

Town of Dewey Beach, DE
Monday, June 5, 2017

Chapter 185. Zoning

Article VIII. Supplementary Height, Area and Bulk Regulations

§ 185-46. Modification of height regulations.

[Amended 7-10-2010 by Ord. No. 682^[1]; 5-9-2015 by Ord. No. 718]

- A. The height standard in this chapter (See Table 2, Bulk Zoning Standards in All Districts, at the end of Chapter 185.^[2]) shall be waived for a pre-FIRM building or structure situated in a special flood hazard area that is substantially damaged, and therefore must be raised to a specified minimum base elevation determined by FEMA's effective Flood Insurance Rate Map base flood level plus Town mandatory freeboard, provided that said building or structure is rebuilt to a substantially similar configuration as existed prior to the damage except for any increased ceiling height in previous living space(s) as required by effective building code and not elevated more than 0.1 foot above such elevation as required to meet Town Flood Damage Reduction Ordinance standards. (See Chapter 101, Flood Damage Reduction, of the Town Code.)

[2] *Editor's Note: Table 2 is included as an attachment to this chapter.*

- B. All other exclusions to the height standard are included in Table 2, Bulk Zoning Standards in All Districts.^[3]

[3] *Editor's Note: Table 2 is included as an attachment to this chapter.*

[1] *Editor's Note: This ordinance also provided that it shall take effect 9-10-2010.*

Article IX. Nonconformities

§ 185-59. Damage or destruction of nonconforming use or building.

[Amended 1-11-2014 by Ord. No. 710]

If a nonconforming building is damaged by fire, storm, infestation, or other peril not caused intentionally by the property owner, it may be repaired or reconstructed to essentially the same configuration as existed prior to the damage, provided that application for all required building permits be made within one year and six months of the date of the damage. If a different configuration or an expansion of the original building is proposed, it must conform to all applicable regulations, including all applicable setbacks, height and elevation requirements.

- A. Except that in the process of repairing or reconstructing a residential-use structure located in a flood-prone area (e.g., a FEMA-designated VE, AE, or AO flood zone) that does not conform to the required setbacks in any respect and does not meet Town building-elevation standards and has suffered substantial damage, said structure shall be elevated to the relevant minimum building-

elevation requirement as per § 185-60B of this chapter.

- (1) For the purposes of this section, the meaning of "substantial damage" shall be that used by the National Flood Insurance Program (NFIP): "damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred."
- (2) For the purposes of this chapter, the "Town's building-elevation requirement" shall be the sum of the FEMA-designated one-percent-annual-probability base flood elevation (BFE) for the flood zone in which the structure is located as shown on the effective Flood Insurance Rate Map (FIRM) plus the additional height required by the Town as part of its participation in the National Flood Insurance Program (NFIP), i.e., freeboard. (The required freeboard is specified in the Town Code in § 101-11, Elevation, floodproofing and constructions standards applicable within general floodplain areas. At the time of enactment of this section the Town's freeboard height requirement is one foot.)
 - (a) The structure's "building elevation" shall be defined as per NFIP regulations as "the elevation of the lowest habitable floor (including basement)" for buildings in AO and AE flood zones and as "the elevation of the bottom of the lowest horizontal structural member of the lowest floor" for buildings in a VE flood zone. Building elevation may at times be referred to as base elevation in Town code.
- (3) Under no circumstance shall any structure elevated under this section exceed the Town-wide thirty-five-foot building height limit.