

**SYNOPSIS OF ORDINANCE
AMENDING THE CODE OF SOUTH BETHANY,
TO AMEND CHAPTER 145, ZONING, ARTICLE IV, §145-14.3(A)
ORDINANCE 223-26 (FIRST READING)
(Sponsored by Mayor Dondero)**

This Ordinance amends the Code of the Town of South Bethany, Chapter 145, Zoning, Article III, §145-3, amending definitions; Article IV, §145-14.3, amending A, regarding pervious ground covering allowed in the setback area; and Article XI, §145-38, amending E, regarding setback requirements for the R-1 district west of Delaware Route 1

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ORDINANCE NO. 223-26

AN ORDINANCE TO AMEND the Code of the Town of South Bethany, Chapter 145, Zoning, Article III, §145-3, amending definitions; Article IV, §145-14.3, amending A, regarding pervious ground covering allowed in the setback area; and Article XI, §145-38, amending E, regarding setback requirements for the R-1 district west of Delaware Route 1.

BE IT HEREBY ENACTED by the Council of the Town of South Bethany, Sussex County, Delaware, a majority thereof concurring in Council duly met, that the following ordinances be and hereby are amended as follows: (additions are **bold and highlighted in red text** and deletions are ~~bold and marked through~~)

Amend Chapter 145, Zoning, Article III, §145-3 as follows:

§ 145-3 Definitions; word usage.

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:

...

IMPERVIOUS MATERIALS

~~Materials that prevent precipitation from contacting the existing soil and do not allow water to penetrate the soil.~~ **A surface composed of any material that significantly impedes or prevents the natural infiltration of rainfall into the soil. This includes, but is not limited to roofs, concrete surfaces, asphalt surfaces, structures, non-pervious pavers, sidewalks, swimming pools, and multipurpose courts; and any material that does not meet the definition of "pervious."**

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PERVIOUS MATERIALS

~~Materials that permit water to enter the ground by virtue of their porous nature or by large spaces in the material.~~ **Any material or surface that allows rainfall to infiltrate into the soil. This includes, but is not limited to, grass, meadows, planting beds, mulch, ¼-inch spaced decking above pervious surfaces, washed gravel and stones greater than 3/8-inch diameter, shells, pervious pavers, porous pavement, and/or any material that, when tested or installed per manufacturer specifications or industry standard, has an infiltration rate greater than two inches per hour. The use of polymetric sand and other synthetic products is not permitted in a permeable paver assembly.**

Amend Chapter 145, Zoning, Article IV, §145-14.3, amending A, as follows:

§ 145-14.3 Ground covering allowed in setback area.

- A. In the R-1 Single-Family Dwelling District (§ 145-26) ~~at least 55%~~ **100%** of the sum of ~~any~~ required building setback area, as defined in Chapter 145, Zoning, Article XI, Setback Requirements, shall be covered with pervious covering materials. ~~The building setback area is the total of the front, rear and side setbacks expressed in square footage (i.e.: 25 feet x 50 feet + 25 feet x 50 feet + 8 feet x 50 feet + 8 feet x 50 feet = 3,300 square feet. 3,300 square feet x 55% = 1,815 square feet minimum pervious coverage).~~ Pervious covering materials, such as, but not limited to, sand, gravel, mulch, grass, shells, natural vegetation, or, when installed per current industry standards or guidelines, permeable pavers, pervious concrete, and porous asphalt.

Amend Chapter 145, Zoning, Article XI, §145-38, amending E, as follows:

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

A. Residential lots abutting Petherton, Brandywine, Henlopen, New Castle, Layton and Bayshore Drives; Godwin, Kent and Sussex Places; Cleveland Avenue; Peterson, Canal and Anchorage Drives; Evergreen and Russell (east of Canal Drive) Roads; West 1st to West 11th Streets; South Anchorage Avenue; Mays Way, Elizabeth Way and Elizabeth Court (standard lot width: 50 feet).

- (1) Front: 25 feet.
- (2) Rear: 25 feet.
- (3) Sides: eight feet.

B. Residential lots abutting Carlisle Drive (standard lot width: 70 feet).

- (1) Front: 25 feet.
- (2) Rear: 25 feet.

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(3) Sides: 10 feet.

C. Boone Road (standard lot width: 70 feet).

(1) Residential lots abutting west side of Boone Road:

- (a) Front: 20 feet.
- (b) Rear: 20 feet.
- (c) Sides: 10 feet.

(2) Residential lots abutting east side of Boone Road:

- (a) Front: 20 feet.
- (b) Rear: 10 feet.
- (c) Sides: 10 feet.

D. Residential lots west of York Canal and south of Bayshore Canal (contiguous to York Drive, Rebecca Road, Kimberly Road, Tern Drive, Victoria Road, Bristol Road and Plymouth Road) (standard lot width: 70 feet).

- (1) Front: 20 feet.
- (2) Rear: 20 feet.
- (3) Sides: 10 feet.

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).

~~(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:~~

~~(a) Principal building is 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 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~~

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~~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.~~

~~(3) Maximum footprint: 1,700 square feet, including steps, decks more than six inches above ground level, and porches. However, for every full 100 square feet in lot size over 5,000 square feet, the maximum footprint shall be increased by 20 square feet.~~

~~(4)~~ (1) Setbacks:

(a) Front: 10 feet.

(b) Rear: 10 feet.

(c) Sides: two feet with a minimum of 10 feet between houses.

If any provision(s) 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.

Effective date. This ordinance shall become effective upon its passage by a majority vote of the Town Council of the Town of South Bethany.

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**ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF SOUTH BETHANY, SUSSEX
COUNTY, DELAWARE, ON THE ____ OF ____ 2026.**

SEAL:

Edith Dondero, Mayor

Robert Shields, Council Secretary

ATTEST: _____

1st Reading: 7/17/2026
2nd Reading:

Sponsored by Mayor Dondero
Ordinance 223-26
First Reading