-1 and R-2 Districts, a minimum of 50 % of the gross lot area and 50% of the front yard setback area of every building lot shall remain as natural area as defined in § 270-4.

B. Floor Area Ratio

(1) In the R-1(S) District, the floor area ratio (FAR) for the residence structure combined with the accessory structures, if any, shall not exceed 0.50. In R-1 and R-2 Districts, the FAR for the residence structure combined with the accessory structures, if any, shall not exceed 0.60 for the first 5,000 square feet of gross lot area, and 0.30 for any additional gross lot area, or for properties incorporating an accessory swimming pool 0.50 for the first 5,000 square feet of gross lot area and 0.25 for any additional gross lot area.

- (a) The first 250 square feet of an open front porch shall be excluded from the gross floor area, provided that such porch is on the street side of the building, at the first-floor level, roofed, one floor with no living space or deck above the porch, meets the definition of open porch in § 270-4, and is not heated or air-conditioned. Any square footage in excess of 250 square feet shall be included in the gross floor area.
  - (b) A maximum of 1,000 square feet of a basement may be excluded from the gross floor area of a residence structure subject to the following conditions:
    - [1] The vertical measurement from the basement floor to the bottom of the first-floor floor joists must not exceed eight feet.
    - [2] The bottom of the first-floor floor joists must not be at a height of more than three feet. The measurement should be taken from a point where the center line of the building to be erected intersects with the center line of the street on which the building will front.
    - [3] FAR for the remainder of the residence structure combined with the accessory structures, if any, does not exceed 0.50 for the first 5,000 square feet of gross lot area and 0.30 for any additional gross lot area, or for properties incorporating an accessory swimming pool 0.40 for the first 5,000 square feet of gross lot area and 0.25 for any additional gross lot area.
  - (c) A basement, where the vertical measurement from the basement floor to the bottom of the first-floor floor joists does not exceed 6 1/2 feet and the bottom of the first-floor floor joists are not at a height of more than three feet as measured from a point where the center line of the building to be erected intersects with the center line of the street on which the building will front, shall not be included in gross floor area.
  - (d) The area of any attic shall not be included in the gross floor area if access is limited to a fold-away stairs or other nonpermanent means of access.
  - (e) Any basement existing on August 7, 2006, regardless of ceiling height, shall not be included in gross floor area to the extent it remains an unfinished area used only for mechanical, plumbing and electrical equipment, laundry machines, storage and the like; and provided further that the bottom of the first-floor floor joists shall not be at a height of more than four feet as measured from a point where the center line of the building intersects with the center line of the street on which the building fronts.
- (2) In no case shall the gross floor area of a dwelling in the R-1(S) District exceed 6,000 square feet.
  - (3) In no case shall the gross floor area of a dwelling in the R-1 District exceed 4,500 square feet.
  - (4) In no case shall the gross floor area of a dwelling unit in the R-2 District exceed 4,500 square feet
  - (5) In all commercial districts, the floor area ratio (FAR) for all buildings or structures shall not exceed 2.0; however, total floor area ratio (FAR) devoted to Tier 1 uses

shall not exceed 0.60. For all mixed-use buildings (i.e., residential uses and commercial uses), the average of the gross floor area of all residential floors shall not exceed 50% of the gross lot area and the gross floor area of any one residential floor shall not exceed 75% of the gross lot area.

- (a) Any one commercial floor in a mixed-use building in a commercial district may include one residential unit, used in conjunction with a hotel, motel or inn. Such unit shall not exceed 10% of the gross floor area of said floor with the maximum of 1,000 square feet.
- (b) Any one residential floor in a building in a commercial district used, in whole or in part, as a hotel, motel or inn may include meeting rooms for use as convention facilities. To the extent that the aggregate gross floor area of these meeting rooms does not exceed 25% of the gross lot area or 5,000 square feet, whichever is less, such area exclusively devoted to meeting rooms and no other purpose will not be counted in calculating the fifty-percent maximum lot coverage in Subsections G and H. In no case shall the floor area ratio (FAR) of 2.0 be exceeded. The meeting rooms as permitted in this section shall contain no food preparation areas or areas devoted to the dispensing of alcoholic beverages.

C. Lot Coverage

- (1) In all residential districts, the maximum lot coverage shall not exceed that given in the following table:

<b>District</b>	<b>Maximum Lot Coverage (percent)</b>	<b>Maximum Area of Accessory Structures (if any) (percent)</b>
R-1(S)	35%	10%
R-1 and R-2	40 %	10%

- (2) In all commercial districts, the maximum lot coverage shall not exceed that given in the following table:

<b>Use</b>	<b>Maximum Lot Coverage (percent)</b>
Permitted residential uses	50%
Mid-rise apartment and garden apartment	50%
Hotel, motel, inn	50%
All other commercial uses	100% of net lot area
Underground parking	100% of gross area, provided that no parts of the parking structure, except accessways, are above sidewalk level or above the undisturbed ground level of adjacent properties

- D. In the ER District, the maximum lot coverage, the maximum floor area ratio (FAR) and minimum natural area shall be as given in the following table where the gross lot area for

educational facilities and permitted conditional uses shall be the area of the entire parcel of land, and the gross lot area for residential uses shall be the area of the residential parcel only.

Use	Maximum Lot Coverage (percent)	Maximum Floor Area Ratio	Minimum Natural Area (percent)
Education facilities and conditional uses	5	0.10	70
Residential uses	50	0.60	40

**Section 3.** Chapter 270, Section 270-25 of the Municipal Code of the City of Rehoboth Beach, Delaware, 2001, as amended be and the same is hereby further amended by deleting within the table located in Subsection 270-25(A) the number “10” where it appears in reference to “R-1” and :R-2” and inserting in lieu thereof the number “15” in both cases:

**Section 4.** Chapter 270, Section 270-44 of the Municipal Code of the City of Rehoboth Beach, Delaware, 2001, as amended be and the same is hereby further amended by deleting Section 270-44 in its entirety and inserting in lieu thereof a new Section 270-44, as follows:

**§270-44. Accessory buildings.**

An accessory building shall be detached from the main building on the lot and shall be not less than 10 feet to the rear of the front line of the main building. An accessory building may encroach upon one side yard and the rear yard such that the accessory building shall be no closer than four feet to the side and rear lot lines.

**Section 5.** This Ordinance is subject to the pending ordinance doctrine and Section 270-84 of the Municipal Code of the City of Rehoboth Beach. Upon its introduction and the scheduling of a public hearing by the Mayor and Commissioners, the City’s Building and Licensing Department shall thereafter reject any new application that is inconsistent with the amendments to Chapter 270 provided in the Ordinance until such time as the Mayor and Commissioners take action on the Ordinance.

**Section 6.** 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 7.** This Ordinance shall take effect immediately upon its adoption by the Commissioners of the City of Rehoboth Beach.

**SYNOPSIS:** This Ordinance makes adjustments to zoning provisions relating to Natural Area, Floor Area Ratio, Lot Coverage, Rear Yards, and Accessory buildings.