

**AN ORDINANCE TO AMEND CHAPTER 130,
SECTIONS 130-19 AND 130-20 OF THE MUNICIPAL CODE
OF THE TOWN OF HENLOPEN ACRES, DELAWARE,
RELATING TO BUILDING SETBACKS.**

WHEREAS, the Mayor and Town Commissioners of the Town of Henlopen Acres deem it appropriate to amend the building setback requirements;

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”;

WHEREAS, Title 22, Chapter 3, Sections 304 and 305 provide that a zoning amendment requires a public hearing with “[a]t least 15 days’ notice of the time and place of such hearing . . . published in an official paper or a paper of general circulation in such municipality”;

WHEREAS, Article X, Chapter 130, Section 130-56 of the Municipal Code of the Town of Henlopen Acres provides that any amendment to any Zoning Ordinance shall be made after a public hearing following fifteen (15) days’ notice by publication in an official paper or a paper of general circulation in the Town;

WHEREAS, a public hearing was conducted on October 10, 2014;

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 Town; and

WHEREAS, the proposed amendments will promote the health, safety, and general welfare of the Henlopen Acres community.

BE IT ORDAINED by the Mayor and Town Commissioners, in session met, a quorum pertaining at all times thereto, in the manner following to-wit:

Section 1. Chapter 130, Subsection 130-19(I), of the Municipal Code of the Town of Henlopen Acres, as amended, be and the same is hereby further amended by making the following additions as shown by underlining and deletions as shown by strikethrough:

- I. In the case of a corner lot, the owner shall establish one street as the street on which the dwelling erected or to be erected fronts for the purposes of the United States

Postal Service and other agencies. A dwelling may be placed on the diagonal on such corner lots so long as the appropriate yard and setback requirements established in this chapter are met; front setback requirements, not less than the established building line, must be met on each street.

Section 2. Chapter 130, Section 130-20, of the Municipal Code of the Town of Henlopen Acres, as amended, be and the same is hereby further amended by making the following additions as shown by underlining and deletions as shown by strikethrough:

§ 130-20. Building setback.

~~The front yard shall extend back from the front property line a distance of at least 20 feet but not less than the established building line. The established building line shall be the average of the setback of existing structures on the same side of the street considering six lots on either side of the lot under review.~~ The front yard shall extend back from the property line a distance that is the average setback distance of the two nearest dwellings on each side of the lot under review. However, if the average setback distance of the two nearest dwellings on each side of the lot under review is less than 20 feet, then the front yard shall extend back from the property line a minimum distance of 20 feet. If the average setback distance of the two nearest dwellings on each side of the lot under review is more than 40 feet, then the front yard shall extend back from the property line a minimum distance of 40 feet.

Section 3. This Ordinance shall take effect immediately upon its adoption by the Mayor and Town Commissioners of the Town of Henlopen Acres.

Adopted by the Commissioners
of the Town of Henlopen Acres

Jan. 9, 2015



Assistant Secretary of the Commissioners of
the Town of Henlopen Acres

SYNOPSIS: This Ordinance establishes the front yard setback as an average of the two closest dwellings on each side of the lot, and establishes that under no circumstances shall the minimum front yard setback be less than 20 feet or more than 40 feet.