

**SYNOPSIS OF AMENDING THE CODE OF SOUTH BETHANY, CHAPTER 145,
ZONING, ARTICLE III "DEFINITIONS," ARTICLE X, "DIMENSIONAL
REQUIREMENTS," AND ARTICLE XI, "SETBACK REQUIREMENTS"
ORDINANCE 184-16 (THIRD READING)**

(Sponsored by Councilmember Callaway)

This ordinance amends Chapter 145, "Zoning", §§ 145-3, 145-35, and 145-38 to:

- Add a definition for the "bottom of the lowest floor" and the "ground floor" in a house in South Bethany.
- Clarify the definition of "Flood Insurance Rate Maps".
- Allow an increase in the maximum height of houses by one foot from 32 feet to 33 feet.
- Allow the way the height of houses is measured from both the Center line of the road and the Base Flood Elevation.
- Change the allowed height of house and the way the height is measured in the AE and AO Zones.



ORDINANCE NO. 184-16

AN ORDINANCE TO AMEND the Code of the Town of South Bethany, Chapter 145, **Zoning**, Article III, "Definitions", Article X, "Dimensional Requirements", and Article XI, "Setback Requirements".

BE IT HEREBY ENACTED by the Council of the Town of South Bethany, Sussex County, a majority thereof concurring in Council duly met, that Chapter 145 ("Zoning") be amended as follows (additions are **highlighted** and deletions **marked through**):

ARTICLE III Definitions

§ 145-3. Definitions and word use.

- A.** For the purpose of interpreting this chapter, certain terms are herein defined as applicable within the corporate limits of South Bethany. Words used in the present tense include the future. The singular includes the plural and the plural includes the singular. The term "occupied" or "used," as applied to any building, shall be construed as though followed by the words "or intended, arranged or designed to be occupied or used."
- B.** As used in this chapter, the following terms shall have the meanings indicated:

FLOOD INSURANCE RATE MAP (FIRM) – An official map on which the Federal Emergency Management Agency has delineated special flood hazard areas to indicate the magnitude and nature of flood hazards, and to designate applicable flood zones. [Amended 2-13-2015 by Ord. No. 177-14]

- (1) Zone A: Special flood hazard areas inundated by the one-percent annual chance flood; base flood elevations are not determined.
- (2) Zone AE: Special flood hazard areas subject to inundation by the one-percent annual chance flood; base flood elevations are determined; floodways may or may not be determined. **The base flood elevation in an AE Zone is equal to the number that follows AE in feet NAVD.**
- (3) Zone AO: Areas of shallow flooding, with or without a designated average flood depth. **The base flood elevation in an AO Zone is equal to the number that follows AO**

plus the Highest Adjacent Grade (to the building) in feet NAVD.

- (4) Zone VE: Special flood hazard areas subject to inundation by the one-percent annual chance flood and subject to high velocity wave action (also referred to as coastal high hazard areas). ***The base flood elevation in a VE Zone is equal to the number that follows VE in feet NAVD.***
- (5) Limit of Moderate Wave Action (LiMWA): The inland limit of the area affected by waves greater than 1.5 feet during the base flood. Base flood conditions between the Zone VE and the LiMWA will be similar to, but less severe than, those in the Zone VE.
- (6) Zone X (shaded): Areas subject to inundation by the five-hundred-year flood (0.2% annual chance); areas subject to the one-percent annual chance flood with average depths of less than one foot or with contributing drainage area less than one square mile; and areas protected by levees from the base flood.
- (7) Zone X (not shaded): Areas determined to be outside the one-percent annual chance flood and outside the five-hundred-year floodplain.

GROUND FLOOR – This is the floor of an area below the lowest floor that is used solely for parking of vehicles, building access, or storage.

HEIGHT LIMITATION – *At the sole discretion of the property owner* ~~The~~ height of a structure shall be measured from ***the base flood elevation (BFE) or*** the center line of the street on which the structure fronts between the two side property lines, if extended, to the uppermost point of the structure, except as provided in § 145-38E(2). Such projections as chimneys, television and radio antennas, flagpoles and weather vanes shall not be included in the calculation of the height limitation. [Amended 3-9-2001 by Ord. No. 95-00]

LOWEST FLOOR – The lowest floor of the lowest enclosed area (including basement) of a structure. This definition excludes an "enclosure below the lowest floor" which is an unfinished or flood-resistant enclosure usable solely for parking of vehicles, building access or storage, in an area other than a basement area, provided that such enclosure is built in accordance with the applicable design requirements specified in these regulations for enclosures

below the lowest floor. [Added 6-10-1995; amended 2-13-2015 by Ord. No. 177-14]

LOWEST HORIZONTAL STRUCTURAL MEMBER– In an elevated building, the lowest beam, joist, or other horizontal member that supports the building is the lowest horizontal structural member. Grade beams installed to support vertical foundation members where they enter the ground are not considered lowest horizontal members.

ARTICLE X Dimensional Requirements

§ 145-35. R-1 Single-Family Dwelling District. [Amended 5-10-1996 by Ord. No. 52-96; 3-9-2001 by Ord. No. 95-00; 3-12-2004 by Ord. No. 122-03]

J. Maximum building height: [Amended 8-8-2014 by Ord. No. 172-14]

- (1) Principal building: ~~32~~ **33** feet; accessory building: 15 feet, measured from **the** center line of **the** street, except as provided in § 145-38 E (2). Minimum roof pitch: 4/12.
- (2) Notwithstanding § 145-35 J(1) above, where the principal building has a freeboard equal to or greater than two feet above the base flood elevation (BFE), the principal building maximum height may be ~~34~~ **35** feet measured from **the** center line of the street or 38 feet based on NAVD 88. Minimum roof pitch: 4/12.
- (3) In the VE Zone **only**, the principal building height may be 33 feet above the base flood elevation (BFE). Where the principal building has a freeboard equal to or greater than two (2) feet above the base flood elevation (BFE), the principal building maximum height may be 35 feet above base flood elevation (BFE). ~~The principal building height shall not have a total height greater than 48 feet based on NAVD 88.~~ Minimum roof pitch: 4/12.
- (4) ***In the AE and AO Zones, if the bottom of the lowest horizontal structural member supporting the lowest floor is at or above base flood elevation (BFE), the principal building height may be 33 feet above the base flood elevation (BFE). Where the bottom of the lowest horizontal structural member supporting the lowest floor is two feet or more above the base flood elevation (BFE) the principal building height may be 35 feet above***

the base flood elevation (BFE). Minimum roof pitch: 4/12.

- L. Minimum ground floor elevation: The elevation of any ground floor structure shall be equal to or greater than the center line of the street.***

ARTICLE XI Setback Requirements

§ 145-38 R-1 District west of Delaware Route No. 1

- E. Residential lots west of and abutting on Canal Drive and abutting Cattail Road, Black Gum Drive, Kent Avenue (County Road No. 361), Periwinkle Road, Russell Road (west of Canal Drive), Tamarack Court and Tamarack Drive (standard lot width: 70 feet). [Amended 2-8-2002 by Ord. No. 106-01; 2-13-2004 by Ord. No. 121-03]
- (1) Front setbacks shall be staggered so as to prevent construction of dwellings in a straight line, with a minimum of three feet difference. Front or rear setbacks of dwellings on lots on a street of this subsection shall be determined by the first permit issued on that street.
- (2) Building height: [Amended 8-8-2014 by Ord. No. 172-14]
- (a) Principal building is ~~32~~ **33** feet, to be figured from the mean level of the lot with six sightings. These six sightings shall be taken as follows: one at each of two rear corners of such lot; one at each of two front corners of such lot; and one each at the midpoint between the two side property lines of such lot, such that no point is in a ditch but is as close as practical to the intended point. Minimum roof pitch: 4/12.
- (b) Notwithstanding anything herein to the contrary, where the house has a freeboard equal to or greater than two feet above the base flood elevation (BFE), the house elevation may be 38 feet based on NAVD 88 or ~~34~~ **may be 35** feet above the mean level of the lot as calculated in Subsection E(2)(a) above. Minimum roof pitch: 4/12.
- (c) In the AE Zone, if the bottom of the lowest horizontal structural member supporting the lowest floor is at or above base flood elevation***

(BFE), the principal building height may be 33 feet above the base flood elevation (BFE). Where the bottom of the lowest horizontal structural member supporting the lowest floor is two feet or more above the base flood elevation (BFE) the principal building height may be 35 feet above the base flood elevation (BFE). Minimum roof pitch: 4/12.

- (d) Minimum ground floor elevation: The elevation of any ground floor structure shall be equal to or greater than the center line of the street.*

Effective date: This ordinance shall become effective upon the date of adoption.

**ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF SOUTH BETHANY,
SUSSEX COUNTY, DELAWARE, ON THE 14TH OF OCTOBER 2016.**